

This report is public	
Community Infrastructure Levy (CIL)	
Committee	Executive
Date of Committee	8 April 2024
Portfolio Holder presenting the report	Portfolio Holder for Planning and Development, Councillor Dan Sames
Date Portfolio Holder agreed report	12 March 2024
Report of	Assistant Director, Planning and Development – David Peckford

Purpose of report

To present, for consideration and approval, a Community Infrastructure Levy (CIL) Draft Charging Schedule, and Draft Instalments Policy for consultation purposes.

1. Recommendations

The Executive resolves:

- 1.1. To approve public consultation on the draft CIL Charging Schedule, Draft Instalments Policy, and supporting documents;
- 1.2. To delegate to the Assistant Director - Planning and Development the authority to make any minor amendments and corrections to the draft document he considers necessary prior to formal publication and in consultation with the Portfolio Holder for Planning and Development;
- 1.3. To delegate to the Assistant Director – Planning and Development the authority to finalise and publish supporting documents in consultation with the Portfolio Holder for Planning and Development.

2. Executive Summary

- 2.1. The Council's Local Development Scheme (LDS) sets out its programme for the preparation of key planning documents. A timetable for the preparation and implementation of a CIL Charging Schedule is included within this document.
- 2.2. The purpose of CIL is to raise funds to deliver infrastructure to support development within the district. Types of infrastructure could include, for example, open space, community facilities, primary care, sports facilities, transport schemes, and schools.
- 2.3. The charging schedule provides the basis of the Levy and must be informed by a viability assessment, and an assessment and demonstration of an infrastructure

funding gap. Before CIL can be implemented there is a requirement for public consultation and a public Examination.

- 2.4. A draft CIL Charging Schedule, presented at Appendix 1, supported by proportionate evidence as required has been prepared by officers. The Executive is therefore now requested to consider whether the draft Charging Schedule, Draft Instalment Policy and other supporting evidence, including an Infrastructure Funding Gap Statement, and a Viability Assessment, presented at Appendices 2 and 3 respectively, should be published for consultation purposes.
- 2.5. Members are not, however, being asked to make a final decision on whether to introduce CIL at this time. That decision will come later.
- 2.6. If adopted, CIL will operate alongside the Developer Contributions SPD. Together they will set out the package of contributions or obligations expected from development proposals to mitigate the impact of development and help fund infrastructure needed to support growth. They will not provide all the funding needed but will help maximise resource income which would otherwise not be available.

Implications & Impact Assessments

Implications	Commentary			
Finance	<p>The planning work on preparing for a potential CIL is funded through the Planning Policy budget. This report seeks to proceed with consultation only. When the Council later decides whether or not to implement CIL, the cost of administration will need to be considered.</p> <p>Kelly Wheeler Finance Business Partner</p>			
Legal	<p>The proposed consultation is required to comply with the requirements for preparing CIL under the Community Infrastructure Regulations 2010 (as amended).</p> <p>Shahin Ismail Legal Services Manager</p>			
Risk Management	<p>There are no specific risks from the proposed consultation that require consideration by the Executive at this stage. Any arising risks will be managed through the service operational risk, and escalated to the Leadership risk register as and when deemed necessary.</p> <p>Celia Prado-Teeling, Performance Team Leader</p>			
Impact Assessments	Positive	Neutral	Negative	Commentary
Equality Impact		X		<p>Not applicable at this stage. This report only seeks endorsement for consultation which will be developed in line with our EDI Framework.</p> <p>Celia Prado-Teeling, Performance Team Leader,</p>
A Are there any aspects of the				

proposed decision, including how it is delivered or accessed, that could impact on inequality?				
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?				
Climate & Environmental Impact		X		Not applicable at this stage. This report only seeks endorsement for consultation.
ICT & Digital Impact		X		None at this stage. If the Council later decides to proceed with CIL there will be a need to procure the necessary IT systems to administer the Community Infrastructure Levy.
Data Impact				N/A
Procurement & subsidy				None at this stage.
Council Priorities	All			
Human Resources	None at this stage			
Property	None at this stage			
Consultation & Engagement	There will be a four-week public consultation with the wider public. There has been, and will continue to be, targeted engagement with key stakeholders, such as infrastructure providers.			

Supporting Information

3. Background

What is CIL?

- 3.1 CIL is a charge which can be levied by local authorities on new development. It can be used to help deliver infrastructure needed to support development. It was introduced through the Planning Act (2008) and brought into effect by the CIL Regulations 2010 (as amended).

- 3.2 CIL is not mandatory. It only applies in areas where a local authority has consulted on, and approved a charging schedule which sets out its CIL rates and has published the schedule on its website.
- 3.3 CIL is charged as a flat-rate tariff per sqm of new development. Once adopted, it is fixed, enforceable and non-negotiable.
- 3.4 Some developments may, however, be eligible for relief or exemption from the levy. This includes residential annexes and extensions, 'self-build' homes where an exemption has been obtained, and social housing that meets relief criteria and has also obtained prior exemption.
- 3.5 Cherwell as CIL charging authority could grant relief from liability to pay CIL in respect of a chargeable development if it considers exceptional circumstances justify it, considers it expedient and has made such relief available in the area.
- 3.6 When deciding the levy rates, an authority must strike an appropriate balance between additional investment to support development and the potential effect on development viability having regard to Local Plan requirements including the provision of affordable housing.
- 3.7 Evidence gathering, setting CIL charges and taking them through the statutory processes to adoption is undertaken by the Council's Planning Policy Team. CIL implementation is, however, a corporate matter. Preparation for its administration and expenditure requires the involvement of a range of different Council departments. Any proposed arrangements for implementation will be presented in a future report.
- 3.8 The Council reports the S106 planning obligations secured in a yearly Infrastructure Funding Statement.
- 3.9 If CIL charges are introduced in Cherwell, the Infrastructure Funding Statement will be amended to list the infrastructure projects or types of infrastructure the Council intends to fund by the levy (excluding the neighbourhood proportion) and report the funding secured from both the Levy and S106 planning obligations.

The Case for CIL

- 3.10 Section 106 agreements alone are not sufficient to fund all of the infrastructure required to support development in the district. They are also limited in their scope as they can only be required where the infrastructure or funds to be secured are:
 - Necessary to make a proposed scheme acceptable in planning terms;
 - Directly related to a development; and
 - Reasonable in scale compared to the development.
- 3.11 These limitations, and the fact that s106 agreements are only routinely used for larger developments, means that the cumulative impact of smaller developments on community facilities and infrastructure is not normally addressed which can lead to pressures on local services and facilities.
- 3.12 CIL has the potential to capture some of the value of these smaller schemes so that they also contribute to funding infrastructure that offsets the impact of their development.

- 3.13 Additionally, some forms of non-residential development have in the past been subject to lower (or no) developer contributions. CIL presents an opportunity to secure some degree of funding from these schemes, as they also have an impact on local infrastructure.
- 3.14 Unlike funds collected through s106 agreements, the receipts from CIL can be spent at the local authority's discretion to provide, improve, replace, maintain or operate infrastructure anywhere within its local area. This provides the flexibility to respond to specific local infrastructure demands that are not currently addressed through s106 agreements.
- 3.15 In addition, there are clear benefits for Town and Parish Councils. The CIL regulations sets out a mechanism that requires local Town or Parish Councils to receive a 15% percentage of any CIL receipts from development in their area, This money can then be used to fund local infrastructure priorities (such as improvements to village halls, playgrounds, sports fields, etc). This rises to 25% where there is a Neighbourhood Plan.
- 3.16 Finally, whilst the introduction of CIL will not negate the need for s106 agreements, over time it may provide the opportunity to reduce the number and complexity of such agreements.

4. Details

Summary of process

- 4.1 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.
- 4.2 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.
- 4.3 This proposed CIL Draft Charging Schedule and Instalments Policy have therefore been informed by viability and infrastructure evidence.
- 4.4 The proposed Charging Schedule and supporting evidence reflect and relate to Cherwell's currently adopted Development Plan to 2031 and those changes in national requirements likely to be in place if CIL is introduced (estimated 2025).
- 4.5 The supporting viability evidence has accounted for development providing for all the requirements set out in the adopted Local Plans and Developer Contributions Supplementary Planning Document including affordable housing, transport mitigation, education, health and open space. In addition, it also accounts for new national requirements since the adoption of our current Plans, such as 10% biodiversity net gain, new national space standards and accessibility standards for residential development, and the costs of emerging national policy on Future Homes Standards and Net Zero carbon policy.

4.6 The CIL charges proposed are set at a level which enables the delivery of local and national policy requirements while sustaining a charge to support the delivery of infrastructure.

CIL viability assessment – Key Findings

4.7 The draft CIL viability assessment has made the following findings:

- S106 agreements are still needed to secure contributions for the largest, strategic residential developments and affordable housing.
- Developments within the built-up limits of Banbury, Bicester and the Kidlington area have limited or no scope for CIL.
- Proposals for flats and Houses in multiple occupation (HMOs) have limited or no scope for CIL.
- Strategic allocations within the Council's adopted Cherwell Local Plan cannot support CIL as they are already expected to make substantial contributions towards infrastructure through S106 agreements.
- Non-strategic medium to larger scale development can support a CIL charge, in addition to providing a degree of infrastructure funding secured through s106 agreements. In these instances, the CIL will represent an additional stream of income alongside the s106 infrastructure receipts.
- Development in the northern part of the district (parishes north of and including Deddington, North Aston, Middle Aston, and Steeple Aston parishes) can support significantly lower CIL rates than the southern parishes.
- Some non-residential developments have the potential to support a CIL charge across the district. These include distribution and logistics schemes, supermarkets, and retail warehouses.
- Industrial development of more than 2,000 sqm on greenfield sites in the south of the district can support a CIL charge.

4.8 The Viability Report also recommends the Council to introduce an instalment policy that spreads the payment of CIL. This is because the timing of CIL payments can impact a developer's cash flow and thus development viability. For example, where a developer is funded, even in part, by a bank (or other) borrowing, the bank may be reluctant to advance funds up front, without tangible works being carried out on-site.

4.9 Officers have drafted an Instalments Policy which reflect this.

The Cherwell Local Plan Infrastructure Delivery Plan (IDP)

4.10 The Cherwell Local Plan Infrastructure Delivery Plan which, includes all infrastructure requirements needed to deliver the Plan is updated on an annual basis. It provides the baseline for assessing the type, costs and funding for new infrastructure across the district, including transport, health and education. As part of the work undertaken specifically for CIL further updates have been made following liaison with infrastructure providers.

4.11 The Infrastructure Delivery Plan has been further updated by liaising with infrastructure providers to confirm the known costs of delivering infrastructure and any funding that is known to have been secured.

The Infrastructure Funding Gap Statement

- 4.12 The draft Infrastructure Funding Gap Statement is presented at Appendix 2. It concludes that the estimated known costs, from the Local Plan's Infrastructure Delivery Plan, to provide critical, necessary and desirable infrastructure to support planned development in Cherwell District up to 2031 is approximately **£754.5 million**.
- 4.13 There is, however, currently only around **£505.5 million** available to provide infrastructure to support that planned development. This money is primarily provided through section 106 agreements, but other known sources of funding have also been included within the assessment.
- 4.14 The funding gap between the cost of the infrastructure and the funding available is therefore **£249 million**. This is comparable to South Oxfordshire (£222m) and Vale of White Horse (£285m).
- 4.15 This level of funding gap justifies introducing the Levy.

Proposed CIL Draft Charging Schedule for Consultation

- 4.16 Based on all the available evidence it is considered that the proposed CIL rates set out in Table 1, and the zoning areas at proposed in Appendix 1 of the Draft Charging Schedule (Appendix 1 to this report), below strike the most appropriate balance between the desirability to fund infrastructure through CIL and the potential effect on the economic viability of development in Cherwell.
- 4.17 In coming to this estimate it has been assumed that the build-out rates for all forms of development are at similar levels to the previous 10 years, with the same level of new permissions being permitted and built out. Some leeway has also been assumed for development types which have shown a downward trend over the last few years.
- 4.18 For residential sites required to provide affordable housing, it has been assumed that these sites will provide policy compliant affordable housing.
- 4.19 For smaller sites, it has been assumed that a proportion of dwellings will be delivered as self-build housing, which will be exempt from CIL.

Table 1: Draft Charging Schedule

Development type	Zone A: Northern area	Zone B: Southern area	Zone C: Bicester & Banbury
Residential development	£20	£120	£0
Large scale strategic residential development	£0	£0	£0
Flats and HMOs	£0	£0	£0
Sheltered housing	£20	£120	£0
Extra care development	£0	£40	£0
Primary retail (Banbury & Bicester)	£0	£0	£260
Large scale industrial (> 2,000 sqm)	£0	£70	£0
Distribution & logistics	£110		
Convenience based supermarkets & superstores	£200		
Retail Warehouses	£140		
All other forms of development	£0		

- 4.20 The difference between the suggested rates for the Northern and Southern is explained by the data sets for land and sales values which affect development viability.
- 4.21 Based on the recommended CIL rates, it is estimated that the potential income from CIL over the period from 1 April 2025 (the estimated CIL implementation date) to 31 March 2031 (the end of the current adopted Cherwell Local Plan period) is approximately **£11 million**.
- 4.22 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 made. This is known as the neighbourhood portion of the levy.
- 4.2. 4.23 The Council is able to use up to 5% of revenue from the levy to cover the costs of administering and setting up CIL. This will be considered in a future report.
- 4.24 The estimated net income to the Council is approximately 4% of the total infrastructure funding gap.

Community Infrastructure Levy Instalments Policy

4.25 A Draft Instalments Policy for consultation has been prepared as set out in Table 2 below. This draft policy is intended to help viability of development proposals without prejudicing the ability of the Council to fund infrastructure as and when it is needed.

Table 2 : Draft Instalments Policy

CIL Liability	No. of payments	Payment periods			
		1 st payment	2 nd payment	3 rd payment	4 th payment
Less than £20,000	1	100% within 60 days of commencement			
£20,000 - £500,000	2	50% within 60 days of commencement			
£500,000 - £2,000,000	4	25% within 60 days of commencement	25% within 180 days of commencement	25% within 270 days of commencement	25% within 360 days of commencement
£2,000,000 or more	4	25% within 60 days of commencement	25% within 180 days of commencement	25% within 360 days of commencement	25% within 540 days of commencement

Future Policy Making and CIL

4.26 CIL would apply to all new qualifying development that receives planning permission in the future (following implementation of CIL). However, much of the growth included in the adopted Cherwell Local Plan already has planning permission and infrastructure has been secured or is in the process of being secured through the use of s.106 agreements. Officers will therefore need to keep CIL under review as work progresses on the Cherwell Local Plan Review. If necessary, there will be future changes to the CIL Charging Schedule to reflect any changes in policy requirements which may affect development.

CIL in the context of wider infrastructure funding

4.27 The Funding Gap Statement demonstrates that CIL receipts based on current viability information will not be sufficient to deliver all items in the Infrastructure Delivery Plan. The Council will need to prioritise the allocation of funds and identify the infrastructure to be funded or partially funded by CIL.

4.28 The Council and infrastructure providers in Cherwell will also need to continue securing other sources of infrastructure funding including s106 agreements, investment programmes and central government funding.

Next Steps

4.29 The anticipated next steps and timescales are set out in Table 3 below.

Table 3: Timetable

4-week public consultation on the draft CIL charging schedule.	May/June 2024
Consider consultation response / review & determine if further consultation is required	June 2024
Submit draft charging Schedule for Examination	June / July 2024
Independent Examination	October 2024 (tbc)
Consider Examiner's recommendations	tbc
Consider whether a discretionary Instalment or Exemption Policy is required	tbc
Approve Charging Schedule and potential Instalment / Exemption Policy	tbc
Implementation – April 2025?	April 2025 (tbc)

5 Alternative Options and Reasons for Rejection

5.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: Not consulting on the proposed Charging Schedule and supporting documents.

The introduction of CIL is within the Council's LDS. Consultation is a legal requirement in the process.

Option 2: Amending the proposed documents.

The documents proposed for consultation were prepared having regard to national policy guidance, informal engagement with key stakeholders and updated development evidence.

Consultation will provide a further opportunity for stakeholders and members of the public to address matters formally and inform the preparation of both documents.

6 Conclusion and Reasons for Recommendations

6.1 A CIL Draft Charging Schedule and Instalments Policy is presented for approval to proceed to formal consultation. This is a required step ahead of the introduction of the Levy within the district.

7 Decision Information

Key Decision	Yes CIL will have a significant community impact if introduced. It will affect all Wards in Cherwell District.
Subject to Call in	Yes
If not, why not subject to call in	N/A
Ward(s) Affected	All

8 Document Information

Appendices	
Appendix 1	Cherwell Community Infrastructure Levy (CIL) Draft Charging Schedule
Appendix 2	Cherwell Community Infrastructure Levy (CIL) Infrastructure Funding Gap Statement
Appendix 3	Cherwell CIL Viability Assessment
Background Papers	None
Reference Papers	None
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