



Report to: Cabinet, 22nd March 2016

Report of: Councillor Alan Amos, Cabinet Member for Economic Prosperity and Tourism

Subject: COMMUNITY INFRASTRUCTURE LEVY DRAFT CHARGING SCHEDULE CONSULTATION

1. Recommendation

- 1.1 That Cabinet note the work that has been undertaken to produce the Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS) and that Cabinet advises officers of any changes they recommend to the document before the public consultation period;**
- 1.2 That Cabinet Approve the CIL DCS (Appendix 1) for a six week public consultation from Friday 1st April to Monday 16th May 2016;**
- 1.3 That Cabinet Note the CIL timetable as set out in the Local Development Scheme and the crucial stages in submission of the CIL and Examination by the Planning Inspectorate by the autumn of 2016;**
- 1.4 That Cabinet delegate authority to the Corporate Director – Pace in consultation with the Cabinet Member for Economic Prosperity and Tourism to make minor amendments to the DCS prior to consultation; and**
- 1.5 That Cabinet delegate authority to the Corporate Director – Place in consultation with the Cabinet Member for Economic Prosperity and Tourism to submit the DCS, following the close of consultation, together with the representations received and a 'Statement of Modifications' as necessary, to the Secretary of State for Examination by an independent inspector.**

2. Background

- 2.1 This report sets out the latest position and progress towards adopting a CIL Charging Schedule by December 2016.
- 2.2 This report seeks approval for the next stages in the process which are the publication of the DCS for consultation and the submission of the DCS for Examination in Public. The DCS is based on responses to the previous consultation and updated viability evidence. In accordance with the adopted Local Development Scheme (LDS) it is the intention to consult on the DCS in April 2016 and submit to the Planning Inspectorate a CIL Charging Schedule for examination in July 2016. It should be noted that the publication DCS is the version of the document that the Council intends to submit for Examination and any representations made at the consultation stage are considered by the Inspector as part of the Examination process. The Council has the opportunity to consult on a 'Statement of Modifications' prior to submitting the DCS for Examination. This will only occur if the responses suggest that significant changes are required to make the DCS 'sound'.

Should it be necessary to produce a 'Statement of Modifications', this will be brought to a subsequent Cabinet meeting for consideration.

- 2.3 An initial round of consultation was undertaken on a CIL Preliminary Draft Charging Schedule (PDCS) in the autumn of 2013. This exercise was repeated following the uplift in housing supply required by the South Worcestershire Development Plan (SWDP) Examination Inspector in his interim conclusions to Stage 1 of the SWDP Examination in early 2014. Subsequently a further consultation was undertaken on a revised PDCS between February and March 2015. The representations that were received as part of that consultation are summarised in the Appendix to the DCS. The DCS is attached as **Appendix 1** to this report.
- 2.4 The CIL is a locally-set standard charge which funds the provision of infrastructure. It may be applied to all development that creates additional floor space and be used to fund a range of types of infrastructure in accordance with the CIL Regulations 2010 (as amended). This includes funding for new or safer transport schemes, flood defences, schools, community, health and social care facilities, park improvements, green spaces and leisure centres.
- 2.5 National Planning Policy Guidance (NPPG) (paragraph 8), as updated in June 2014, states that charging authorities should use infrastructure planning evidence "*to strike an appropriate balance between the desirability of funding infrastructure from the levy and the potential impact upon the economic viability of development across their area.*" The context for this is the South Worcestershire Development Plan (SWDP) and the supporting evidence within the South Worcestershire Infrastructure Delivery Plan (SWIDP). Explanation of the relevant policies and evidence is included as part of the material that will accompany the consultation.
- 2.6 It should be noted that the provision of affordable housing or financial contributions towards it, cannot be secured through CIL. CIL will continue to work in conjunction with Section 106 agreements as a means of funding contributions to infrastructure. Section 106 agreements can continue to be used to collect developer contributions towards infrastructure that is directly related to a development site, however, since April 2015, Local Planning Authorities have been able to enter into only five Section 106 agreements relating to the same infrastructure project. The South Worcestershire Councils (SWCs) will synchronise their CIL timeline with a parallel work stream to progress a Developer Contributions Supplementary Planning Document (SPD), which will be published for consultation at the same time as the CIL DCS. This will help to ensure a more effective combined approach to collecting monies for infrastructure via all qualifying development proposals. A separate report on this Cabinet agenda sets out the progress made in preparing the Developer Contributions SPD.
- 2.7 Where there is an adopted neighbourhood plan in place, the charging authority must pass 25% of CIL receipts to the parish, town or community council in whose area the chargeable development takes place. There is no monetary 'capping' restriction on the 25% share. Where there is no neighbourhood plan in place, 15% of CIL receipts received will be passed directly to the parish, town or community council where development is taking place, and will be spent in consultation with the local community. Where there is no neighbourhood plan in place the parish or town councils' CIL receipts are capped at a maximum of £100 per existing council tax dwelling per year.
- 2.8 In order to charge CIL, local authorities must prepare a charging schedule. The SWCs are each a separate charging authority for their administrative areas and have agreed that they will develop their own charging schedules in a coordinated manner.

- 2.9 The work to develop a charging schedule for each of the SWCs has been progressed in tandem with the SWDP. CIL could not be adopted before the SWDP but now that this milestone has been achieved it is essential that the CIL is progressed as quickly as possible so that the SWCs do not miss out on the potential receipts from the CIL that will help fund the essential infrastructure required to support the successful implementation of the SWDP.
- 2.10 NPPG (paragraph 16) requires charging authorities to have regard to the infrastructure funding gap, which identifies the need to implement the CIL in South Worcestershire. This is set out in the SWIDP but will also be covered in the explanatory material which accompanies the consultation on the CIL DCS.
- 2.11 NPPG (paragraph 19) requires charging authorities to take account of economic viability in their area and in setting the charging rates. NPPG for CIL (paragraph 19) also requires the charging authority to use appropriate available evidence and the process for drawing up that evidence is described in paragraph 3.2 of this report.
- 2.12 In setting CIL, NPPG (paragraph 19) also states that the charging authority should take into account a range of data including:
- (i) values of land in both existing and alternative uses; and
 - (ii) property prices and rateable values for commercial property.
- 2.13 The DCS is attached as Appendix 1 to this report and includes the proposed individual SWCs CIL rates and the South Worcestershire Regulation 123 list (see para 2.14 below). The charging schedules are shown in Table 1 below:

Table 1 - Charging Authority Proposed Levy Rate (per m²)

Use Type	Malvern Hills	Worcester City	Wychavon
Residential – Main Urban Areas	£0 (Malvern, Upton upon Severn and Tenbury Wells)	£0	£0 (Droitwich, Evesham and Pershore)
Residential – All other Areas	£40	£0	£40
Student Accommodation	£100	£100	£100
Food Retail (Supermarkets)	£60	£60	£60
Retail Warehouses	£60	£60	£60
Shops	£0	£0	£0
Hotels	£0	£0	£0

Industrial and Office	£0	£0	£0
Education, Health, Community and all Other Uses	£0	£0	£0

- 2.14 NPPG (paragraph 97) requires that, in the interests of transparency, the charging authority should set out a list of the projects or types of infrastructure that are to be funded in whole or in part by CIL. They should also set out those known site-specific matters where Section 106 contributions will continue to be sought. This is known as the Regulation 123 list. A draft version of the Regulation 123 list is included in the appended DCS. Key features of the Regulation 123 list relate to the different types of infrastructure, e.g. transport, education, etc and whether infrastructure will be funded via CIL receipts or Section 106 contributions.
- 2.15 The CIL implementation timeline was approved at the Council meeting of 30th September 2015:
- (a) Consultation on DCS April-May 2016
 - (b) Submit DCS to Planning Inspectorate July 2016
 - (c) CIL Examination August 2016
 - (d) Receipt of Inspector's report November 2016
 - (e) Implement CIL January/February 2017
- 2.16 As part of the consultation process, there is a significant amount of explanatory material that is required to ensure a successful consultation outcome. In particular, this includes the evidence which has been used to inform the production of the February 2015 PDCS, as well as the updated viability assessment for 2016.
- 2.17 In order to assist with participation in the consultation, the SWCs will ensure that effective and meaningful engagement takes place during the DCS consultation period between various interested parties. Briefing sessions will be arranged for town/parish councils and the development industry and these will be held at County Hall on the 25th April 2016.
- 2.18 The CIL DCS will be reported to the City of Worcester Planning Committee for information at its meeting on the 24th March 2016.

3. Preferred Option

- 3.1 To progress a Worcester CIL DCS through the remaining stages as quickly as practicable, the current timetable suggests this adoption will take place in December 2016. This will ensure the City Council does not miss the opportunity to collect CIL from relevant future development and help to ensure infrastructure improvements are coordinated across the South Worcestershire area.

- 3.2 An updated viability assessment (January 2016) has been undertaken by consultants HDH. This has considered CIL rates against the higher housing supply figure provided by the SWDP Inspector as well as potential changes in Government policy and has recommended the viable rates shown in Table 1.
- 3.3 It is important that work is prioritised and synchronised between the SWCs at all levels, as well as dealing with the implications of implementing and recovering CIL in each authority separately. There are also likely to be issues that will have implications for sections within the Place Directorate as well as corporately, e.g. legal and finance, for example, in terms of how CIL money is collected, processed and spent, particularly in relation to any resulting cross-boundary infrastructure decisions.

4. Alternative Options Considered

- 4.1 One alternative is to withdraw from the process of preparing a Worcester CIL. However, while the viability evidence means that very few developments within the city are likely to be eligible to pay the CIL, there is potential significant benefits in continuing the joint South Worcestershire approach to the preparation of CIL Charging Schedules for each of the South Worcestershire Districts. The City may not generate large CIL revenues but the infrastructure supported by CIL receipts from all three South Worcestershire Districts may have significant implications for the future of the City. It is important for the City to maintain the cooperation with Malvern Hills and Wychavon Districts over the future planning of South Worcestershire during the implementation of the development proposed by the SWDP. A joint approach to the CIL will help ensure the City Council remains fully involved in the planning of new infrastructure to support new developments.
- 4.2 The SWCs could seek new evidence to support higher CIL charging rates on particular classes of development. Since 2007 the SWCs have commissioned a number of viability reports to ensure that the development proposed by the SWDP is viable and can be delivered by willing land owners and developers. The evidence in recent years has shown a reduction in development viability as construction costs have increased faster than the finished value of development. There is therefore a risk that delaying the preparation of a CIL charging schedule while new evidence is sought will result in lower rather than higher CIL charging rates.
- 4.3 An alternative is to produce a Worcester City CIL charging schedule entirely separately from the work of the other two South Worcestershire local planning authorities. There would be no benefit in progressing a CIL separately from the other two South Worcestershire Districts as this work is linked to the implementation of the SWDP which was prepared as a joint plan by all three districts. There will be some benefits if the three SWCs jointly introduce the CIL as the administration of charging CIL can be shared by the Councils and relevant skills developed by officers who might otherwise only occasionally be involved in a CIL-chargeable development.

5. Implications

- 5.1 Financial and Budgetary Implications: Progressing a CIL Charging Schedule to adoption will include the costs associated with the planned consultation between the 1st April and the 16th May and the costs of an Examination in Public. These costs can be contained within existing service area budgets. Not proceeding with this consultation would result in the City Council having a reduced influence over how CIL receipts, which could exceed £12 million over the next 14 years, are allocated.

- 5.2 Legal and Governance Implications: The DCS has been prepared in accordance with up to date national legislation and guidance, including The Planning Act 2008 and The CIL Regulations 2010 (as amended). The CIL regulations require a six-week period of formal consultation on a DCS before it can be submitted for examination by an independent inspector.
- 5.3 Risk Implications: If the required consultation is not carried out prior to submission of the CIL DCS then it is highly likely that the Planning Inspectorate would refuse to hold an Examination in Public and it would not be possible to adopt a CIL Charging Schedule.
- 5.4 Corporate/Policy Implications: The provision of CIL will allow the Council to secure contributions from some future developments in order to help to support necessary infrastructure and help implement the SWDP. On this basis CIL will support a number of Council priorities.
- 5.5 Equality Implications: The CIL DCS is not a policy document and therefore an Equalities Impact Assessment is not required. The SWDP has been subject to a full Equality Impact Assessment and statutory consultation. In addition, the CIL rate can only be set on the basis of economic viability across the plan area and cannot take into account policy considerations.
- 5.6 Human Resources Implications: Staff will be required to support the DCS consultation in terms of notifying interested parties and the collation and analysis of responses. Once CIL reaches adoption, it will need to be implemented and this will have implications for staffing in more than one department. Input and resources will be required from not just the planning department, but also corporately from finance and legal in order to effectively implement CIL.
- 5.7 Health and Safety Implications: There are no health and safety issues arising as a result of this report.

Ward(s): All

Contact Officer: Adrian Becker – Tel: 01905 722545, Email: adrian.becker@worcester.gov.uk

Background Papers: Appendix 1: Community Infrastructure Levy Draft Charging Schedule.
Appendix 2: Community Infrastructure Levy Draft Charging Schedule Background Document Justifying the Levy (Updated)