



WEST OXFORDSHIRE
DISTRICT COUNCIL

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Name and date of Committee	Cabinet: Wednesday 15 September 2021
Report Number	Agenda Item No. 6
Subject	Update on the Community Infrastructure Levy and decision to hold in abeyance in light of the government's planning reforms
Wards affected	All
Accountable member	Councillor Jeff Haine Cabinet Member for Strategic Planning, Email: Jeff.Haine@westoxon.gov.uk
Accountable officer	Chris Hargraves, Planning Policy Manager Tel: 01993 861686 Email: chris.hargraves@westoxon.gov.uk
Summary/Purpose	To provide an update on the introduction of the Community Infrastructure Levy (CIL) in West Oxfordshire in light of the previous public consultation held in July 2020 and the Government's subsequent proposed planning reforms announced through the Planning White Paper in August 2020 and Queen's Speech of May 2021.
Annexes	None
Recommendations	a) That the report be noted; and b) That any further progress in relation to the submission and examination of West Oxfordshire's draft CIL Charging Schedule be held in abeyance until further information on the Government's proposed planning reforms have been set out in the forthcoming Planning Bill.
Corporate priorities	The provision of infrastructure for local communities underpins a number of the core themes of the West Oxfordshire Council Plan (2021 – 2024)
Key Decision	No
Exempt	No
Consultees/ Consultation	The District Council's most recent CIL Draft Charging Schedule was subject to public consultation from 10 July – 21 August 2020 in accordance with legislative requirements. In response, 171 representations were received and these have been published online .

I. BACKGROUND

- I.1. Members will be aware that the Community Infrastructure Levy (CIL) is a charge that may be levied on most forms of development to help fund the infrastructure that is needed to support the future growth of an area. CIL is intended to complement the current system of Section 106 planning obligations.
- I.2. Subject to certain exceptions, CIL is generally payable on all new dwellings and on other forms of development which involve the creation of more than 100m² net additional floorspace. The amount charged through CIL must be based on evidence of viability to ensure that it does not hinder development from coming forward.
- I.3. CIL rates must be set out in a document called a 'Charging Schedule' which sets out what types of development are liable for CIL and the relevant rates that apply. Rates are expressed as pounds (£) per square metre.
- I.4. To progress CIL in West Oxfordshire, updated viability evidence was prepared in late 2019 by independent consultants Nationwide CIL Services (NCS). Their [viability report](#) was finalised in January 2020 and informed a [draft CIL charging schedule](#) which was considered by Members in February 2020 and agreed for the purposes of a 6-week public consultation.
- I.5. The rates proposed through the draft CIL charging schedule for residential uses (£ per m²) were as follows:

Zone	1 to 10 dwellings	11+ dwellings	Extra-care housing	Strategic sites
Low	£200	£100	£100	£0
Medium	£250	£125	£100	£0
High	£300	£150	£100	£0

- I.6. All forms of non-residential development were proposed to be zero-rated other than food supermarket retail, due to viability.

Non-residential CIL (District-wide)

All non-residential uses (excepting retail)	£0 per m ²
Food supermarket retail (A1)	£100 per m ²

2. CIL DRAFT CHARGING SCHEDULE CONSULTATION (JULY – AUGUST 2020)

- 2.1. Due to the Covid pandemic, consultation on the draft CIL charging schedule was deferred and subsequently took place from 10 July 2020 – 21 August 2020.
- 2.2. The consultation was undertaken in accordance with legislative requirements and in response, a large number of responses were received (171 in total) from a variety of individuals and organisations. The responses are available to view online [here](#).
- 2.3. In terms of the main issues raised, a very large proportion of respondents expressed specific concerns about the draft charging schedule proposal to exempt the five Local Plan

Strategic Sites (North Witney, East Witney, East Chipping Norton, West Eynsham and the Garden Village) from having to pay CIL.

2.4. This was a recurring theme, with a large number of respondents (including a joint submission on behalf of a number of Town and Parish Councils) expressing significant concerns that in the absence of CIL payments, these strategic sites will place an unacceptable burden on existing local infrastructure due to the resultant increase in population, with S106 planning obligations being less able to meet wider infrastructure needs than CIL.

2.5. A large number of concerns were also expressed about various assumptions made in the Council's supporting CIL viability assessment of the strategic sites including sales and land values assumptions, a miscalculation of assumed development contingency and a lack of clarity on the costs of supporting site-related infrastructure and planning obligations.

2.6. Other, more general comments raised included the following key points:

- Due to the economic uncertainties associated with the impact of Covid-19, the draft charging schedule should remain dynamic until it has emerged through the examination process;
- Concerns that the viability evidence has failed to adequately consider the differences in types of specialist housing for older people with the draft charging schedule also lacking clarity on what forms of older persons housing would be expected to pay CIL;
- That the proposed zero-rating for hotels should be expanded to include other forms of holiday accommodation;
- Concern over the lack of clarity on what CIL will be used to fund and how it will operate alongside contributions sought through Section 106 obligations – it being essential to avoid duplication between the two;
- Suggestions that the Council should await the outcome of the Planning White Paper before progressing with CIL;
- Concerns that the S106 negotiation process lacks transparency with a lack of input from local communities;
- That special consideration should be given to service accommodation and that CIL should not apply;
- Concerns that the Council's most recent viability evidence was prepared by a different consultancy to that which undertook the Council's previous viability evidence;
- Concerns that the supporting CIL viability evidence wasn't in itself subject to Cabinet approval;
- A developer view that all sites over 500 dwellings should be exempt from having to pay CIL – not just Local Plan allocated sites and that a moderated rate should apply to schemes of 100 or more dwellings;
- That the Council should commit to a review of CIL rates within 2 years;
- That the Council should introduce discretionary social housing relief and exceptional circumstances relief;
- Concerns that the high CIL charge proposed for smaller scale residential schemes of 1 – 10 units will hinder the ability of the smaller local construction sector to deliver new homes;

- That build costs for smaller residential schemes have been under-estimated and should be differentiated from the costs associated with larger ‘estate’ style housing;
- Concerns regarding the approach taken in the viability report in respect of the calculation of benchmark land values;
- Concerns about the lack of evidence underpinning assumed land values; and
- That the proposed CIL charge for food supermarket retail should be reduced in designated Town Centres.

3. PROPOSED GOVERNMENT REFORMS

- 3.1. It is relevant to note that whilst the CIL draft charging schedule consultation was taking place, on 6 August 2020, the Government published its [Planning White Paper – ‘Planning for the Future’](#) which set out proposals to improve infrastructure delivery in all parts of the country and ensure that developers play their part through a reform of developer contributions.
- 3.2. The White Paper stated that CIL and the current system of planning obligations (Section 106 agreements etc.) would be reformed as a nationally set, value-based flat rate charge (the ‘Infrastructure Levy’) with the overall aim being to raise more revenue than under the current system of developer contributions, and deliver at least as much – if not more – on-site affordable housing as at present.
- 3.3. Subsequently in May 2021, the [Queen’s Speech](#) confirmed the Government’s intention to take these proposals forward through a new Planning Bill, with one of the main elements of the Bill being cited as, *‘Replacing the existing systems for funding affordable housing and infrastructure from development with a new more predictable and more transparent levy’*.
- 3.4. The Planning Bill is expected to be published in autumn 2021.

4. RECOMMENDED WAY FORWARD

- 4.1. Since consultation on the Council’s CIL draft charging schedule took place in July – August 2020, Officers have not sought to progress to submission and examination, due to a number of factors including the Government’s stated intention to abolish CIL and S106 and replace them with a new, nationally set tariff as well as Officer resources having been focused primarily on progression of the Salt Cross Area Action Plan (AAP) to examination. It is also relevant to note that the CIL viability evidence was prepared in late 2019 and pre-dates the Covid pandemic.
- 4.2. In light of the above, it is the opinion of Officers that it would be prudent to hold any further progress towards submission and examination of the Council’s draft CIL charging schedule in abeyance until the Planning Bill has been published.
- 4.3. This will provide much greater clarity regarding the Government’s stated intention to reform the current system of CIL and planning obligations (Section 106 etc.) with a new, nationally set levy. None of the details of this proposal are known at present.
- 4.4. Depending on the details set out in the Planning Bill (including any transitional arrangements towards the introduction of a new, nationally set levy) a decision will then be able to be made on whether or when to progress the draft CIL charging schedule to submission and examination.
- 4.5. If a decision is taken to continue with CIL (for example if very long transitional arrangements justify it being brought into place for a limited period of time), then prior to submission, a ‘refresh’ of the supporting viability evidence is likely to be needed.

4.6. Once the Planning Bill has been published, a further report will therefore be brought before Members to advise on the most appropriate course of action.

5. FINANCIAL IMPLICATIONS

5.1. The Community Infrastructure Levy (CIL) is a form of developer contribution and therefore provides a direct potential income stream to fund the provision of supporting infrastructure.

6. LEGAL IMPLICATIONS

6.1. The report raises no specific legal implications.

7. RISK ASSESSMENT

7.1. There is a risk of the Council's draft CIL Charging Schedule being rejected or revised through the examination process. There is also a risk of wasted resources associated with progressing CIL given the Government's stated intention to replace it with a new, nationally set levy. This depends to a large extent on any transitional arrangements which are, as yet, unknown.

8. BACKGROUND PAPERS

8.1. The following documents are of relevance to this report:

- West Oxfordshire District Council draft [CIL Charging Schedule](#) (March 2020);
- West Oxfordshire District Council Community Infrastructure Levy [Viability Assessment](#) (January 2020)
- [Planning White Paper – Planning for the Future](#) (August 2020)