

8 February 2016

Report of	Head of Commercial Services	Author	Daniel Cameron 01206 506025
Title	Community Infrastructure Levy – Consultation on Viability Evidence Base		
Wards Affected	All		

The Local Plan Committee is asked to note the updates made to the Council's Community Infrastructure Levy Viability Evidence Base and approve public consultation.

1. Decision Required

- 1.1 That members note the viability evidence compiled by BPS Chartered Surveyors in October 2015 which serves to update the Roger Tym and Partners Community Infrastructure Levy (CIL) viability evidence base document of October 2011.
- 1.2 Members agree to go out to public consultation on the updated viability evidence in advance of progressing with a more complete CIL draft charging schedule alongside the emergent Local Plan.

2. Reasons for Decisions

- 2.1 Failure to take the updated viability work out to public consultation will mean that it will be out of date when the Council moves forward with the implementation of CIL. At that point, new viability evidence would be required.
- 2.2 Public consultation at this stage will allow the BPS viability evidence to become part of the CIL evidence base which the Council is required to demonstrate during later stages of the CIL adoption process.
- 2.3 Taking the updated evidence base out to public consultation has the added benefit of allowing the Council to address any concerns that may be raised regarding the updated viability evidence prior to more formal consultation period(s) within the CIL adoption process.

3. Supporting Information

- 3.1 In 2011 Colchester Borough Council commenced work on implementing the Community Infrastructure Levy. Two stages of consultation were undertaken as detailed below;
 1. The Preliminary Draft Charging Schedule was published in July 2011. The Charging Schedule proposed the following charges:
 - New residential development - £120/m²;
 - Retail (in town centres or covering less than 430m²) - £120/m²;
 - Retail in out of centre or edge of centre locations - £240/m²;
 - All other uses were to be exempt.

2. The Draft Charging Schedule was published in November 2011. This retained some charges from the preliminary draft, but made changes to the rates of retail CIL as follows:

- Residential development - £120/m²;
- Comparison retail - £90/m²;
- Convenience retailing - £240/m²;
- All other uses were exempt.

- 3.2 The Council were at the point of submission when a number of Inspector decisions which had a bearing on the how the Levy was applied were released. The most relevant required CIL to be viable at the same time as delivering policy compliant affordable housing. The Council's policy at the time was 35% affordable housing but this was rarely being delivered because of viability concerns. It was therefore considered that the policy needed to be reviewed as part of the Core Strategy Focussed Review.
- 3.3 At the same time the Local Plan Committee was concerned about the impact of CIL on viability, especially with regard to small builders. Officers were instructed to review the viability evidence base. These two processes have taken time to complete and in the meantime the Council has continued using Section 106 agreements to secure infrastructure contributions.
- 3.4 However, recent changes to the planning system have seen the ability for Councils to fund infrastructure through Section 106 agreements be curtailed.
- 3.5 On the 28th November 2014 a ministerial statement issued by Sir Eric Pickles, the then Secretary of State for Communities and Local Government, set out immediate changes to the National Planning Policy Framework which prevented Local Planning Authorities from attaching Section 106 obligations on small sites. Within urban areas this was held to be sites of 10 units or fewer and within rural areas, sites of 5 or fewer.
- 3.6 The ministerial statement was challenged by West Berkshire District Council and Reading Borough Council in the High Court. Mr Justice Holgate ruled that the process of consultation prior to the enacting of the statutory policy was insufficient and the ministerial statement be removed from planning policy. The current government have sought leave to appeal this decision and have commented that they may look to introduce this policy in another form. In September 2015 this leave was granted, however, no appeal has yet been made.
- 3.7 In April 2015 the CIL Regulations came into effect as statutory policy, meaning that all Councils, regardless of whether or not they have adopted CIL are bound by its Section 106 pooling limit. Councils cannot now take five or more pooled contributions towards an infrastructure type or project. This pooling restriction has been backdated to April 2010 and is proving difficult for some other Councils to adhere to.
- 3.8 Recent consultation undertaken by National Government has raised issues regarding the speed at which Section 106 agreements are completed and the impact that any delay in negotiating the agreement may have on the development process. A Government response to this consultation is expected this year and may limit the amount of time in which a Local Planning Authority may use to negotiate a Section 106 agreement with a developer.
- 3.9 It has therefore become more important that the Council presses ahead with its intention to implement CIL.

4. Proposals

4.1 The Council is proposing to consult on the updated evidence base which suggests the following charges:

- Residential development outside of Colchester urban area (Greenfield) - £150/m²;
- Residential development within Colchester urban area (Brownfield) - £0/ m²;
- All other uses would be CIL exempt.

4.2 Consultation will take place over a 6 week period and be mainly web based. Further details are included in section 7 below.

5.0 Financial Implications

5.1 There are no financial implications for the Council which may arise as a result of this decision, although the consultation will inform the longer term process of identifying a new source of financial resources to deliver necessary infrastructure.

5.2 Any costs arising from holding a period of consultation would be minimal.

6. Equality, Diversity and Human Rights Implications

6.1 There are no equality, diversity or human rights implications which may arise as a result of this decision.

7. Consultation and Publicity Considerations

7.1 Although no period of consultation is given within the CIL Regulations it is advised that they last a minimum of six (6) weeks. This would accord with the minimum consultation period given within the Local Plan Regulations. It is therefore proposed that, should members be agreeable, public consultation on the updated viability evidence run for a period of no less than 6 weeks in March and April 2016, in line with the Council's adopted Statement of Community Involvement (SCI).

7.2 The SCI is consistent with regulation 15 of the CIL Regulations which specifies that the following bodies are consulted as part of the implementation of CIL:

- Any local planning authority whose area is in or adjoins that of the charging authority;
- Any county council whose area is in or adjoins that of the charging authority; and
- Each parish, town or community council whose area is within the charging authority's area.

7.3 Further to this list, a database of interested consultees is maintained to ensure they are also kept informed of any updates to the CIL implementation process.

8. Risk Consideration

8.1 There are no inherent risks for the Council as a result of taking this decision.

9. Strategic Plan References

9.1 The Strategic Plan has four headline themes. Through the collection of CIL the Council would generate funding to support many forms of infrastructure within the borough. This would help support delivery of transport infrastructure, affordable housing and green spaces and opportunities for health, wellbeing and enjoyment of all.

10. Community Safety Implications

10.1 There are no community safety implications raised as a result of this report.

11. Background Papers

Appendix 1 – BPS Chartered Surveyors report – October 2015.