

Cherwell District Council

Executive

7 November 2016

Community Infrastructure Levy (CIL) Draft Charging Schedule and Developer Contributions Supplementary Planning Document (SPD)

Report of Head of Strategic Planning and the Economy

This report is public

Purpose of report

To seek Member endorsement to consult the public for six weeks on the Community Infrastructure Levy (CIL): Draft Charging Schedule and Developer Contributions Supplementary Planning Document (SPD).

This is the second of two formal consultations on a potential CIL charge for Cherwell to be followed by an examination in public.

The Developer Contributions SPD forms part of the Council's Local Development Framework and its content will be subject to one formal consultation.

1.0 Recommendations

The meeting is recommended:

- 1.1 To approved the CIL Draft Charging Schedule (Appendix 1) which also includes a Draft CIL Regulation 123 list and Draft Instalments Policy, for a six week public consultation.
- 1.2 To approve the Draft Developer Contributions SPD (Appendices 2 and 3) for a six week public consultation.
- 1.3 To authorise the Head of Strategic Planning and the Economy to make any necessary minor and presentational changes to the CIL Draft Charging Schedule (Appendix 1) and Draft Developer Contributions SPD (Appendices 2 and 3) before formal consultation commences.

2.0 Introduction

- 2.1 On 4 January 2016 the Executive considered a report on the Community Infrastructure Levy (CIL) and on the preparation of a new Developer Contributions SPD. The report outlined the first stage of preparing a potential CIL and approach to planning contributions which involved:
- i) gaining an understanding of the infrastructure funding 'gap' in Cherwell to evidence a case for potentially introducing a CIL;
 - ii) preparing a draft viability report to understand the level of CIL that might be introduced having regard to development costs;
 - iii) preparing a Position Statement on CIL and Planning Obligations (Developer Contributions); and
 - iv) the preparation of a Preliminary Draft Charging Schedule for consultation .
- 2.2 We are now seeking approval for a second stage of CIL consultation and a Draft Developer Contributions SPD. The preparation for this second stage of consultation involved:
- i) considering comments received during the February-March 2016 consultation and CIL viability stakeholder workshop (Appendix 6);
 - ii) responding to central government consultation on CIL and S106s;
 - iii) preparing an updated viability report in response to comments received and latest changes affecting the development industry (due to the document's size Appendix 8 is available in the Members Room and online);
 - iii) preparing a Draft Developer Contributions SPD (Appendices 2 and 3); and
 - iv) the preparation of a Draft Charging Schedule (Appendix 1).
- 2.3 Introduction of CIL is not mandatory and Members are not asked at this stage to make a decision on whether CIL should be introduced in Cherwell.
- 2.4 Evidencing, setting CIL charges and taking them through the statutory processes to adoption is undertaken by the Planning Policy Team. CIL implementation is a corporate matter and preparing for its administration requires the involvement of different departments (i.e to understand the process through the planning application system). It is likely this process will be led by CDC's Development Management with Planning Policy and other Council departments taking part in a working group.
- 2.5 Responses to the consultation helped firm up an initial approach on CIL alongside the recently scaled back system of planning contributions (i.e. no more than five planning contribution for an infrastructure project). The outcome of the next CIL consultation alongside the Developers Contributions SPD will provide further guidance on the application of both instruments.
- 2.6 Members are also asked to endorse a CIL Draft Regulation 123 list for consultation which indicates how CIL money would be used to fund infrastructure (Appendix 1). This is part of building up evidence indicating how CIL would operate alongside planning contributions such as S106 agreements.
- 2.7 As noted in the February 2016 Executive Report (see background papers), a CIL Charging Schedule is not a policy document but a local charge on development.

The draft charging schedule in Appendix 1 is based on evidence relating to infrastructure needs in Cherwell and the ability of development to support a CIL charge from a viability perspective.

- 2.8 The Developer Contributions SPD in Appendices 2 and 3 is part of the Council's Local Development Framework. The implementation of CIL and the Developer Contributions SPD will help deliver Local Plan objectives of ensuring the local economy, communities and development in CDC are sustainable and support, in particular the aims of Local Plan Policy INF1: Infrastructure, and its associated Infrastructure Delivery Plan (IDP).
- 2.9 The Developer Contributions SPD will replace the 2011 Planning Obligations Draft SPD currently used as an interim guidance for Development Management purposes. The emerging SPD describes the relationship between S106 agreements and CIL and gives specific guidance for different types of infrastructure requirements.
- 2.10 Once adopted, CIL and the Developers Contributions SPD will operate alongside each other forming the package of contributions or obligations expected to come forward from development proposals to mitigate the impact of development and help fund infrastructure needed to support growth. They are not intended to provide all the funding to deliver infrastructure. The Council will continue to work with relevant agencies and partners to ensure infrastructure schemes are in the investment programmes of agencies such as Highways England and the Environment Agency, and secure funding sources such as Local Growth Funds.

3.0 Report Details

Community Infrastructure Levy

- 3.1. This report relates to the 2nd stage of statutory consultation on CIL and the first formal consultation on the Draft Developer Contributions SPD. It provides:
 - Firstly, the results of public consultation, and what has changed; and
 - Secondly, outlines the content of the CIL Draft Charging Schedule and Draft Developer Contributions SPD.
- 3.2. CIL is a very complex mechanism to levy infrastructure funds. To facilitate the understanding of the proposed documents, Appendix 9 of this report contains a brief summary of the key elements of CIL considered by the Executive on 4 January 2016.

First stage of consultation (CIL Preliminary Draft) February – March 2016

- 3.3. Formal consultation on the Preliminary Draft Charging Schedule took place for 6 weeks commencing on 12 February 2016 and resulted on responses from 38 individuals and organisations. A similar rate to adjoining authorities for the same consultation stage.

- 3.4. The consultation included a Position Statement on CIL and Planning Obligations (Planning Contributions) seeking views on the most suitable funding mechanisms to deliver infrastructure and further evidence from the public, infrastructure providers and site promoters on which infrastructure needs are most likely to be provided for 'on-site' and which strategic sites are likely to come forward ahead of CIL adoption. This consultation informed the preparation of the Draft Developer Contributions SPD.
- 3.5. In addition to the formal call for responses, planning policy officers:
- held a viability stakeholder workshop on 17 March 2016 to enable an in depth discussion of assumptions and information within the Viability Report supporting the Preliminary Draft Charging Schedule;
 - raised awareness of the CIL consultation at two Parish workshops on 23 and 24 of February 2016. Although the focus of the workshops were Local Plan Part 1 Partial Review and Local Plan Part 2 consultations, officers advised on the preparation/review of the Infrastructure Delivery Plan, the relationship between CIL and S106 agreements and how they are used to fund infrastructure;
 - set up and held a working group with officers in the Legal and Development Management departments to inform the approach to CIL and Planning Contributions SPD;
 - engaged with, and provided early draft documents for comment to key stakeholders such as Council officers working in Leisure, Recreation, Air Quality, Waste Management, Biodiversity and Oxfordshire County Council officers.
- 3.6. The CIL Draft Charging Schedule and Developer Contributions SPD are supported by Consultation Statements (Appendices 4 and 6) which include a summary of all comments received during the Preliminary Draft Charging Schedule formal consultation.
- 3.7. The main issues raised during the Preliminary Draft consultation include:
- Appropriate balance
- Suggested amendments to economic viability assumptions on matters including: external site works and S106s, land values, affordable housing values, building costs and contingencies.
 - CIL implications on viability and conservation of the historic environment.
 - Concern with level of charges in relation to charges of neighbouring authorities
 - Proposed rate for Area 3 (southernmost part of the District) is too high when compared to proposed charges elsewhere in the District and adjoining Local Authorities.
 - Supporting a zero charge for residential allocations of 500 dwellings or more in areas 1 and 2 but seeking its application to all sites over 500 dwellings whether or not currently identified as an allocation. Residential sites below 500 units to benefit from the same discount.
 - Suggest charges for employment uses and Houses in multiple occupation

- Welcome a zero retail charge in town centres.
- Have different rates or exclusions for any part of Cherwell is not sensible; infrastructure is required across the District.
- Suggest reducing rates to minimise impact on affordable housing provision
- Request that the evidence base is reviewed and a lower CIL rate set across the District.
- Amended CIL Charging Schedule should include town centres' Area of Search for Expansion
- Consider undertaking further sensitivity testing.
- Needs adequate buffers above the proposed CIL rates.

Instalments policy

- Majority of comments support provision of an instalments policy.

CIL relief

- Similar number of responses 'supporting' and 'not supporting' provision of discretionary CIL relief.
- Those responses supporting CIL relief relate mainly to relief on economic viability grounds.

CIL rates/nominal charge (i.e. a standard minimum charge applying to most development)

- Similar number of responses 'supporting' and 'not supporting' a nominal charge.
- Some support for charging development types in addition to those proposed in the Charging Schedule.

Changes resulting from consultation

3.8. The consultation resulted in a number of adjustments and changes which are now reflected in an Updated CIL Viability Report (Appendix 8) and a Draft CIL Charging Schedule (Appendix 1). These include:

- Adjusting the viability model and re-run of the site appraisals.
- Additional sensitivity testing on build costs, house prices, Section 106 costs and developer's profit for residential development and variations in the yield for commercial development.
- Changes to proposed out of town retail charge from £190 to £170
- Changes to proposed residential charge for Area 3 (southern part of the District) from £310 to £270.
- Clarification in the charging schedule to indicate Town Centres are defined in Cherwell's Local Plan Proposals Map.
- Drafting of an Instalments Policy.

Draft CIL Charging Schedule

3.9. In setting CIL charges, the Council needs to demonstrate that there is an infrastructure funding gap and that development is able to sustain that charge while remaining viable. The Charging Schedule cannot be based on policy aspirations (e.g. supporting certain industries or locations for development).

3.10. The key test at the examination will be to demonstrate that:

The Council has reached an appropriate balance between the desirability to fund infrastructure through CIL and the potential effect on the economic viability of development in Cherwell.

3.11. In line with the two elements above guiding the setting of the charges, the proposed CIL Draft Charging Schedule has been informed by viability and infrastructure evidence.

3.12. Changes made to the viability model following consultation led to variations on the results of individual site appraisals, mainly to the residential schemes, but also to commercial sites due to changes in Stamp Duty since the preparation of the previous report. This resulted in some recommended modest changes to rates since the initial Viability Study was undertaken.

Viability evidence

3.13. The assumptions and findings of the updated viability report are summarised below:

- Over 70 development schemes (residential and commercial) have been tested for viability.
- The sites appraised are representative of the type, scale, location and mix of development envisaged to come forward in the short to medium term in Cherwell.
- Viability buffers have been applied to recommended CIL rates to allow for a buffer or discount to the maximum possible rates. This will help address changes in economic circumstances over time.
- Further sensitivity testing was undertaken following consultation looking at the effect of different assumptions on key costs such as build costs and sections 106s agreements (See Para' 3.7 above).

3.14. The viability report findings are summarised below:

- Variations between different development uses/types and, specifically for residential, significant geographical differences justify a differentiated CIL charge by area and development types.
- Only residential and out of town retail charges are currently recommended in viability terms for the purpose of setting a CIL rate. This is not to say that other development types are not viable in the District. CIL financial modelling is prepared with significant level of conservatism and contingency to allow for changes in the market over time and the recommended charges are discounted substantially against average outcomes.
- The recommended CIL has been set at appropriate rates. When taken as a percentage of development costs for residential schemes would, in very many cases, accounted for only 2-3%, and the majority at around 5% or below. This compares favourably to a contingency of 5% which is included in each viability site modelling.

- The majority of sites tested have a very substantial buffer in place at the baseline position and the rates are set at levels which would not undermine economic viability of schemes generally.
- Sensitivity testing for S106 costs (at £20 and £30 per sq m) for sites of less than 500 units shows that higher costs could still be absorbed alongside the proposed CIL charge without unduly impacting on scheme viability. Thus, substantial flexibility has been built into the recommendations on proposed CIL rates.
- If the Council were to implement a CIL instalment payment policy which didn't require full payment of all CIL charges at commencement of development, such policy would make schemes more viable. Sensitivity testing undertaken for indicative purposes shows that annual CIL instalments would increase considerably the viability of a development. As a rule of thumb the greater the number of payments and the larger the payment towards the end of the period the greater the viability benefit.

3.15. Viability conclusions for **residential development**:

- **Area 1** (OX16 - Banbury) - a CIL rate of £100 per sq m continues to be appropriate for all schemes of less than 500 units. For sites of 500 or more units (large residential sites), a CIL rate of £70 per square metre is sustainable.
- **Area 2** (Bicester and rural areas – principally postal districts OX15, OX17, OX25, OX26) is characterised by large rural areas and villages together with Bicester. This area could readily support a CIL charge of £230 per square metre for all schemes of less than 500 units. For sites of 500 or more units, a CIL charge of £70 per square metre is sustainable.
- **Area 3** (Kidlington and south Cherwell – principally OX5) could absorb a CIL charge of £270 per square metre for all residential development.

3.16. The CIL Charging Schedule in Appendix 1 shows the map of the 3 residential charging areas.

3.17. Viability conclusions for **retail** uses:

- **Out of centre retail development**: based on testing of retail parks, warehousing, showrooms and superstores / supermarkets. The viability testing points toward the ability to support a CIL, with the revised rate proposed at £170 per sq m.
- **In centre retail development**: There is insufficient evidence to suggest that this type of use could readily – and consistently - support a CIL charge and therefore a zero rate is proposed.

3.18. Viability conclusions for **other development types/uses**:

- Tested a number of uses including: offices, industrial and warehousing units, retirement homes, extra care / nursing homes, hotel uses, dance studios.
- Schemes do not produce viable outcomes for the purpose of CIL and therefore no charge is recommended for this use.
- Financial modelling provides only one aspect of development delivery and the report findings should be taken within the context of viability modelling which would justify development to pay a CIL charge. There are a number of

development types and uses such as community facilities, employment uses and residential accommodation for the elderly which will continue to come forward in Cherwell as viable development propositions.

Infrastructure evidence

- 3.19. The Report to the Executive on CIL in February 216 explained the level of infrastructure funding needed after considering all known sources of funding and any likely contribution from a future CIL (the infrastructure funding gap). Nothing has changed substantially since consultation in February-March 2016 to amend that evidence (see background papers).
- 3.20. Infrastructure Funding Gap:
- Based on the Council's Infrastructure Delivery Plan (IDP) Update 2015 data endorsed at Executive in January 2016 and the potential funding raised through future CIL and other known funding sources, there is an aggregate funding gap that justifies introducing the Levy.
 - Preparation of Local Plan Part 2 on development management policies and non-strategic sites, and Local Plan Part 1 Partial Review concerning Oxford's unmet housing need will result in more detailed information on infrastructure provision in Kidlington and the rural areas. This may also happen through the progression of Neighbourhood Plans and their associated evidence.
- 3.21. The Council's IDP will be updated alongside the preparation of the next Annual Monitoring Report at the end of the year (2016). At the time of writing this report, the evidence on infrastructure remains that in the IDP Update 2015. The Infrastructure Funding Gap (see background paper) remains relevant evidence at this stage.

Proposed CIL Draft charges for consultation

- 3.22. Following the review of consultation responses and findings from updates to the evidence above, it is considered that the proposed CIL charges below strike an appropriate balance between the desirability to fund infrastructure through CIL and the potential effect on the economic viability of development in Cherwell.
- 3.23. Nine strategic housing sites allocated in the adopted Local Plan Part 1 would fall within the more than 500 dwellings category. Many of these sites have either outline planning permission, a resolution to approve or are currently in the planning application system and likely to have gained outline planning permission, ahead of CIL adoption (information available in the Annual Monitoring Report, December 2015).
- 3.24. In setting an appropriate CIL rate for larger strategic sites (500+), the Council has considered responses received to consultation, viability evidence, the need to enable strategic sites to come forward to ensure a continuous supply of housing through the lifespan of the Local Plan, and the desirability of setting CIL charges which are not too complex to implement and administer. It is proposed that larger strategic sites (more than 500 residential units) in Areas 1 and 2 are subject to a nil CIL rate.

3.25. The proposed CIL rates are shown in Table 1 and the geographical areas for the three residential rates are shown in Appendix 1 which also shows the Local Plan Part 1 strategic allocations subject to nil CIL charges. These sites are expected to contribute towards infrastructure through S106 agreements.

Table 1: Proposed CIL Draft Charges

Development Type	Use Class Order	Area 1	Area 2	Area 3
Residential	C3	£100	£230	£270
Strategic allocation for more than 500 residential units in Local Plan Part 1*	C3	£0		£270
District wide				
Out of centre retail**	Out of centre A1-A5	£170		
Retail in town centres***		£0		
Any other development type		£0		
<p>* Policy Banbury 1: Banbury Canalside Policy Banbury 2: Hardwick Farm, Southam Road (East and West) Policy Banbury 4: Bankside Phase 2 Policy Banbury 17: South of Salt Way - East (mostly in Area 1) Policy Bicester 1: North West Bicester Eco-Town Policy Bicester 2: Graven Hill Policy Bicester 3: South West Bicester Phase 2 Policy 12: South East Bicester Policy Villages 5: Former RAF Upper Heyford</p> <p>**Includes sui generis retail uses: petrol filling stations, car showrooms, retail warehouse clubs ***Town centre and out of centre as per Cherwell's Local Plan Proposals Map</p> <p>For the purpose of this Preliminary Draft Charging Schedule: Residential means - C3 development excluding C3 assisted/sheltered accommodation</p>				

3.26. Fifteen per cent of CIL receipts are passed directly to Parish or Town Councils from each 'paying' development within their areas. This increases to 25% if a neighbourhood plan has been adopted. This is known as the neighbourhood portion of the levy and its expenditure is not restricted to infrastructure supporting new development.

3.27. As an example to illustrate the charges, for a 10-house development under CIL, the Council receives about £100,000 in the Banbury area (Area 1), £270,000 in the Kidlington/Water Eaton Area (Area 3) and £230,000 in the rest of the District (Area 2) with a mandatory (15%) £15,000, £40,500 or £34,500 respectively on a 'one-off' basis to the relevant Parish or Town Council. The amount to Parish and Town Councils increases to 25% if a Neighbourhood Plan is in place.

Draft Developer Contributions SPD

- 3.28. Planning obligations, secured under Section 106 of the Town and Country Planning Act 1990 (as amended), are known as Section 106 agreements. They can either be a multi-party deed of agreement, or a unilateral undertaking made under planning legislation in association with a planning permission for new development. They are normally applied to aspects of development that cannot be controlled by imposing a planning condition or by the use of other statutory controls. Planning obligations are legally binding and enforceable if planning permission is granted. They can cover almost any relevant issue such as types of infrastructure or services and future maintenance.
- 3.29. The legal tests for the use of Section 106 agreements are set out in regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended). Regulation 122(2) states that the use of planning obligations should only be sought where they meet all of the following tests:
- a) They are necessary to make a development acceptable in planning terms;
 - b) They are directly related to a development;
 - c) They are fairly and reasonably related in scale and kind to the development.
- 3.30. The obligation is a formal document, a deed which becomes a land charge. If the Section 106 agreement is not complied with, it is enforceable against the person that entered in to the obligation and any subsequent owner.
- 3.31. Developer contribution requirements are presently guided by a Draft Supplementary Planning document (July 2011) approved by the Executive in May 2011 as informal guidance for development management purposes. New legislation and national policy and guidance have been introduced since it was prepared. The Council has also adopted its Cherwell Local Plan Part 1 (2011-2031). The draft SPD therefore carries limited weight in decision making but remains the Council's most recent guidance.
- 3.32. A new draft Developer Contributions SPD has now been prepared for public consultation subject to approval by Members. When completed it is intended that the document be adopted by the Council as a formal Supplementary Planning Document (SPD) which would then have statutory status as planning guidance.
- 3.33. The Developer Contributions SPD does not create new policy. The adopted Cherwell Local Plan 2011-2031 sets the planning framework up to 2031 with the SPD providing a further level of detail to guide development.
- 3.34. The introduction to the SPD provides an overview of the document and describes the relationship between S106 agreements and CIL. The next section sets out the policy framework at both national and local level. There is then detailed general guidance on the procedures to be used by the Council in assessing the need and type of S106 agreement required for developments. The topics covered include pre-application discussions, viability, monitoring and enforcement.
- 3.35. Section 4 of the SPD gives specific guidance for different types of infrastructure. The types of infrastructure covered include affordable housing, education,

transport and access, open space, play facilities, indoor and outdoor sport and recreation, community facilities, nature conservation and biodiversity, apprenticeship and skills.

- 3.36. Detailed technical advice, including the Council's standards for indoor and outdoor recreation provision, and capital contributions and commuted sums for maintenance are set out in the appendices to the document.
- 3.37. The draft SPD is supported by a Statement of Consultation (Appendix 4) which explains the stakeholder engagement that has taken place in preparing the document. A Screening Statement (Appendix 5) has also been prepared concluding that a Strategic Environmental Assessment (SEA) is not required. Statutory consultees have had the opportunity to review the Screening Statement and have agreed that an SEA is not required.
- 3.38. The Position Statement on CIL and Planning Obligations which helped inform the preparation of the proposed Draft Planning Contributions SPD has now being updated to provide the latest information on S106s secured as part of the planning application process in Cherwell in the past 3 years (Appendix 7).

Regulation 123 list

- 3.39. The money raised through CIL can only be spent by the local authority on infrastructure that supports the delivery of development. The local authority sets out the items of infrastructure on which CIL monies can be spent. This is known as a 'Regulation 123 List'. The local authority is free to vary the Regulation 123 List subsequently, as needs change.
- 3.40. There is no effective restriction on how the authority uses any particular sum it receives provided it is for infrastructure. This is because there is no specific requirement for a CIL charge collected to be spent on the development from which it arises. CIL is essentially a development tax, used to help pay for infrastructure required to facilitate development. It is for the local authority to establish its own means of prioritising how CIL monies are spent.
- 3.41. With the effective scaling-back of S.106 Agreements, CIL is intended to become the primary mechanism through which new development contributes towards the provision of required infrastructure. Site specific infrastructure that is directly related to a development, and affordable housing, are the main items that will continue to be delivered through the Section 106 regime. With the introduction of CIL, a S.106 planning obligation cannot be sought for any item of infrastructure included on the Regulation 123 List.
- 3.42. Members are asked to approve the Draft Regulation 123 list in Appendix 1 for consultation.
- 3.43. The list has been drafted using information in the Council's Infrastructure Delivery Plan Update 2015, and information provided by the Council's services and County Council officers to inform CIL and Developer Contributions SPD to this stage.

- 3.44. CIL money and the Draft Regulation 123 list are intended to fund projects which address the cumulative effect of development and/or projects with a wider benefit to communities and neighbourhoods. Infrastructure projects which arise directly as a result of a specific development scheme will continue to be funded through planning contributions other than CIL.
- 3.45. It will help deliver district wide infrastructure alongside other sources of funding and support local communities through the neighbourhood proportion of CIL (see paragraphs 3.26 and 3.27).
- 3.46. Many of the strategic allocations in adopted Local Plan Part 1 already have planning permission or a resolution to approve and will not be subject to CIL. Infrastructure contributions from these sites are expected to be delivered through their S106 Agreements.
- 3.47. CIL is intended to support infrastructure to deliver planned growth and the Local Plan's IDP has been used as the basis to draft this list.
- 3.48. The Regulation 123 list will be kept under review as Local Plan Part 2 and Local Plan Part 1 Partial Review progress. Considering the amount of growth planned and the emerging plans, at this stage the Regulation 123 list approach allows for an element of flexibility in its wording while still making clear what is expected to be secured through CIL and what through S106 Agreements.
- 3.49. It is considered that the approach ensures a developer is not charged twice for the same infrastructure scheme.

Community Infrastructure Levy Instalments policy

- 3.50. Consultation responses and the CIL Viability Report Update, September 2016 note the benefit of introducing an Instalments Policy. Officers propose a Draft Instalments Policy for consultation (Appendix 1) intended to help viability of development proposals with an approach which does not prejudice the ability of the Council to fund infrastructure as and when it is needed.
- 3.51. It should be noted that all the viability evidence is based on full payment of CIL in 60 days of commencement. Implementation of an instalments policy will improve the ability of proposals to accommodate CIL charges and provide a greater financial buffer against the proposed rates (Paragraph 3.14 above).

Neighbouring CIL rates

- 3.52. By way of illustration as to how CIL is being implemented near to Cherwell, Table 3 below presents a summary of the stage of CIL and the CIL charges in neighbouring authorities:

Table 2. Summary of neighbouring CIL progress and charges as at October 2016

Local authority	Development types/uses liable to pay CIL		
	Residential	Retail	Any other development
South Northamptonshire Adopted and being implemented	Zone1 and Strategic urban extensions: £50 Zone 2: £150 Zone 3: £200	£100	£0
Stratford Submitted to Secretary of State in January 2016	Urban extensions: £75 -£85 Small sites (less than 10 units): £75 Rest of District:£150 Extra-care housing as per above rates	Within identified centres: £0 Within new settlements:£10 Out of centre: £120	£0
Oxford City Adopted and being implemented	£100	£100	£20 standard charge
South Oxfordshire Adopted and being implemented	Zone1: £85- £150 Strategic allocations (3 sites): £0 Care homes (C2) and Extra care (C3): £0	Supermarkets, superstores and retail warehouses £70	£0
Vale of the White Horse	Zone1: £120- £260 Zone 2: £85 -£200 Zone 3 (2 strategic allocations): £0 Rural exception site £0 C2 Housing for the frail or disable: £0	Supermarkets and retail warehousing exceeding 280m2: £100	£0
West Oxfordshire Pending Examination	£100 - £200 Extracare housing: £0-£100 Sheltered housing: £0	Greenfield sites District wide: £170 Previously developed outside town centre: £50 Previously developed in designated town centres: £30	£0

3.53. Although the above is useful to illustrate what other authorities are proposing, CIL charges should respond to the particular circumstances and planned development in the local authority area and be based on viability evidence and need for infrastructure in that area.

Future Policy Making and CIL

3.54. CIL would apply to all new qualifying development that receives planning permission in the future (following implementation of CIL). Much of the growth included in adopted Local Plan Part 1 already has planning permission and

infrastructure has been secured or is in the process of being secured through the use of s.106 agreements. However, officers will keep the emerging approach to CIL under review as work progresses on Local Plan Part 2 and the Partial Review of Part 1 to help meet the unmet housing needs of Oxford City. If necessary, there would be changes to the subsequent Draft Charging Schedule.

- 3.55. Central government undertook a review of CIL in 2015/2016 focusing on the effectiveness of CIL to help deliver infrastructure. We are still awaiting the report with the outcomes of the review and its recommendations. Future stages of CIL and Developer Contributions SPD preparation in Cherwell will consider any recommendations from this review.

CIL in the context of wider infrastructure funding

- 3.56. CIL receipts based on current viability information will not be sufficient to deliver all items on the Infrastructure Delivery Plan. The Council will need to corporately prioritise the allocation of funds and identify with infrastructure providers the infrastructure likely to be funded or partially funded by CIL as it progresses through next stages of CIL preparation and as new infrastructure needs are identified through emerging plans, including Neighbourhood Plans.
- 3.57. Research from the Planning Advisory Service (PAS) indicates that CIL is unlikely to contribute more than 5 to 10 per cent of funding for infrastructure requirements although this will depend on the particular circumstances of each local authority in terms of their infrastructure priorities and planned growth. The research indicates that a number of authorities already collecting CIL have used it as 'match-funding' to attract larger sums of money for infrastructure.
- 3.58. The Council and infrastructure providers in Cherwell will need to continue securing other sources of infrastructure funding including:

- Section 106 planning obligations on-site mitigation and under certain circumstances some limited pooling;
- Infrastructure provider's investment programmes including: Highways England, Network Rail, Sports England, Environment Agency, Thames Water;
- Central government funds such as Local Growth Fund and the 'Large sites infrastructure programme' from the Department for Communities and Local Government and funds to support infrastructure as part of the recently awarded Bicester Garden Town;
- New Homes Bonus;
- Business Rate retention;

CIL collection and administration

- 3.59. In 2011 the Department for Communities and Local Government (CLG) estimated that the average cost for a local authority to set up CIL in year 1 would be £107,700 with on-going annual costs to follow of £75,500. The Council would be able to use revenue from the levy to recover the costs of administration and setting up of CIL (up to 5% of total revenue).

- 3.60. The collection and administration of CIL in accordance with the regulations is currently under consideration, and will be reported at a future date but Members are asked to endorse the preparation for implementation at this stage to help future implementation. As noted in paragraph 2.4 above, CIL implementation is a corporate matter and preparing for its administration requires the involvement of different departments. The decision on how to spend any CIL receipts on infrastructure is a matter for this Council; the governance arrangements around this are being considered by officers and will be reported to Members for consideration.
- 3.61. Part of this work will include engaging with those partners in charge of delivering infrastructure including specific Council departments such as leisure and recreation, Oxfordshire County Council, Parish and Town Councils.

Reviewing CIL

- 3.62. There are no prescribed timeframes to review CIL charges once they are in place. Government advice in the Planning Practice Guidance is for authorities to monitor market conditions and infrastructure needs, and to consider linking a review of CIL charges to any 'substantive review of the evidence base for the relevant Plan'. In Cherwell's case adopted Local Plan Part 1 and emerging Part 2 and Part 1 Partial Review.
- 3.63. The Council can stop charging the levy at any time subject to making a resolution to do so.

Next Steps

- 3.64. The anticipated next steps and timescales are as follows:

Table3. Next steps

<i>CIL Charging Schedule</i>	
Second round of consultation on a Draft Charging Schedule (6 Weeks)	November 2016 /January 2016
Examination Hearings	May 2017
Approval	September 2017
<i>Developer Contributions SPD</i>	
Formal consultation (6 Weeks)	November 2016/January 2017
Executive for adoption/endorsement	February/March 2017

- 3.65. Following consideration of comments received through these consultations, the Council will prepare a Submission Charging Schedule in 2017 for public examination and intends to adopt a CIL Charging Schedule in Autumn/Winter 2017.
- 3.66. As noted earlier the SPD provides a context to how S106s and CIL will operate alongside each other forming the package of contributions. Any changes to CIL approach either local or a national level will have an implication on the content

and scope of the SPD and may affect the recommendation officers take to the Executive early next year on a final SPD.

- 3.67. The collection, administration and monitoring of CIL in accordance with the regulations and how it will affect Parish and Town Councils is currently being considered, and will be reported as CIL progresses through next steps.

4.0 Conclusion and Reasons for Recommendations

- 4.1 A Draft Charging Schedule and a Draft Developer Contributions SPD (Appendices 1, 2 and 3) are presented for approval to proceed to formal consultation.
- 4.2 Once adopted and subject to consultation, CIL and the Developers Contributions SPD will operate alongside each other forming the package of contributions or obligations expected to come forward from development proposals to mitigate the impact of development and help fund infrastructure needed to support growth. They are not intended to provide all the funding needed but could help maximise resource income which would otherwise not be available.

5.0 Consultation

- 5.1 Internal briefing: Councillor Colin Clarke, Lead Member for Planning.

6.0 Alternative Options and Reasons for Rejection

Not consulting on the proposed documents

- 6.1 Officers consider that without proceeding with this consultation the Council will not be able to assess the potential benefits of implementing CIL. Consultation will help ensure a robust and transparent process.
- 6.2 The current Draft Planning Obligations SPD (July 2011) is now out of date, it carries little weight in decision making and its continued use will potentially make it more difficult for the Council to secure S106 developer contributions in the future.

Amending the proposed documents

- 6.2 The two documents proposed for consultation were prepared having regard to national policy guidance, informal engagement with key stakeholders and updated development evidence. It is considered by officers that they present an appropriate balance between ensuring that 'as a whole' the economic viability of development proposals is not detrimentally affected and the desire to fund infrastructure.
- 6.3 Proceeding to consultation will provide a further opportunity for stakeholders and members of the public to address matters formally and inform the preparation of both documents.

7.0 Implications

Financial and Resource Implications

- 7.1 There are no financial implications at this stage of CIL and Developer Contributions SPD preparation. The cost of preparing both documents is met from existing resources.

Comments checked by:

Paul Sutton, Chief Finance Officer, Tel. 01295 221634

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Legal Implications

- 7.2 None at this stage other than ensuring that the process for preparing CIL and Developer Contributions SPD follows statutory requirements.

Comments checked by:

Nigel Bell, Team Leader – Planning & Litigation, Tel. 01295 221687

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8.0 Decision Information

Key Decision:

Financial Threshold Met: No

Community Impact Threshold Met: Yes

Wards Affected

All

Links to Corporate Plan and Policy Framework

This report directly links to all four of the corporate priorities and objectives set out in the Cherwell District Council Business Plan 2016-17 as follows:

- A district of opportunity
- Safe, green, clean
- A thriving community
- Sound budgets and customer focused council

Lead Councillor

Councillor Colin Clarke - Lead Member for Planning

Document Information

Appendix No	Title
Appendix 1	Cherwell Preliminary Draft Charging Schedule (including CIL Charging Areas, Draft Instalments Policy, Draft Regulation 123 list)
Appendix 2	Draft Developer Contributions SPD
Appendix 3	Appendices to Draft Developer Contributions SPD
Appendix 4	Regulation 12 Consultation Statement
Appendix 5	Draft Developer Contributions SPD – SEA Screening Statement
Appendix 6	CIL Consultation Statement
Appendix 7	Position Statement on CIL and Planning Obligations (Update)
Appendix 8	CIL Viability Study Update, September 2016 Available on-line at http://www.cherwell.gov.uk/index.cfm?articleid=11346 and www.cherwell.gov.uk/planningpolicy
Appendix 9	Summary of Key CIL elements
Background Papers	
None	
Published Supporting Documents	
<p>1. Report to Executive 1 January 2016: Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule http://modgov.cherwell.gov.uk/ielssueDetails.aspx?IId=15001&PlanId=0&Opt=3</p> <p>2. Report to Executive 7 April 2015: Community Infrastructure Levy (CIL) and Developer Contributions SPD http://modgov.cherwell.gov.uk/documents/s29032/CDC%20Exec%20Report%20-%20CIL%20and%20106%2024%20Mar%202015%20FINAL.pdf</p> <p>3. AMR December 2015 http://www.cherwell.gov.uk/media/pdf/6/i/Final_2015_AMR_for_website.pdf Infrastructure Delivery Plan Update December 2015 http://www.cherwell.gov.uk/media/pdf/9/1/IDP_December_2015_Update_.pdf</p> <p>4. Preliminary Draft Charging Schedule Consultation including: Proposed Charges at the time Infrastructure Funding Gap Position Statement on CIL and Planning Obligations CIL Viability Study http://www.cherwell.gov.uk/index.cfm?articleid=9648</p>	
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