

<b>SUBJECT: MONMOUTHSHIRE LOCAL DEVELOPMENT PLAN: COMMUNITY INFRASTRUCTURE LEVY</b>
<b>MEETING: CABINET</b>
<b>DATE: 3 FEBRUARY 2016</b>
<b>DIVISION/WARDS AFFECTED: ALL</b>

**1. PURPOSE:**

- 1.1 The purpose of this report is to advise Cabinet of the results of the recent consultation on a Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule (PDCS) and to seek endorsement of a Draft Charging Schedule (DCS), with a view to issuing for consultation purposes and to recommend to Council accordingly.

**2. RECOMMENDATIONS:**

- 2.1 Cabinet notes the contents of this report and endorses the DCS, with a view to issuing for consultation purposes and to recommend to Council accordingly.

**3. KEY ISSUES:**

3.1 Background.

Council endorsed a CIL PDCS to be issued for consultation purposes on 22 January 2015. The report to Council (which was rearranged from 18 December 2014) is attached as **Appendix A**.

- 3.2 The consultation took place for a period of 6 weeks from Thursday 12th February 2015 to Thursday 26th March 2015. A notice was placed in the Monmouthshire Free Press on 11 February 2015 and 384 individual notifications were sent out to:

- Specific (including Town and Community Councils), General and Other consultees, as identified in the LDP Community Involvement Scheme (207) ;
- Residents who were on the LDP consultation data base and had specifically requested to be notified of proposals for CIL (71);
- Agents/developers who work in the Council area (106).

- 3.3 17 replies were received. These have been split into 44 representations that are summarised, together with the suggested Council response, in the Draft Report of Consultation provided as **Appendix B**.

- 3.4 An issue raised by one of the respondents, the Home Builders Federation, had already been identified by officers and the Council's consultants and has resulted in a need to carry out further viability testing. Draft Affordable Housing Supplementary Planning Guidance (SPG) was consulted on in February and March 2015. The SPG sets out enhanced space standards to meet Welsh Government Design Quality Requirements, a revised housing mix and changes to percentage payments to developers for the transfer of affordable housing to Registered Social Landlords compared with what was tested in the initial CIL viability report on which the charges set out in the PDCS were based. In carrying out the additional viability testing the opportunity has been taken to update build costs and house values (as requested by some of the representors) and refine the strategic sites case studies based on additional information that has come to light. Further case studies have also been added to test the impact of 'rounding up' in establishing affordable housing requirements. The consultants' report on this revised residential viability testing (excluding annexes) is attached as **Appendix C**.

#### 3.4.1 Results of Revised Residential Viability Testing.

The updated viability evidence has not indicated any adverse impacts on viability resulting from the policies set out in the Draft Affordable Housing SPG. In fact, viability has generally improved. Comparing the results from the current viability study with those of a year ago, the strengthening market and payment for affordable housing based on ACGs has had a bigger impact on the residual values calculated than the changes in build costs and use of DQR for the affordable housing over the same period. The consultants have recommended, therefore, slight increases in the CIL rate, as set out in Table 5-1 of the updated report (Appendix C). In summary, the new charges would be:

- A standard CIL charge of £80/sq. m for strategic sites generally plus non-strategic development of 3 dwellings or more in Severnside, except for:
- Deri Farm, with a CIL of £60/sq. m;
- Fairfield Mabey, sites of less than 3 dwellings, affordable housing lead schemes in villages and rural areas and retirement housing which are all £0 rated;
- Any other non-strategic development of 3 dwellings or more elsewhere in Monmouthshire which is £120/sq. m. (except for Monmouth which is £100/sq.m.)

3.4.2 The reason for the lower rate for Deri Farm is the high cost of undergrounding the existing overhead cables, which affects overall viability. Developments of less than 3 dwellings have had to be exempted from CIL because recent work on build costs have indicated higher relative costs for smaller developments making it unviable to charge CIL. The improvement in house prices has meant that it is now feasible to charge CIL on the former Sudbrook Paper Mill strategic site, whereas previously it had a zero rate. The Fairfield Mabey strategic site is now proposed as a zero rate as costs have increased to reflect the transfer of a cost item from CIL to Section 106 and increased cost estimates for other items.

3.5 The original CIL Viability assessment report also tested non-residential development in order to assess its potential for supporting a CIL charge. This testing was carried out in May 2014. It has been necessary, therefore, to update the cost and value assumptions used for non-residential development in a similar manner as for residential development. In addition, two extra development types were tested in order to address a consultation response from the Monmouth and District Chamber of Trade, which expressed concern that the proposed CIL charges did not include A3 uses (with specific reference to the proposed Dixon Roundabout development in Monmouth). The new typologies test A3 units (restaurants, cafes, takeaways etc.), one located in a town centre and the other in out of town locations. The consultants' report on this revised non-residential development testing is attached as **Appendix D**.

#### 3.5.1 Results of Revised Non-Residential Viability Testing.

The report advises that the CIL rates set out in the original viability report remain applicable, i.e. £200 per square metre for out of centre retail uses and £0 per square metre for all other non-residential development. There has been some refining of the proposed charges to clarify that supermarkets will be liable to pay CIL even if they are located within a town centre (previously it was only proposed to charge for out-of-centre retail, which was contrary to the finding that supermarkets achieve good viability irrespective of location). A3 uses were found not to generate sufficient revenue to charge a levy.

3.6 An amended charging schedule (excluding maps), incorporating the results of the revised viability testing is attached as **Appendix E**. This will form the basis for next formal stage in the CIL preparation process – the consultation on the Draft Charging Schedule (DCS). The consultants' reports referred to above will also have to be

published as part of the consultation to give consultees the opportunity to interrogate the assumptions used in the viability testing.

3.7 The other main issues arising from the consultation and/or still remaining to be resolved are set out below:

3.7.1 Detailed technical issues are raised that are claimed to result in CIL rates that are too high – these include such matters as the level of the benchmark land value, differences between residential and non-residential land values, developers' profits and margins, site opening up costs, provision of garages within building cost estimates, distinguishing between gross and net densities.

Response: These matters have been addressed by the Council's consultants and responses are given in the Report of Consultation and the updated viability report. It is considered that a rigorous process has been followed in establishing the proposed CIL rate and that this can be defended at Examination.

3.7.2 Inadequacies in the Council's Regulation 123 List and associated Infrastructure Plan (IP).

Response: The 'Regulation 123 list' identifies items on which the Council intends to spend CIL funding. It was being suggested that the Reg.123 list (as set out in the PDCS) included sustainable transport improvements, upgrade/provision of broadband connectivity, town centre improvements, education, strategic sports/adult recreation facilities and strategic green infrastructure. It is appropriate to set out broad categories of development to be funded by CIL in this way but the list has to be supported by an Infrastructure Plan that identifies the potential projects that fall within these broad types of infrastructure. A draft list of potential 'place-making' and other proposals by settlements to be funded through CIL was provided in Annex 2 of the Draft IP produced in July 2013 as part of the Local Development Plan (LDP) process. Further work was needed to this list and this has been achieved by preparing an Addendum to the 2013 IP that is attached as **Appendix F**.

The purpose of the IP addendum is three-fold:

- To update the Council's 2013 IP by providing an overview of what categories/types of infrastructure identified in the IP fall within the remit of CIL and what infrastructure will continue to be addressed through other funding sources, including S106 planning obligations. This is set out in Section 2 of the Addendum.
- To recommend which categories of infrastructure will be included in the Reg. 123 List. The Reg. 123 List can be published and revised at any time after the Council has adopted CIL. If an infrastructure category/scheme is included in the Reg. 123 List a S106 cannot be negotiated to contribute towards that infrastructure. If an infrastructure category/scheme is not included in the Reg. 123 List, up to five S106 planning obligations entered into since April 2010 may be pooled to contribute towards its cost. This is to ensure that double charging of developers for infrastructure through using both CIL and S106 is avoided. The recommendations also set out those site-specific infrastructure categories where S106 contributions are likely to be the funding mechanism in order to provide transparency on those matters where S106 contributions will continue to be sought.
- To provide an updated list of indicative infrastructure schemes (based on the most up-to-date information available) that would support development proposed in the LDP that could be funded, partly or wholly, through CIL. The timing/phasing, estimated costs, delivery/funding sources, available funding and subsequent funding gap is identified for each scheme where possible. The draft list of CIL eligible infrastructure schemes which fall within the Regulation 123

List categories is set out in Section 3 of the Addendum. The infrastructure schemes identified are based on a variety of sources

While the Reg.123 List and supporting Infrastructure Plan will not specifically be examined by an inspector, it is necessary to be able to demonstrate at Examination that there is a need for infrastructure in the County that cannot be financed by other sources (the 'funding gap'). The charging authority needs to set out a draft list of the projects or types of infrastructure that are to be funded in whole or in part by the levy, together with any known site-specific matters for which section 106 contributions may continue to be sought. The Reg.123 list and Infrastructure Plan can be varied over time according to Council priorities and is very much an initial rough draft at the present time that requires further refinement. There will be plenty of opportunity for any further projects that may be identified to be added at a future date. The infrastructure planning process would include, for example, links with Whole Place Plans, Town Teams etc. to determine what matters to communities in terms of infrastructure provision. Some of those projects would be funded via the 15% of CIL receipts that are passed to the Community Council where the new development is within their area, but other more strategic projects should be included on the infrastructure plan. In this respect, further reports will be made to Members in order to establish the procedures for allocating CIL monies and determining priorities for spending. It can be seen, in fact, that the 'funding gap' identified to date is far in excess of any finance that can be raised through CIL itself and it will be necessary to focus on a small number of schemes from the extensive list currently provided in the Addendum or to utilise CIL to 'top up' infrastructure funding that has been obtained from other sources.

The detailed work that has been carried out has necessitated some changes to the precise wording of the Reg. 123 list that was previously provided in the PDCS. These have been incorporated into the DCS that has been reproduced as **Appendix E**.

3.7.3 Lack of detail on processes for liaising and consulting with local communities and deciding on spending priorities.

Response: The Regulations set out that 15% of the CIL monies raised in a locality will be allocated to the town or community council in which the development takes place, provided that it meets the requirement to 'support the development of the area'. This is not to say that additional money will not be spent in that town or community council area. The amount to be spent in a locality will depend on the Council's priorities as set out in its Infrastructure Plan, which will be finalised in consultation with local communities. It would be hoped that the County Council and town and community councils would be able to align their priorities to ensure that the best use is made of available resources. A protocol for liaising and consulting with local communities and deciding on spending priorities will be developed as CIL is progressed. One option might be to enter into a formal agreement with a town or community Council. One of the advantages of such agreements is that the expertise of County Council officers could be utilised to make best use of resources, e.g. by assisting in drawing down match funding for community projects. Prior to the adoption of CIL, a protocol for liaising and consulting with local communities and deciding on spending priorities will be established. Further reports will be made to Members to seek agreement on the form of this protocol.

3.7.4 A need for the Council to set out its approach to CIL relief.

Response: The CIL Regulations make a number of provisions for charging authorities to give relief from the levy. Some of these exemptions are mandatory, including development for charitable purposes and social housing. Discretionary relief can be offered in exceptional circumstances where a specific scheme cannot afford to pay the levy. The powers to offer relief can be activated and deactivated at any point after the charging schedule is approved. At present, it is not intended to offer exceptional circumstances relief. It is considered that a rigorous process has been followed in

establishing the proposed CIL rate and if developers disagree with the proposed rates they will have the opportunity to challenge them at Examination.

### 3.8 Next steps.

3.8.1 It is intended to report the DCS, together with the results of the consultation and the revised viability testing, to Council, with a view to seeking endorsement of the DCS to issue for consultation purposes. The next stage will then be to submit the DCS for Examination, together with any representations received in order that they can be considered by an independent inspector.

3.8.2 The Affordable Housing SPG referred to above also needs to be reported to Planning Committee, Cabinet and Council in order to seek the formal adoption of the document as SPG to support the Monmouthshire LDP. This SPG was not put forward for adoption at an earlier date in order to await the results of the revised CIL viability testing to enable Members to be made fully aware of the SPG's implications for CIL (and potentially the percentage of affordable housing that can be achieved under LDP policy). In this respect, the revised viability testing has not indicated any adverse impacts on viability arising from the policies set out in the SPG.

## 4. **REASONS:**

4.1 It is necessary for the Council to establish its position with regard to implementation of CIL to ensure that the potential for meeting infrastructure needs of communities through the implementation of the CIL Regulations is fully explored.

## 5. **RESOURCE IMPLICATIONS:**

Officer time and costs associated with developing CIL. These will be carried out by existing staff and within the existing budget, except for the likelihood that consultants will also be required as the CIL implementation process raises complex legal and technical issues (which will be subject to a formal public examination) that requires specialised assistance from experts in this field. It is envisaged that these additional costs will be met from the existing Development Plans Professional and Technical Fees budget line. New funding streams will arise from CIL if it is introduced as it will replace and supplement Section 106 funding in a number of areas.

## 6. **SUSTAINABLE DEVELOPMENT AND EQUALITY IMPLICATIONS:**

6.1 These were considered in the report that was presented to Council on 22 January 2015 (rearranged from 18 December 2014) and which is attached as **Appendix A**.

6.2 A Future Generations Evaluation is attached.

## 7. **CONSULTEES**

- Head of Planning
- Section 106 Working Party
- Economy & Development Select (15 October 2015 and 26 November 2015)
- Cabinet
- SLT
- Planning Committee (2 February 2016)

## 8. **BACKGROUND PAPERS:**

- Monmouthshire Adopted LDP (February 2014)
- Monmouthshire County Council (MCC) Draft Infrastructure Plan (March 2013)
- MCC Draft CIL Guidance Note (September 2014)
- MCC CIL PDCS and Draft Regulation 123 List (September 2014)

- MCC CIL Viability Assessment (Three Dragons with Peter Brett Associates) (July 2014)

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