

EXETER CITY COUNCIL**PLANNING MEMBER WORKING GROUP
28 NOVEMBER 2011****EXECUTIVE
6 DECEMBER 2011****COMMUNITY INFRASTRUCTURE LEVY PRELIMINARY DRAFT CHARGING
SCHEDULE****1 PURPOSE OF REPORT**

- 1.1 To seek Members approval for the proposed Community Infrastructure Levy Preliminary Draft Charging Schedule at Appendix 1 to be published for public consultation.

2 BACKGROUND

- 2.1 The Community Infrastructure Levy (CIL) is a new form of charge that allows local authorities to raise funds from developers undertaking new building projects in their area. Except for affordable housing and development that is used for charitable purposes (to which exemptions apply), CIL must ordinarily be applied at a fixed rate to all other net additional new development of one or more dwellings, or with a floor area of more than 100 square metres. This includes non-residential development. Different rates can be applied to different types of development and, where there is appropriate evidence, can be set at zero.
- 2.2 One of CIL's advantages is the certainty and simplicity it offers to councils and developers in comparison with section 106 negotiations. The money collected can be used to fund a wide range of infrastructure that is needed as a result of development including transport facilities, flood defences, schools, sports facilities and open spaces. Where appropriate, this can include contributing towards projects outside of the authority's area. Pooling CIL holds the potential to help deliver an important item of infrastructure quickly and, in turn, bring further development forward.
- 2.3 The role of section 106 agreements is being significantly diluted through regulations. Their future role will involve securing affordable housing, some other site-specific provisions and little more. It is therefore essential that the City Council progresses towards adopting a Community Infrastructure Levy Charging Schedule if developer contributions are to continue to help fund necessary infrastructure improvements for the city.
- 2.4 A report further summarising CIL and its implications was previously presented to Planning Member Working Group on 8 March 2011.

3 THE CHARGING SCHEDULE

- 3.1 This report proposes a first round of CIL consultation on a 'Preliminary Draft Charging Schedule'. This will not be the only stage of consultation. Following this and before CIL can be applied, an updated Charging Schedule must be prepared and published for a further round of public consultation. It must then be considered by an independent examiner before adoption by the Council. Successful progress should see CIL brought into use in Exeter from late Summer 2012.

- 3.2 CIL rates must be based on technical evidence and cannot be rebalanced to reflect Council preferences. Charging Schedule examination will therefore focus on two matters:
- i) Infrastructure requirements and costs, other sources of funding and the implied funding gap (if there is one);
 - ii) the potential effects of the imposition of the levy upon the economic viability of development.

- 3.3 The Schedule is therefore supported by two primary items of evidence:

The Infrastructure Delivery Plan supports the emerging Development Plan for Exeter (to 2026) by identifying infrastructure investments that are needed to support the Plan and indicating the funding gap associated with their provision. A separate report on the Infrastructure Delivery Plan is included with the agenda for this meeting.

The Community Infrastructure Levy Viability Study considers the economics of development and recommends rates of CIL that can be applied in Exeter without putting delivery of the Development Plan at risk. The study considers income and costs associated with development to determine a residual value of development and associated levels of CIL that would not put the development strategy at risk.

- 3.4 On the basis of this evidence, the appended Preliminary Draft Charging Schedule proposes a rate of CIL of £100 per square metre for residential development, £50 for purpose built student housing and £300 for supermarkets and retail warehouses of more than 2,500 square metres. For all other operational uses a zero rate is proposed, illustrating the particular financial challenges currently facing many development sectors.
- 3.5 The CIL figures proposed sit firmly within the range that is expected to emerge across the country. In terms of residential development, a range of between £40 and £200 per square metre would represent a fair summary of the national picture of existing proposed rates. More locally, Mid Devon District Council have proposed £113, Plymouth City Council up to £60 and Teignbridge District Council have indicated that their residential rate might be around £90.

4 IMPLICATIONS FOR AFFORDABLE HOUSING PROVISION

- 4.1 Whilst the development of affordable housing will not be liable for CIL itself, the provision of affordable housing through section 106 agreements is a 'developer contribution' that comes at a significant cost to housing development overall. The CIL Viability Study considers the size of developer contribution that can be afforded under current market conditions without putting at risk delivery of Exeter's overall development strategy.
- 4.2 The Study's analysis and section 106 affordable housing negotiations demonstrate that housing development incorporating the emerging Core Strategy's 35 per cent affordable housing target would currently be unviable even with CIL set at £Zero. The Study therefore assumes affordable housing provision at a rate of 25 per cent (with 70 per cent of that being for Social Rent). This broadly accords with current Local Plan First Review policy and supports the proposed CIL rate of £100 per square metre for residential development.
- 4.3 By 2026, such a Levy rate could help to raise funds of around £50 million, which still represents a significant challenge in terms of funding the estimated £110 million of

unfunded infrastructure that will be needed to deliver the emerging Exeter Core Strategy (see separate Infrastructure Delivery Plan report with this agenda). These cost figures do not account for other costs associated with Council and communities' infrastructure priorities. Setting CIL lower could mean foregoing important infrastructure, which could result in less development coming forward and, therefore, less overall affordable housing provision.

- 4.4 Of course, whilst 25 per cent affordable housing has been assumed, because it will continue to be provided through section 106 planning obligations affordable housing provision will still be negotiated on a site by site basis. Some development schemes may generate higher profit margins than others and with the CIL rate fixed, will be in a position to afford to deliver higher rates of affordable housing; especially if there is house price inflation.

5 OPERATIONAL MATTERS

- 5.1 Beyond the scope of the Charging Schedule and its examination, there are other issues associated with the operation of CIL that will need to be resolved before or upon adoption:
- 5.2 **Governance arrangements.** It is unlikely that the amount of CIL collected will be sufficient to provide all of the infrastructure that will be needed to support the development growth that is proposed for Exeter, especially as it will be collected over time on a development-by-development basis. It will therefore be important to establish procedures for prioritising infrastructure investments that deal with:
- i) combining CIL with other sources of funding;
 - ii) directing funds towards communities' infrastructure priorities;
 - iii) prioritising strategic infrastructure projects;
 - iv) working with other authorities to secure infrastructure that serves cross-boundary needs.

Reports on New Homes Bonus and the Infrastructure Delivery Plan with the agenda for this meeting provide further detail and propose that Executive receive a further report on infrastructure budgeting procedures.

- 5.3 **Section 106 / CIL delineation.** A clear line of separation will need to be drawn between those site-related items of infrastructure that might still be provided through section 106 agreements and those that CIL will fund. As section 106 obligations will be additional to fixed CIL payments there can be no duplication of payments. This issue will require more detailed work. A statement with a list of the types of infrastructure that are intended to be funded, wholly or in part, through CIL will need to be published on the Council's website upon Charging Schedule adoption. As CIL progresses, a further report will include a proposed list.
- 5.4 **Collecting CIL in instalments.** Local authorities have some control over when CIL should be collected. The national default position is for all CIL to be paid within 60 days of development commencement but there is scope for the Council to introduce a standardised alternative instalment policy that would be applicable to all planning permissions within the city. The Community Infrastructure Levy Viability Study has not considered the impact of introducing an instalment policy in detail but deferring payments could serve to improve development viability. However, these benefits should be weighed against an instalment policy's impact on the Council's ability to accumulate CIL receipts and invest in infrastructure that will help to bring further development forward, particularly in the short term.

- 5.5 **Discretionary relief from CIL.** Local Authorities as CIL Charging Authorities can grant discretionary relief from CIL liabilities. However, regulations on this matter mean that relief should only be granted in truly 'exceptional circumstances'. The fact that a development might be unviable at the time a planning application is considered unlikely to constitute an 'exceptional circumstance' in relation to the CIL Regulations.
- 5.6 The proposed consultation document at Appendix 1 therefore seeks views on what exceptional circumstances would warrant discretionary relief from CIL liability. It also seeks views on introducing a CIL instalments policy.

6 CONSULTATION ARRANGEMENTS

- 6.1 In working towards the Preliminary Draft Charging Schedule, stakeholder workshops have already been held with a large number of representatives from the development industry.
- 6.2 The proposed consultation document has been prepared in consideration of stakeholders' views. Whilst there is no regulatory timescale for this first round of formal consultation it is proposed that the Preliminary Draft Charging Schedule be made available for comment for a period of at least six weeks.
- 6.3 Consultation would involve writing to all of those involved in the workshops and those listed on our consultation database, publication of all material on the Council's website and making it available to view at the Civic Centre.

7 GOVERNMENT CONSULTATION ON CIL REFORM: SPENDING A PROPORTION OF LEVY MONEY LOCALLY

- 7.1 In line with provisions of the emerging Localism Bill, there is a current Government consultation that includes proposals to direct a 'meaningful proportion' of CIL moneys towards the infrastructure priorities of the local communities in which new development is situated.
- 7.2 Opinions are being canvassed as to what figure (in percentage terms) would constitute a 'meaningful proportion'. However, the current draft of the consultation does not require local authorities to formally pass the moneys to a local body except where parish and town councils exist.
- 7.3 In the case of Exeter (and other authority areas where there are no parish or town councils), the consultation document proposes that the Council should *"...determine the areas within the local authority boundary where CIL receipts will be applied and how to engage with residents, businesses and other interests in determining how they will be spent."*
- 7.4 If confirmed, this approach will provide the Council with significant flexibility in determining how to consult upon and direct a meaningful proportion of CIL receipts towards communities' infrastructure priorities.

8 ADVICE SOUGHT/RECOMMENDATION

- 8.1 That Planning Member Working Group note the report.
- 8.2 That Executive approve that the Community Infrastructure Levy Preliminary Draft Charging Schedule at Appendix 1 be published for public consultation.

- 8.3 Members are also advised to note the content of the latest CIL regulations consultation.

**RICHARD SHORT
HEAD OF PLANNING AND BUILDING CONTROL**

**KARIME HASSAN
DIRECTOR**

ECONOMY AND DEVELOPMENT DIRECTORATE

Local Government (Access to Information) Act 1985 (as amended)

Background papers used in compiling this report:

Community Infrastructure Levy Regulations 2010 (as amended)