

EXECUTIVE BOARD
30TH NOVEMBER 2015

COMMUNITY INFRASTRUCTURE LEVY (CIL)

RECOMMENDATIONS / KEY DECISIONS REQUIRED:

- This report seeks approval to progress a Community Infrastructure Levy (CIL) for Carmarthenshire.
- To authorise the production of a Preliminary Draft Charging Schedule, which will identify the amount of CIL sought from each qualifying development, and to conduct a formal consultation on its content along with the associated evidence base.

REASONS:

- Legislation has effectively scaled back the scope of Section 106 legal agreements. If the Council does not implement a CIL it will potentially lose out on contributions from developers to fund vital infrastructure, required to implement the Local Development Plan allocations.
- A decision is required to progress the Carmarthenshire CIL and to authorise a public consultation on the Preliminary Draft Charging Schedule.
- To ensure that the development set out in the Local Development Plan is brought forward with appropriate infrastructure.

Relevant scrutiny committee to be consulted: Yes, reported on 9th November 2015.

Exec Board Decision Required	YES
Council Decision Required	YES

Executive Board Member Portfolio Holder:
Cllr. Meryl Gravell (Regeneration & Leisure)

Directorate: Environment Department	Designations:	Tel Nos. / Email addresses:
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EXECUTIVE SUMMARY

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COMMUNITY INFRASTRUCTURE LEVY (CIL)

On the 11th May 2015 the Executive Board resolved to commence work on gathering evidence on the suitability of adopting a CIL Charging Schedule in Carmarthenshire. It was agreed that the Executive Board would receive a further report before commencing work on the Preliminary Draft Charging Schedule.

In order to consider the suitability of introducing a CIL in Carmarthenshire it was essential to firstly conduct a viability exercise to establish the economic viability of charging CIL throughout the County. In addition to this, further work will need to be done to gain a full understanding of Carmarthenshire's future infrastructure needs and estimated cost of delivering this infrastructure.

It should be noted for clarity that the introduction of a CIL charge is not a mandatory requirement for local authorities and is not intended to replace planning obligations such as Section 106 agreements or Section 38/278 agreements for highway works. In this respect planning obligations will continue to operate irrespective of the adoption of a CIL charge. However, the scope and ability to collect planning obligations have been scaled back and curtailed as a result of the CIL Regulations 2010.

Infrastructure Requirements

The Infrastructure Background Paper was prepared as evidence to support the Local Development Plan. This document describes some aspects of the infrastructure required to support and sustain the planned level of growth in Carmarthenshire up to 2021. It provides a starting point to build a comprehensive picture of the future infrastructure requirements and costs across Carmarthenshire. There are a number of infrastructure types and services which are considered to be potentially suitable for funding through CIL, these broadly fall within the following infrastructure types:

- Transport and Highways
- Schools
- Leisure and Cultural facilities
- Health facilities
- Welsh Language
- Waste facilities
- The Environment
- Water, Flooding and Drainage
- Utilities

It should be noted that where an infrastructure is necessary to make a specific development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to the development then this would still be eligible for a contribution to be sought through planning obligations (s106 agreements). For example where an open space, park and play space provision relates to a requirement resulting from a proposed development these would form part of a planning obligation, and would not form part of a CIL charging schedule.

There are currently a significant number of projects within the above broadly defined groups which could potentially be funded or partly funded through CIL funds. The Council will need to prioritise the projects most needed to support the implementation of the LDP's strategy. Further work will be required in order to identify these specific infrastructure projects as well as an indication of the cost of delivering such infrastructure and the available and likely funding sources. Once this evidence has been collated then it can be demonstrated whether or not a funding gap exists.

CIL Viability Assessment

In order to establish what is a reasonable and appropriate level of CIL for Carmarthenshire the Council have commissioned expert advisors, DVS – Valuation Office Agency to prepare a Viability Study. DVS have considerable experience in preparing CIL viability assessments for Local Authorities in Wales. DVS are currently producing their initial draft of the Economic Viability Study which makes recommendations upon an appropriate and viable level of CIL. The Study considers a number of potential development scenarios and looks at the potential value of developments broken down by land uses, locations and the scale of development. These scenarios are consistent with the level and location of proposed growth in the Adopted Local Development Plan. In testing these sites the assessment has assumed an affordable housing requirement in accordance with the Local Development Plan's Policy AH1 Affordable Housing i.e. 30% in the higher viable areas, 20% in the middle viable areas and 10% in the lower viable area.

The Study makes assumptions regarding costs and values based upon industry standards and knowledge of the local property market. As these factors are likely to vary between locations and as market conditions change, it is advised that a 'buffer' is applied to ensure that any CIL charge is reasonable and not a deterrent to attracting future investment in Carmarthenshire. It is generally accepted that Local Charging Authorities apply a buffer of 30% to the viable results in order to accommodate variations between sites and additional unforeseen costs arising. However, in addition to these influencing factors, the viability assessment has not taken into account the impact of planning obligations upon the sites' deliverability. These obligations are determined on a case by case basis in response to the specific impact which each development would have and are therefore susceptible to significant variance. Considering that these obligations could potentially impact upon a site's viability the Viability Study recommends that a larger buffer of 40% is applied in order to ensure that a CIL would not deter development.

In respect of the residential development sites tested, the Study indicated that viability varied significantly between different geographical locations. It concluded that residential developments in some areas of Carmarthenshire could make a contribution to infrastructure and remain economically viable while others could not. Those sites which produced positive viability results have been grouped geographically and are located in the following areas:

- Llandeilo and Llandovery;
- Carmarthen;
- Llanelli;
- Ammanford / Cross Hands;
- St Clears / Whitland

The Study recommends applying a flat rate of CIL across the above residential areas at a rate of £60/m². This would allow for the delivery of necessary on-site infrastructure through planning obligations whilst delivering affordable housing in accordance with the LDP.

It is worth noting that retirement housing also produced positive results, and although the results demonstrated were more positive than other general residential development the Study also recommends applying the same charge rate of £60/m² to these developments.

The Viability Study also considers a range of potential non-residential developments. Whilst the Study indicates that the majority of commercial land uses would not remain viable with a CIL imposed, it concludes that retail developments could accommodate a CIL charge whilst remaining commercially viable. The retail sites tested included a selection of comparison and convenience, as well as small

and large scale retail developments, and the variety of sites which were tested largely produced similar results. The Study suggests factoring in a buffer of 30% for retail developments which would result in a CIL rate of £70/m² across retail development measuring 100m² or more.

For clarification, other classes of development tested such as employment, hotels, restaurants/café's largely produced negative viability results and the majority of these developments would be unlikely to remain economically viable if subject to a CIL charge. As such the Study concludes that it would only be viable to introduce a charge in respect of the categories of development outlined in the preceding paragraphs.

The CIL Process

The following key stages will need to be undertaken in order to establish a CIL in Carmarthenshire.

1. Identify relevant infrastructure projects
2. Cost relevant infrastructure projects
3. Identify alternative funding sources
4. Calculate funding gap for CIL
5. Identify CIL rate (with regard to Viability Study)
6. Adopt CIL
7. Prioritise infrastructure projects to be implemented
8. Spend CIL on infrastructure projects

The information and costings provided for the CIL must be robust enough to stand up to formal independent examination (similar to that held for the LDP). All of this will require a significant investment in terms of officer time and work for service areas across the Council. It will be important, in due course, for the Council to consider infrastructure priorities so that it is clear where CIL will be spent and in what order, having regard to priorities, supporting development in the area and availability of alternative funding. Once identified, Service Areas will need to be proactive about spending CIL receipts to ensure it delivers the infrastructure projects identified.

It is a statutory requirement for the preparation of CIL to be the subject of public consultation and a public examination before it progresses towards its adoption. Although not a statutory requirement, the Viability Study will be the subject of a 6 week informal focussed consultation where developers and their agents and other specialists and interested parties will have the opportunity to comment. Following this informal consultation, and subject to the outcome of this report, a Preliminary Draft Charging Schedule will be prepared for a further 6 week formal public consultation. Further consultation will be required as the CIL progresses through the preparation process.

The timetable below shows the series of stages involved in the preparation of a CIL Charging Schedule as outlined by the CIL Regulations. The first stage - which we are currently undertaking – entails gathering evidence in respect of infrastructure, infrastructure costs and viability. The timetable is produced to reflect how CIL would progress if the Council elect to proceed with producing a CIL Charging Schedule.

Definitive Stages: The stages in the preparation of a CIL Charging Schedule up to and including the Draft Charging Schedule consultation. These stages of the process are under the direct control of the Council and therefore the timetable is as realistic as possible. Every effort will be made to avoid deviations from the timetable during these stages.

Indicative Stages: The Council has less control over the later stages of the process, as they are dependent on many factors beyond the Council's control such as the number of representations that need to be handled and the requirements, capacity and availability of the Independent Planning Inspector to conduct the Examination. The indicative timetable will therefore be formalised and defined at the close of the Draft Charging Schedule consultation period or further to the consideration of representation to any modifications.

Stage in Plan Preparation		Timescale	
Definitive Stages			
Evidence Base			
a) Assess Infrastructure Capacity across the County		June 2015	November 2015
b) Establishing Total Cost of Infrastructure and Funding Gap		June 2015	December 2015
c) Viability Assessment and consideration of outcomes		June 2015	January 2016
d) Addressing Evidence Gap		June 2015	February 2016
e) Reporting – Authority to formally consult on PDCS		November 2015	January 2016
Preliminary Draft Charging Schedule (PDCS)			
a) Informal consultation on Viability Study		January 2016	February 2016
b) Prepare the Preliminary Draft Charging Schedule (PDCS)		February 2016	February 2016
c) Formal Consultation (6 weeks) on PDCS, Viability and Infrastructure Evidence		March 2016	April 2016
Draft Charging Schedule			
a) Report to Council – Responses to PDCS and Authority to Consult on Draft Charging Schedule and subsequently submit for examination		June 2016	July 2016
b) Prepare and publish Draft Charging Schedule		August 2016	October 2016
c) Consultation (6 weeks)		October 2016	November 2016
Indicative Stages			
Submission of Charging Schedule		March 2017	March 2017
Examination		June 2017	June 2017
Approval and Publication of Charging Schedule (incorporating Report to Council)		September 2017	September 2017
DETAILED REPORT ATTACHED?		No	

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: L. Quelch

Head of Planning

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
YES	YES	YES	NONE	NONE	YES	YES

1. Policy, Crime & Disorder and Equalities

The purpose of implementing CIL is to pay for the infrastructure needed to support the development of the County. To this end, it supports the aims and objectives of the Local Development Plan's Objectives, and in particular reinforces Strategic Objective 11:

To encourage investment & innovation (both rural and urban) by:

- (a) making an adequate provision of land to meet identified need; and,
- (b) making provision for the business and employment developmental needs of indigenous /new employers, particularly in terms of hard & soft infrastructural requirements (including telecommunications/ICT); and,
- (c) making provision for the infrastructural requirements associated with the delivery of new homes particularly in terms of hard & soft infrastructural requirements (including foul and surface water); and,
- (d) adhering to the principles of sustainable development and social inclusion in terms of the location of new development.

The introduction of CIL will also aid the achievement of the following aims of the Integrated Community Strategy:

- 4.3 Supporting opportunities for the building of economically viable and sustainable communities
- 4.5 Developing resilient and sustainable communities

If the Council resolves to prepare a CIL Charging Schedule then this will need to be done in accordance with equal opportunities policies and will need to ensure that the correct consultation procedures are complied with in accordance with the Regulations.

2. Legal

The Local Authority currently secures planning contributions as governed by Section 106 of the Town and Country Planning Act 1990. The Planning Act 2008 makes provision for local authorities to prepare a Community Infrastructure Levy. On the 6th April 2010 the Community Infrastructure Levy Regulations 2010 (the CIL Regulations) came into force in England and Wales which established the procedure for introducing CIL.

3. Finance

Provision has been made in the Planning division budget to meet the cost of a Contributions Officer, (18 months) and to fund a viability report. Further provision will be made in 2015-16 (identified from Local Plan budget) for evidence gathering and cost of the Examination and setting up the systems for collection.

The work will be undertaken in stages and progressed where evidence supports the adoption of CIL. In particular there are two distinct elements of work that will help to determine the feasibility of introducing a CIL in Carmarthenshire:

- (i) A viability exercise to establish the economic viability of charging CIL throughout the County; and,
- (ii) A valuation exercise to establish the cost of the infrastructure the Council would wish to fund from CIL.

The opportunity now exists to commence building upon the work undertaken in the preparation of the LDP evidence base to establish the cost of the infrastructure which is necessary to facilitate development in accordance with the LDP. The Council has already – in collaboration with DVS – done significant work on assessing the economic impact of CIL on the viability of development and a report is currently being produced.

The CIL Regulations have been amended to include the provision for councils to claw back some of the outlay cost in preparing and implementing CIL, by allowing them to reclaim 5% of the total CIL revenue for the first 3 years that CIL is levied. In addition to this the CIL Regulations make provision for councils to use up to 5% of each year's CIL revenue to offset the CIL administrative costs of charging a CIL for that year. This covers the years following the initial three year period and can continue to be recovered for as long as the CIL is being charged.

In considering the relative costs of preparing CIL, it should be noted that they will have to be borne up front, whilst the clawing back of the costs will only be realised once the CIL Schedule is implemented at the end of the preparation process. Therefore the Council will have to bear the costs of preparation before any costs can be clawed back, should Planning Division Budget not be in a position to provide this initial provision and application will be made to the Development Fund. The preparation work undertaken to date are being funded by funds held in reserve.

The authority will also be mindful of the funds it is holding under Section 106 which as of October 2015 is in excess of £3.5m, held for the following purposes:

Amount	Infrastructure / Projects Funded
Technical Services : £1,314,166.98	To fund open space, recreation and play schemes and improvements within the vicinity of the sites
Technical Service: Highways and Transport: £215,179.30	To fund specific highway improvements associated with the sites
Education: £710,758.92	To fund projects associated with schools, within the schools' catchment areas identified in the Modernising Education Programme
Affordable Housing: £355,668.02	Transferred to Housing to fund Affordable Housing
Economic Development: £38,000	To fund improvements in Ammanford town
Caeau Mynydd Mawr: £570,004.58	To fund a mitigation scheme for the loss of Marsh Fritillary Butterfly habitat and reduction in permeability of the landscape

Biodiversity £10,000.00	To improve water vole habitat in South Llanelli
Externally £259,410.00	Various projects including approximately £99,000 for Whitland Town Council
4. ICT None arising out of this report.	
5. Risk Management Issues None arising out of this report.	
6. Physical Assets May impact on land values when disposing of land, while certain categories of development may incur CIL if undertaken by the authority, this will be determined in the final charging schedule.	
7. People Management and Performance A member of staff has been seconded to the Contributions Officer post, this secondment will need to be reviewed as progress is made.	

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: L. Quelch

Head of Planning

1. Local Member(s) – A seminar held in January 2015 on the LDP included a presentation on CIL and members expressed an interest in being part of identifying infrastructure projects.

A report on CIL was presented to Community Scrutiny Committee, Preliminary Executive Board and Executive Board Members in April / March 2015. The Members resolved to commence work on gathering evidence on the suitability of adopting a CIL Charging Schedule in Carmarthenshire. It was agreed that the Executive Board would receive a further report before commencing work on the Preliminary Draft Charging Schedule.

2. Community / Town Council – A seminar held in February 2015 to Town and Community Council attended by 88 Councillors representing 44 Councils included a presentation on CIL. Town and Community Councils are entitled to 15% of CIL collected in their area, subject to certain criteria.

3. Relevant Partners – A number of partners, both within and outside of the Local Authority, have been involved in the process to date. These include colleagues from Education, Highways and Transport, Parks and Leisure, Corporate Policy (in respect of the Welsh language), Conservation and Flood Defence and Drainage Officers and also include representatives from the Hywel Dda Health Board and Dŵr Cymru Welsh Water.

4. Staff Side Representatives and other Organisations – None

Section 100D Local Government Act, 1972 – Access to Information
List of Background Papers used in the preparation of this report:
THERE ARE NONE