

APPENDIX A

SUBJECT: MONMOUTHSHIRE LOCAL DEVELOPMENT PLAN: COMMUNITY INFRASTRUCTURE LEVY
MEETING: FULL COUNCIL
DATE: 18 DECEMBER 2014
DIVISION/WARDS AFFECTED: ALL

1. PURPOSE:

- 1.1 The purpose of this report is to advise Council of progress made on preparatory work for a Community Infrastructure Levy (CIL) and to seek endorsement of a Preliminary Draft Charging Schedule (PDCS), with a view to issuing for consultation purposes.

2. RECOMMENDATIONS:

- 2.1 Council notes the contents of this report on the preparatory work being undertaken on CIL and endorses the PDCS, with a view to issuing for consultation purposes.

3. KEY ISSUES:

- 3.1 The Community Infrastructure Levy (CIL).

CIL is a new levy that local authorities (LA) in England and Wales can choose to charge on new developments in their area. The money can be used to support development by funding infrastructure that the local community needs. It applies to most new buildings and charges are based on the size and type of the new development. The CIL regulations came into force on 6 April 2010. However, liability to pay CIL for a development will not arise until the LA has implemented a charging schedule (which has to be based on an up-to-date development plan, i.e. a Local Development Plan (LDP), and is subject to consultation). A guidance note describing how CIL operates is attached as **Appendix A**.

- 3.2 It was resolved at a meeting of Full Council on 27 June 2013 to commence preparatory work for CIL with a view to adopting a CIL charge as soon as is practicable following adoption of the Monmouthshire LDP. Subsequently, the LDP was adopted on 27 February 2014.

- 3.3 A PDCS (attached as **Appendix B**) has been prepared for consultation purposes. The Charging Schedule has to undergo two rounds of public consultation and a likely Examination in Public. The current timetable (if Council agrees to the implementation of CIL) envisages adoption of CIL in September 2015, although some aspects of the process, such as the appointment of an inspector for the public examination, are not in the Council's control.

- 3.4 There are two elements to the production of a CIL charging schedule – a viability assessment and an infrastructure assessment. A study has been undertaken (attached as **Appendix C**) to establish the levels of CIL that are feasible because a CIL charge should not affect scheme viability and prevent development coming forward in an area. CIL is paid as so much per square metre. In Monmouthshire CIL will mainly be applied to residential development, as out-of-town retail schemes are the only non-residential developments on which it is feasible to charge. The proposed charges will vary by area/type of development and are set out in detail in the PDCS. As an illustration, on a 'typical' three bedroom semi-detached house the proposed charges would be £4,800 on strategic sites and small sites in Severnside and £8,800 on most other sites in Monmouthshire.

- 3.5 LAs are required to undertake an infrastructure assessment to identify the need for and cost of infrastructure to support the level of development set out in the LDP. As part of this process a Draft Infrastructure Plan was prepared to support the LDP at Examination and was reported to Council at its meeting on 27 June 2013. CIL will replace a substantial element of the funding currently received from Section 106 Agreements, although Section 106 funding will still be required for infrastructure necessary to ensure that a development comes forward (e.g. access improvements), on-site provision of play facilities and affordable housing. One advantage of CIL is that, unlike Section 106, it does not have to be spent directly on matters necessary to implement a specific planning permission but can also be used on a more strategic basis to provide infrastructure in a wider area. The items on which the Council intends to spend CIL funding on would need to be specified in a 'Regulation 123 list'. This can be varied over time according to Council priorities and would be based on an Infrastructure Plan that sets out the items that are considered necessary to implement the LDP (other than those that are specific to a particular site). These can include more general 'place-making' schemes that support the growth proposed in the LDP. At present, it is being suggested that the Reg.123 list (as set out in the PDCS) includes sustainable transport improvements, upgrade/provision of broadband connectivity, town centre improvements, education, strategic sports/adult recreation facilities and strategic green infrastructure, but this is for the Council to establish according to its priorities. At examination the charging authority should set out a draft list of projects or types of infrastructure that are to be funded in part in whole or in part by the levy. Any amendments to this list after examination will need to be consulted upon. Provided there is agreement on the broad categories of infrastructure to be supported by CIL prior to examination then it should be possible to refine a list of specific projects within these categories as part of an infrastructure planning process that includes, for example, links with Whole Place Plans, Town Teams etc. to determine what matters to communities in terms of infrastructure provision. 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.
- 3.6 Landowners become liable for CIL when planning permission is granted and it is payable (not necessarily by the landowner as the liability can be transferred) when a development commences, although it is possible for payments to be made on an instalment basis. Planning permissions granted before CIL becomes operational, therefore, will not be liable to the charge but will still be subject to Section 106 requirements. However, the overall potential funding stream is slightly less under Section 106s because CIL brings all residential development, down to a single dwelling (although self-builders are excluded), into the charging regime. In addition, after 1 April 2015 no more than five Section 106 agreements can be used to fund a single piece of infrastructure.
- 3.7 'Meaningful amount' for local communities.
The Localism Act 2011 introduced a power to require local authorities in England and Wales to pass a 'meaningful' proportion of the CIL receipts to neighbourhoods. Contained within the 2011 Act was a definition of neighbourhoods, which applies to England only. In Wales the Welsh Government issued a letter on 8 April 2013 stating that for the purposes of receiving a proportion of CIL receipts, the equivalent definition is a Community Council. In terms of defining a 'meaningful' amount the letter states that 15% of CIL revenues 'should be passed to Community Councils'. The letter goes on to state that 'where the community council does not have the capacity to identify, spend and account for the receipt of such funds, the charging authority [the County Council] will retain the funds but will be required through statutory guidance to engage with community councils where development has taken place to agree how best to spend the funding'. The relevant regulation states 'In Wales, where all or part of a chargeable development is within the area of a community council, then ... the

charging authority must pass 15 per cent of the relevant CIL receipts to that community council'. The part of the levy that is passed to a community council must be spent to 'support the development of the area'. Guidance on this matter recommends that once the levy is in place town and community councils 'should work closely with their neighbouring councils and the charging authority to agree on infrastructure spending priorities'. The guidance also indicates that if the town or community council 'shares the priorities of the charging authority, they may agree that the charging authority should retain the neighbourhood funding to spend on that infrastructure', also suggesting that this infrastructure (e.g. a school) may not necessarily be in the town or community council area but will support the development of the area.

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 though 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 are likely to 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 Sustainable Development

The adoption of CIL will be a means of supporting and delivering the LDP. An integrated equality and sustainability impact assessment was carried out in relation to the LDP as a whole. Under the Planning Act (2004), the LDP was required, in any event, to be subject to a Sustainability Appraisal (SA). The role of the SA was to assess the extent to which the emerging planning policies would help to achieve the wider environmental, economic and social objectives of the LDP. The LPA also produced a Strategic Environmental Assessment (SEA) in accordance with the European Strategic Environment Assessment Directive 2001/42/EC; requiring the '*environmental assessment*' of certain plans and programmes prepared by local authorities, including LDP's. All stages of the LDP were subject to a SA/SEA, therefore, and the findings of the SA/SEA were used to inform the development of the LDP policies and site allocations in order to ensure that the LDP would be promoting sustainable development. CIL is supporting these existing LDP policies, which were prepared within a framework promoting sustainable development.

6.2 Equality

6.2.1 The LDP was also subjected to an Equality Challenge process and due consideration given to the issues raised. As with the sustainable development implications considered above, CIL is supporting these existing LDP policies, which were prepared within this framework.

7. CONSULTEES

- Head of Planning
- Section 106 Working Party
- Economy and Development Select (16 October 2014)
- Cabinet

- SLT
- Planning Committee (4 November 2014)

Consultation Responses

The minutes of the Economy and Development Select meeting on 16 October 2014 were not available at the time of the preparation of this report. Two main points of concern, however, appeared to be the lack of clarity at this stage on the processes that would be followed in allocating CIL monies and determining priorities for spending and on the way in which the 15% funding for community councils would be dealt with. In order to address these points, additional sentences have been added to the end of paragraph 3.5 and an additional paragraph 3.7 added entitled ‘Meaningful amount’ for local communities’.

8. BACKGROUND PAPERS:

- Monmouthshire Adopted LDP (February 2014)
- Monmouthshire County Council Draft Infrastructure Plan (March 2013)

8. AUTHOR & 10. CONTACT DETAILS:

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