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Report of	Meeting	Date
Joint LDF Officer Team	Central Lancashire LDF Joint Advisory Committee	1 September 2011

COMMUNITY INFRASTRUCTURE LEVY – PREPARING CHARGING SCHEDULES

PURPOSE OF REPORT

1. To update Members of work on preparing the Community Infrastructure Levy (CIL) Charging Schedules and their likely content.

RECOMMENDATION(S)

2. To support the proposed role of the Joint Advisory Committee in acting to steer the establishment and on-going review of cross boundary infrastructure funding priorities.

3. To endorse the emerging content of the Preliminary Draft Charging Schedules for consultation.

EXECUTIVE SUMMARY OF REPORT

4. Separate Charging Schedules are needed for each District as the Councils will be separate CIL Charging Authorities however they can be jointly prepared and consultants have been appointed to assist with that process. The approach required to setting charge levels is a strategic one taking account of development viability and how this might vary from development type and from place to place compared with what funding is required to make up at least part of the infrastructure funding gap. The Government expects the outcome of the process will be the achievement of an 'appropriate balance' of charging developments and funding infrastructure such that there will be a positive economic effect on development across the area in the medium to long term.

5. CIL has the potential to unlock funding additional to that which has been previously secured under Section 106 planning obligations and will enable the authorities to better forecast the amount of funding that will arise from developer contributions and so better plan infrastructure delivery. This should mean that new developments are better accommodated within existing communities serviced by the necessary infrastructure such that there are overall benefits for residents and businesses alike. The initial outcomes of the commissioned viability research reveal the impact of the funding of affordable housing on what residential developments can also pay CIL charges, the wide variability in the viability of non-residential developments and the scope for consulting on options for different charge levels.

REASONS FOR RECOMMENDATION(S)

(If the recommendations are accepted)

6. To enable a consistent approach to the preparation of the Charging Schedules.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

7. The only option to pursuing CIL is to rely on Section 106 planning obligations to secure developer contributions but as these provisions are being progressively curtailed by regulations in relation to infrastructure provision this source of funding is reducing.

BACKGROUND

8. Members received a report in March and agreed to progress work on the CIL approach to securing developer contributions. It is now clear that although the three District Councils can work together to collect the development viability evidence and collaborate on Charging Schedule work, because the Councils will be separate CIL Charging Authorities each will need to adopt separate Schedules. However a joint examination of two or more Charging Schedules is permitted under the CIL Regulations.

9. Consultants Roger Tym and Partners have been appointed to draw together the development viability evidence across Central Lancashire and help prepare the Draft Charging Schedule for each District Council. These consultants are leading experts on CIL having been appointed to head up the Planning Advisory Service's national training programme and are directing assisting front runner local authorities implement CIL. As a result we will benefit from the very latest CIL thinking and experience.

10. Our published preparation timetable is as follows.

Consultation	Sept – Oct '11
Publication – 4 weeks	December '11
Submission	January '11
Examination Hearing	Feb '12
Examiner's Report	April '12
Adoption	June '12

This now looks a little too ambitious given the issues thrown up by the viability research and the need for Members to fully appreciate the significance of the findings. An early November start to the consultation stage now appears more realistic and coincident with other (LDF) consultation stages.

11. The viability consultants' brief includes assisting with the key aspect of engaging with landowners and developers on the preliminary draft Charging Schedules and to complete their study taking into account the outcomes of this. The consultation stage will also involve the appropriate range of other consultees.

12. Members are reminded of the key features of CIL:
    a. It applies to most types of built development over 100 square metres in floor area (and any new dwellings smaller than this)
    b. Exceptions include social housing and developments by charities
    c. Apart from such exceptions most other uses are potentially liable to pay CIL
    d. The charge is levied at a rate set per square metre of new floorspace

e. The level of charge levied can vary for different uses, types of development and locations but these variations must be related to differences in development economic viability
f. For situations where a CIL charge would be likely to render a development unviable a nil charge can be levied but these circumstances must be decided in advance in the Charging Schedule, once set the charges are not negotiable on a case by case basis
g. The levy is normally payable on commencement of the development but phased payments can be applied
h. The charges can be adjusted each year by being linked with build costs indices
i. The money collected is not limited to being spent on infrastructure related to the donating development (unlike Section 106 contributions)
j. The levy can be used to increase the capacity of existing infrastructure or to repair failing infrastructure, if that is necessary to support development
k. The charging authority is free to set the published infrastructure spending priorities unfettered by the Schedule setting process and can update these priorities whenever it wishes
l. However developments must not be charged twice (ie through CIL and S.106) for the same items of infrastructure. To avoid this happening a list of those infrastructure items or types to be funded through CIL should be published (the Regulation 123 list). Also certain development sites (typically large strategic sites) can be exempt from CIL (in highly exceptional circumstances) if they are to provide (through S.106 obligations) on-site infrastructure and where an additional CIL charge would render the development unviable.
m. In-kind contributions – such as the donation of land for infrastructure – can be used to off-set CIL liabilities
n. CIL monies can be passed to other agencies/infrastructure providers (such as Lancashire County Council) and be spent on infrastructure provided outside the Charging Authority's area provided it benefits the latter
o. The Localism Bill is proposing that a 'meaningful proportion' of CIL monies raised in a neighbourhood is spent in that neighbourhood – just how this will be done remains to be decided at national level.

13. The charging authorities have discretion as to what the levels of charge will be set at but these must be subject to consultation and examination before Charging Schedules can be adopted – a process similar to the LDF development plan document preparation process. The overall justification for the level of charges to be levied is based on an approach that would still facilitate rather than discourage development (through high charges) and achieve an 'appropriate balance' between the infrastructure funding gap and what it is reasonable for developments to contribute to financially taking account of their economic viability.

14. For market housing developments the key issue is the effect on the rate of CIL that can be charged by seeking a proportion of affordable housing, which would currently be through a separate S106 agreement. Affordable housing at present is not classed as infrastructure for CIL purposes although the Government has indicated that it may carry out consultation on including the funding of affordable housing through CIL. The current position is that not only are the two aspects funded separately but the proportion of affordable housing actually achieved on a site is subject to negotiation (the starting point being the policy target) whereas the CIL charge is fixed from the outset. Therefore in setting CIL charge levels some assumptions must be made about what proportion of affordable housing will in practice be achieved, taking into account economic viability, and how these may vary from place to place.

15. At the time of bringing into force Charging Schedules there will be numerous developments already with planning permissions that are subject to S.106 obligations. CIL

will not apply to these developments unless the permissions expire and even then their on-site infrastructure requirements may be re-negotiated under a new planning application and S.106 obligation. In any event total monies collected through CIL will start off from a low level and build up over time as more newly permitted development occurs and is implemented.

16. The whole process of implementing CIL will necessitate a new revenue collection, enforcement of non-payment, holding of monies and payments system that will need to be audited and reported on by each district council. This will all need to feed into a step changed approach to infrastructure delivery management. At the outset there should be a list of infrastructure funding priorities that will guide decisions on how CIL monies are allocated. However overtime as infrastructure schemes are implemented and/or new infrastructure needs arise authorities will be free to revise their infrastructure spending priorities without the necessity to consult any parties. However in this whole process of setting and revising spending priorities Members from individual authorities will appropriately want a key decision making role. Each district council will sign off and approve their own CIL Charging Schedule. However bearing in mind the integrated cross boundary functioning of the Central Lancashire area as well as the appropriate involvement of over-arching infrastructure providers (such as the County Council) it might be that the Joint Advisory Committee assumes a new role in steering this overall process. But this is a possible remit that will need to be fully considered and decided upon by all the authorities.

PRELIMINARY DRAFT CHARGING SCHEDULES

17. Our consultants are preparing a first draft Charging Schedule for each District for consultation purposes. A pre-requisite of being able to adopt CIL is that there is a funding gap between the cost of necessary infrastructure and the other (non-developer contribution) funding sources available and this must be demonstrated on a District by District basis. So the Central Lancashire Infrastructure Delivery Schedule is being split into three components to reveal the individual District level overall funding shortfalls. Also some narrative will be added to explain the situation for each type of infrastructure.

18. There is however not a requirement for expected CIL revenues to make up all of the funding gap in any one District. It is appropriate to assume that some other funding streams will arise over the next 15 years or so, that cannot be quantified in advance.

19. The consultants have researched the viability of residential and a range of non-residential uses. They have taken due account of the previous housing viability work done primarily to inform the scope to secure affordable housing from market housing schemes through a policy in the Core Strategy. They have also considered (as they were required to do) a wide range non-residential types of development as set out below as CIL is applicable to all types of uses.

- Town Centre Office
- Business Park Office
- Warehousing/Industrial – large
- Industrial - workshop
- Major Food Retail
- Retail Warehouse
- Town Centre Retail
- Local Retail
- Hotel
- Care Home
- Schools, Hospitals and Community Centres

20. The profitability of the various non-residential uses varies widely and to an extent is influenced by the scale and location of the developments. This is especially true of retail schemes – large food based superstores which tend to be located in edge of centre sites are the most profitable/viable and hence have the greatest ability to pay CIL charges.

21. For residential development a key consideration is the affect of affordable housing Section 106 obligations on market housing schemes. Developer contributions for affordable housing and CIL financially impact on residential development in the same way. The greater the proportion of affordable housing negotiated from a developer the less able the development will be able to 'stand' a CIL charge. However as the latter is fixed in advance it will need to be set at a level that would under normal circumstances allow sufficient scope to achieve a reasonable proportion of affordable housing. The Core Strategy affordable housing target of 30% (up to 35% in rural areas) is an upper level target to aim for that is being set to endure for the long term. CIL charges are base level, non-negotiable amounts that are likely to be set for the shorter term and then reviewed in the light of changing economic circumstances.

22. To assess the overall economic viability of developments the consultants have taken account of all the costs involved in implementing schemes including costs of construction, financing and any other likely residual (eg site specific) S.106 contributions in addition to affordable housing.

23. At the present time the economic viability of all forms of development is depressed by the wider state of the economy. The availability of finance for developers is still restricted following the recession. Lenders, such as banks, are cautious in supporting only the most profitable schemes, interest rates remain high so the rates of return on capital investment have to be high to make the loans affordable.

24. A factor that also affects development viability is the level of effective demand from occupiers. Most residential schemes are speculative (built in advance of knowing who will occupy the homes) and depend heavily on the ability of the future owners to be able to secure mortgages. Many non-residential schemes are built for occupier clients and this significantly enhances the economics of the development so the risk for the developer is greatly reduced. However CIL charges cannot be varied for speculative compared to 'built to order' schemes. Speculative non-residential development is particularly depressed at the present time.

25. CIL charges can be varied from place to place if the viability of development also varies according to location. However as with the previous affordable housing work clear cut geographical boundaries of differing degrees of viability can be difficult to define (as they have fuzzy edges) and especially hard to use when built up areas are close together as they are locally. As it is the consultants have found broadly similar extents of economic viability across Central Lancashire bearing in mind the locations envisaged for development in the Core Strategy. However there are some differences that could justify different CIL charges in different local authority areas.

26. Nil CIL charges for community uses are likely to be appropriate as of course the profitability/viability of these developments is very low or negative and many such schemes amount to infrastructure in their own right. However a nil charge for some commercial types of development (such as industrial and warehouse uses) could be justifiable, especially at the present time as their economic viability is typically marginal. However by the same token a modest CIL charge, of say £20 per square metre of floorspace, would make little difference to the economic prospects of individual schemes but given the large number of the business developments envisaged over the next 15 years could raise a significant amount of money.

27. The levels of CIL charges also need to take account of the appropriate balance of addressing the funding gap in infrastructure compared to what can reasonably be raised through CIL. The funding gap in each local authority district amounts to many tens of millions of pounds sterling based on the splitting the Infrastructure Delivery Schedule into the three local authority areas. CIL is not likely to make up all or indeed most of these gaps. Other funding sources will be needed and priorities for spending CIL monies will need to be established.

28. As will most courses of action there are choices to be made in setting CIL charges; there are a number of questions that need to be considered. How close to the point of viability should charges be set bearing in mind the risk in discouraging development altogether? What overall proportion of the infrastructure funding gap should CIL be expected to meet? For residential development the higher the CIL charge the lower will be the scope to secure affordable housing so what should the trade off be? At the initial (preliminary draft Charging Schedule) consultation stage optional charges can be put forward although the approach preferred of the council should be made clear.

Background Papers			
Document	**Date**	**File**	**Place of Inspection**
Community Infrastructure Levy – an overview GLG	May 2011		District Councils Offices
Section 106 Obligations and the Community Infrastructure Levy	April 2011		

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Julian Jackson	01772 536774	Julian.jackson@lancashire.gov.uk	JAC Report Sept 11 – CIL Charging Schedules