

**Wiltshire Council**

**Cabinet**

**12 February 2013**

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**Subject: Wiltshire Community Infrastructure Levy - Update**

**Cabinet Member: Councillor Fleur de Rhé-Philipe, Economic Development and Strategic Planning**

**Key Decision: No**

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**Executive Summary**

The Wiltshire Community Infrastructure Levy (CIL) Charging Schedule is being prepared to provide the Council with the opportunity to secure money from new development to help pay for infrastructure to support growth. Work is progressing to support the Council's proposals for CIL, including developing the evidence to support the rates to be charged on different types of development in Wiltshire. It is informed by three key pieces of evidence - the growth proposals within the submitted draft Wiltshire Core Strategy, the Infrastructure Delivery Plan and an economic viability study.

The Council recently consulted on its proposals for CIL in a Preliminary Draft Charging Schedule (PDCS). This consultation focussed on proposed tariffs for different types of new development; and not how CIL receipts will be used.

Since the Preliminary Draft Charging Schedule consultation, the Government has issued new statutory guidance for charging authorities on the preparation of CIL. This has implications for the timescale, as set out in the Council's Local Development Scheme (August 2012), for the preparation of Wiltshire's CIL. In addition, a Ministerial announcement has recently been made indicating the proportion of CIL funding for local communities.

The Council will still be in a position to adopt the CIL Charging Schedule prior to April 2014. After this date, the Council will be restricted in its ability to pool infrastructure contributions from new development through the existing mechanism of Section 106 Agreements.

## **Proposals**

That Cabinet:

- (i) Notes the new statutory Community Infrastructure Levy (CIL) guidance and implications in terms of the extra evidence and policy requirements, which must be completed before the Council can progress to the next stage of the process - consultation on a Draft Charging Schedule.
- (ii) Notes the response to the consultation on the Preliminary Draft CIL Charging Schedule consultation.
- (iii) Approves the revised timetable for the preparation of the CIL Charging Schedule.

## **Reason for Proposals**

To update Cabinet on progress in preparing Wiltshire's CIL and the implications of new statutory Government guidance on the process and timescale for its preparation; and ensure timely progress is made on preparing a CIL Charging Schedule that will enable the Council to charge CIL on new development to help pay for infrastructure within the county.

**ALISTAIR CUNNINGHAM**  
**Service Director for Economy and Regeneration**

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### **Purpose of Report**

1. To:
  - (i) Outline the implications of new government guidance on the preparation of Wiltshire's Community Infrastructure Levy (CIL) - Draft Charging Schedule.
  - (ii) Update Cabinet on the response to the consultation on the Preliminary Draft Charging Schedule.
  - (iii) Seek Cabinet approval for an updated timeline for the preparation of the CIL Charging Schedule.

### **Background**

2. Cabinet on 10 September approved a CIL Preliminary Draft Charging Schedule (PDCS) for public consultation. Consultation took place between 1 October and 12 November 2012, with comments from parish councils accepted up to 5 December 2012.
3. Department of Communities and Local Government (DCLG) published new statutory guidance for charging authorities on the preparation of CIL charging schedules on 14 December 2012. It came into force immediately from the date of publication for all charging authorities who had not yet submitted their CIL proposals for independent examination. In the light of this, the Council will need to complete additional work before it can progress to the next stage of the process and consult on a Draft Charging Schedule (DCS). Government has also indicated what level of CIL should be given to local communities in a Ministerial announcement.

## Main Considerations for the Council

### Preliminary Draft Charging Schedule Consultation

4. The Council received representations from 89 individuals or organisations during the consultation on the Preliminary Draft Charging Schedule. The majority of responses came from town / parish councils and landowners / developers.
5. During the consultation, the Council hosted a Developers Forum, which was attended by landowners/ developers. This included a presentation by consultants, BNP Paribas, on the viability evidence base and a discussion about the proposed rates of CIL. The purpose of the meeting was to ensure that early and appropriate levels of dialogue with developers and those with a specific interest in the Council's CIL proposals could be built into the preparatory process. The session provided a useful opportunity to hear the views of developers on the potential implications associated with implementing a local CIL arrangement on the delivery of the Wiltshire Core Strategy.
6. The consultation response is summarised in **Appendix 1**.

### New CIL Guidance

7. The new guidance has introduced several extra requirements to the process of preparing CIL. These include new requirements for the charging authority to:
  - Provide a greater level of detailed evidence to justify why the charging authority has decided to set CIL at a specific rate (or rates), including a fully justified demonstration that the rate(s):
    - Will contribute positively towards and not threaten the delivery of the Local Development Plan (i.e. the Wiltshire Core Strategy) as a whole now and through the changing economic cycle;
    - Aims to strike a balance between the desirability of funding infrastructure through CIL and the potential effects of imposing a CIL in the area (particularly when compared with receipts from s106);
  - Undertake viability assessments of an appropriate range of specific sites that reflect geographic variations in viability in the Local Development Plan - i.e. strategic allocations and proposed regeneration sites; and
  - Consult on both the Preliminary Draft Charging Schedule (PDCS) and the Draft Charging Schedule (DCS) for at least six weeks (rather than the previous arrangements of six weeks for PDCS and four weeks for DCS).
8. The guidance also now requires charging authorities to set out in full their policy approach in relation to the future use of CIL and Section 106 prior to the examination stage (including the presentation of a draft 'Regulation 123 list'); and supplementary guidance on the future application of CIL and Section 106 at the Draft Charging Schedule consultation stage.

9. The Regulation 123 List is a statutory requirement and a fundamental tool in the application of a local CIL arrangement as it presents the Council's approved priority list of infrastructure projects that will be funded (in part or in whole) by CIL. In establishing such priorities, the Council should utilise the information presented in the Infrastructure Delivery Plan that has been prepared to underpin the emerging Wiltshire Core Strategy. The intrinsic linkages between the delivery of the Core Strategy and the implementation of Wiltshire's CIL arrangements are vital in ensuring that the right levels of investment are channelled into supporting sustainable, viable development schemes.
10. In order to address these new requirements, officers will work with consultants BNP Paribas to assess the full implications of the guidance and undertake the extra work involved to ensure compliance. Inevitably, the introduction of the new guidance has added delay to the process because charging authorities cannot progress to the draft charging schedule stage until their evidence base and policy approach is in compliance with the new guidance.
11. One of the key implications of the new guidance is that the Council will need to take an early decision on the composition of the draft Regulation 123 list and the future CIL and Section 106 policy approach prior to consultation on a DCS. Under the previous arrangements, these matters would have been addressed at the point where the proposals for CIL were adopted.
12. Bearing in mind the level and complexity of response received to the PDCS and the impact of the new guidance in terms of additional work, the timetable for the progression of Wiltshire's CIL should be revised. This will enable the Council to meet the new requirements and reduce the risk of failure at the examination stage. It will also enable the timing of CIL to be better aligned with the Core Strategy.

#### Revised Charging Schedule timetable

13. A draft revised timetable for the Wiltshire CIL Charging Schedule is proposed. This has been prepared to ensure that the requisite evidence base and policy approaches can be developed to comply with the new guidance.
14. The revised timetable also reflects the functional relationship with the Wiltshire Core Strategy. The CIL proposals cannot be adopted until such time as the Wiltshire Core Strategy is in a position to be adopted and receipt of a sound Inspector's report will be necessary for CIL to proceed to examination. In this respect, the proposed timelines for preparing CIL are broadly compatible with those estimated for the Wiltshire Core Strategy, based on hearing dates for the examination starting and ending May/June 2013.

Stage	Description	Date
<b>Stage One</b>	Review of consultation responses, further work to ensure compliance with new statutory guidance and preparation for implementation	Up to May 2013
<b>Stage Two</b>	Approval to consult on Draft Charging Schedule and, following consultation, submit for an independent examination	June 2013
<b>Stage Three</b>	Consultation on Draft Charging Schedule	1 July to 12 August 2013 (6 weeks)
<b>Stage Four</b>	Submission of Draft Charging Schedule for examination	September 2013
<b>Stage Five</b>	Independent examination	November to December 2013
<b>Stage Six</b>	Adoption and formal implementation	February 2014

**Table 1: Proposed Timetable for the Wiltshire CIL**

Ministerial Announcement on Making CIL Receipts Available to Local Communities

15. Allied to latest guidance on preparation of CIL, the recent Ministerial announcement<sup>1</sup> on how CIL receipts could be distributed to local communities in the future adds a further layer of complexity to the process of preparing the Wiltshire CIL. Although only a statement of intent at this stage, it is likely that formal advice will be issued and the Council will have to respond accordingly. In summary, the proposals are as follows:
- Neighbourhoods (Parishes in Wiltshire) that take a proactive approach to preparing Plans for their area and securing the consent of local people in a referendum will receive 25% of the revenues from the local CIL from the development that they choose to accept. The money will be paid directly to parish and town councils and can be used to support the delivery of community priorities;

<sup>1</sup> <https://www.gov.uk/government/news/communities-to-receive-cash-boost-for-choosing-development> (10 January 2013)

- Neighbourhoods without a [neighbourhood development plan](#) but where the levy is still charged will still receive a capped 15% share of the levy revenue arising from development in their area; and
  - Communities (areas with Parish Meetings in Wiltshire) without a parish or town council will still benefit from the incentive to accept development, with the local planning authority retaining CIL revenue and spending it in accordance with the community priorities.
16. Enabling local communities to access money to pay for local priorities has always been at the heart of the CIL. However, in order to address the interim advice, early consideration will have to be given to ensuring the process of implementing CIL is sufficiently robust. Resources will have to be dedicated to ensure appropriate accounting practices are in place at the point of implementing the CIL. Allocating funding to local communities could mean reduced expenditure for strategic infrastructure to support growth.

### **Environmental and Climate Change Considerations**

17. The emerging Wiltshire Core Strategy sets out the proposed levels of overall growth and distribution of new development to be built in Wiltshire up to 2026. Growth has implications for the social, economic and physical environment, but in preparing the Plan, the Council has undertaken all necessary steps to reduce such impacts, including the completion of the requisite Sustainability Appraisal (incorporating the requirements of the Strategic Environmental Assessment Directive) and Habitats Regulations Assessment. CIL will help fund the delivery of the necessary infrastructure required to support sustainable growth in Wiltshire.

### **Equalities Impact of the Proposal**

18. Once adopted, the Wiltshire CIL Charging Schedule will enable the Council to collect contributions from prescribed forms of new development to support a wide range of infrastructure needs across the county.

### **Risk Assessment and Options Considered**

19. In accordance with current guidance, from 6 April 2014, or upon implementation of a CIL Charging Schedule for Wiltshire (whichever is sooner), the Council will be restricted in its ability to secure developer contributions for infrastructure requirements through Section 106 Agreements. The revised timetable for preparing CIL (as set out above) allows the Council to have a charging schedule in place prior to this cut-off date. The proposed timetable will also significantly reduce the level of risk associated with the process of preparing CIL by ensuring:
- Synchronicity with the Wiltshire Core Strategy Programme - with an Inspector's Report into the Core Strategy likely to be received in autumn 2013, the preparation of the charging schedule can be informed by the outcome of the examination.

- Compliance with the new CIL guidance - allows sufficient time for further infrastructure evidence base requirements to be gathered and tested; as well as the opportunity to make decisions about future CIL priorities and the relationship with the Council's Section 106 policy.
  - Robust front-loading to significantly reduce time to implement and begin charging CIL - making early decisions about infrastructure priorities and policy reduces the time required to implement and begin charging CIL.
20. A delay in the adoption of the Wiltshire Core Strategy could delay the adoption of the Wiltshire CIL.
21. If the right balance is not struck between funding infrastructure and the impact on development either development could be made unviable by high CIL rates or insufficient funds raised to deliver the infrastructure necessary to support growth if the rates are too low; although it should be noted that CIL only provides part of the funding mechanisms for development.

### **Financial Implications**

22. The cost of preparing the CIL Charging Schedule under the previous guidance is planned for in the 2012/13 budget. Any additional costs resulting from the new requirements will be accommodated within the wider Economy and Regeneration budget. The timeline and associated costs for the consultation, independent examination and adoption will fall in financial year 2013/14 and will be subject to consideration during the budget setting process for 2013/14.
23. Under the charging proposals that underwent consultation in the PDCS, the projected income generated from CIL receipts over the Core Strategy plan period up to 2026, is estimated to be circa £57 million. This initial calculation is based only on residential development likely to come forward during the plan period and excludes retail and other uses. At this stage, it is difficult to predict a more accurate figure for CIL receipts as the impact of any future economic changes cannot be accounted for. Many local authorities intend to review their CIL rates after three to five years to allow them to respond to changing market conditions. Any changes to the CIL rates would have to undergo consultation and examination.
24. Adoption of a Charging Schedule will present the Council with the opportunity to secure CIL funding for infrastructure to support the delivery of new housing and other forms of development across Wiltshire.
25. There may be the expectation within local communities that CIL will deliver significantly more funding than actually can be collected if development is to remain viable. CIL and Section 106 combined should bring more than Section 106 alone; however, in the current economic climate there is only so much additional funding that can be secured.



## Legal Implications

26. In accordance with the Planning and Compulsory Purchase Act 2004, the Council has a statutory duty to plan for infrastructure delivery, which has been reinforced through the National Planning Policy Framework and Localism Act. The CIL Regulations 2010 (as amended 2011) introduced legal restrictions on the use of Section 106 Agreements to secure developer contributions towards the funding of infrastructure. Whilst there is no legal obligation to introduce a CIL Charging Schedule, CIL will largely be the only means of pooling contributions from new development towards infrastructure after April 2014.
27. Under Section 221 of the Planning Act 2008 the Council has a statutory duty to have regard to guidance issued by the Secretary of State on any matter connected with CIL. The Government issued new statutory guidance on 14 December 2012 entitled "Community Infrastructure Levy- Guidance" which changes the procedure for setting and operation of CIL. It is upon those changes that this report is based.

## Conclusions

28. New government guidance issued on 14 December 2012 imposes delay and additional work to the process of preparing a CIL charging schedule for Wiltshire. However, the proposed revised timetable will still ensure that a charging schedule is in place for Wiltshire before the April 2014 cut-off date. There are other significant advantages of this new timetable, not least the ability to ensure that the proposed rate(s) of CIL are in compliance with and reflect the outcome of the Core Strategy examination.

**ALISTAIR CUNNINGHAM**  
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**The following unpublished documents have been relied on in the preparation of this report:**

None

## Appendices

Appendix 1: Community Infrastructure Levy Preliminary Draft Charging Schedule - Summary of Consultation Responses (December 2012)