

 WARWICK DISTRICT COUNCIL	Council, 1st December 2011	Agenda Item No. 5
Title	Government Consultation on Community Infrastructure Levy: Detailed Proposals and Draft Regulations for Reform	
For further information about this report please contact	Claire Parlett, Senior Planner Planning Policy, Projects and Conservation Development Services	
Wards of the District directly affected	All	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	N/A	
Background Papers	Government's Community Infrastructure Levy Consultation: Detailed Proposals and Draft Regulations for Reform	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	Yes
Included within the Forward Plan? (If yes include reference number)	No
Equality & Sustainability Impact Assessment Undertaken	No

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	22/11/11	Bill Hunt
Head of Service	22/11/11	Paul Pinkney
CMT	22/11/11	
Section 151 Officer	22/11/11	Mike Snow
Monitoring Officer	22/11/11	Andrew Jones
Finance	22/11/11	Mike Snow
Portfolio Holder(s)	22/11/11	Cllrs. Caborn and Hammon
Consultation & Community Engagement		
Final Decision?	Yes	
Suggested next steps (if not final decision please set out below)		

1. SUMMARY

- 1.1 The Government set out proposals to reform the Community Infrastructure Levy (CIL) within the Localism Bill and is now consulting on the detailed implementation of these in relation to delivering neighbourhood funding and the use of CIL to provide affordable housing.

2. RECOMMENDATION

- 2.1 That Council notes the Government's Community Infrastructure Levy Consultation: Detailed Proposals and Draft Regulations for Reform
- 2.2 That Council notes that this report should be considered in conjunction with the separate report, entitled Interpreting the Vision- Development of the Local Plan for Warwick District, elsewhere on this agenda as that report recommends adoption of a CIL for the district.
- 2.3 That Council approves the response to the Government's Community Infrastructure Consultation questions as set out in Appendix A.

3. REASONS FOR THE RECOMMENDATION

- 3.1. The Community Infrastructure Levy (CIL) came into force in April 2010 through the Community Infrastructure Regulations 2010 and was later amended through the Community Infrastructure (Amendment) Regulations 2011. The CIL allows local authorities to charge a levy on new development to raise funds to provide the infrastructure needed to support development. Single and second tier local authorities can charge and spend the levy and are known as charging authorities. The charging rates imposed are based on the size and type of development and must be subject to consultation and supported by evidence relating to impact on the economic viability of development. Charging authorities may pass funds to other bodies such as upper tier authorities and use CIL monies to fund the development of infrastructure outside their administrative area.
- 3.2 The government is seeking views on the detailed implementation of proposals to reform the CIL set out in the Localism Bill. A set of draft regulations together with a consultation document outlining the effect of these have been published. The consultation period closes on 30th December 2011.
- 3.3** Due to the significant potential for the future use of CIL to enable improvements for communities it is considered important that the Council responds to the consultation. This report highlights the key aspects of the proposed reforms in relation to neighbourhood funding and the use of CIL for affordable housing and proposes a draft response, as set out at **Appendix A.**
- 3.4 Full details of the consultation proposals can be viewed at: <http://www.communities.gov.uk/publications/planningandbuilding/cilreformconsultation>

4. POLICY FRAMEWORK

- 4.1 The Community Infrastructure Levy would be a significant tool in funding further community improvements through development. A recommendation to develop a suitable CIL mechanism for Warwick district is contained within a separate report elsewhere on the agenda.
- 4.2 The adoption of CIL and its use to fund infrastructure improvements and address issues of importance to local communities would assist the Council's delivery of its strategic objectives, as set out in the Sustainable Communities Strategy.

5. BUDGETARY FRAMEWORK

- 5.1 This report has no budgetary implications.

6. ALTERNATIVE OPTION(S) CONSIDERED

- 6.1 The Council could decide not to respond to this consultation. However, this option has been discounted as CIL is considered to be a tool which will help to deliver the Council's strategic objectives and it is right that the Council makes its 'voice' heard.
- 6.2 The Council has the option to review, amend or vary the response that is set out in Appendix A.

7 BACKGROUND

7.1 Neighbourhood funding

- 7.1.1 The government has set out its proposals for delivering neighbourhood funding in terms of:

- who will receive and use a proportion of CIL receipts
- the proportion of receipts to be passed down to neighbourhoods
- applying a per household cap on money passed to neighbourhoods
- requirements for reporting and monitoring CIL funding
- removing the cap on the level of administrative expenses which can be sought by the charging authority

- 7.1.2 The government intends to use powers in the Localism Bill (Clause 103) to require charging authorities to pass a meaningful proportion of funds received through the levy to neighbourhoods. This will be delivered via the locally elected council where the development is taking place, which is a Parish or Town Council in England or Community Councils in Wales. It is intended that this requirement to pass funds to neighbourhoods should apply to all charging authorities that choose to adopt the levy. It is proposed that where no Parish or Community Council exists the charging authority should retain funds and engage with the community in terms of how it should be spent. Views are sought as part of this consultation

whether this is the most appropriate way of delivering neighbourhood funding.

- 7.1.3 It is agreed that Parish and Community Councils should be utilised as the appropriate channel for passing the levy on to neighbourhoods. However, in the absence of such a locally elected body funding should be directed through the charging authority to ensure that the local community are involved in identifying local infrastructure priorities for the area. In such cases, whilst there should be flexibility to reflect local circumstances, it is considered that statutory guidance will be needed to provide greater certainty to charging authorities on how receipts should be applied and how the community should be engaged.
- 7.1.4 In relation to the amount of funding which must be passed to the relevant Parish or Community Council or spent by the charging authority the government is proposing that a minimum percentage of receipts should be specified, the level at which this should be set is open for discussion through the consultation. In our response, it is considered that this should not be set nationally but should be a matter determined at the local level by charging authorities according to local circumstances and identified infrastructure needs.
- 7.1.5 To ensure funding is distributed fairly a per household cap is proposed on the amount of money that is passed to Parish Councils. This is intended to address a situation which could arise where significant funding could be generated from a major development in a sparsely populated area. Whilst the advantages of imposing a cap are acknowledged the level at which this should be set is again a matter for local consideration based on the assumed impacts of development. If an arbitrary cap is to be set it is suggested that there should be flexibility to vary this where circumstances necessitate higher percentage payments.
- 7.1.6 The Government has also clarified that CIL receipts can be used for the ongoing costs of providing infrastructure through neighbourhood funding to provide the flexibility to target matters deemed as a priority. However, in using funds this way the government is clear that the charging authority or parish council will still need to demonstrate that it will be supporting development and not being used as an alternative funding source.
- 7.1.7 The government is clear that the use of CIL funding should be transparent and accountable. In addition to existing requirements on charging authorities to publish the charging schedule and details of CIL income and expenditure annually authorities will also be required to publish details in the Annual Monitoring Report (AMR). It is recognised that transparency also needs to be maintained when funds are passed to Parish Councils and therefore they will be required to provide details on how the levy will be spent annually. The commitment to ensuring that the use of CIL funding is open and transparent is welcomed. However, it should be acknowledged that this may place an additional burden on the charging authority who may be required to assist Parish and Town Councils in developing monitoring and reporting regimes.

- 7.1.8 The government has also considered how arrangements in place for using planning obligations alongside the CIL could relate to neighbourhood funding. It is recognised that there will still be an important role for section 106 contributions to address site specific requirements without which a development could not be granted planning permission (such as flood mitigation schemes). To avoid developers being charged twice for a piece of infrastructure charging authorities can set out on their website a 123 schedule detailing how CIL receipts will be spent allowing certain items to be provided through planning obligations. In the absence of such a list all infrastructure will be sought through the CIL where it is capable of doing so.
- 7.1.9 It is proposed that Parish and Town Councils should not be confined to spending in accordance with the charging authorities list or be required to produce a list. Whilst it is agreed there should be flexibility to deliver local priorities it is important that it is clearly set out what CIL will be used for at all levels. Failure to do so may result in duplication with priorities identified by the charging authority or those delivered through planning obligations.
- 7.1.10 The government has also acknowledged the additional role for charging authorities in delivering neighbourhood funds particularly in terms of the costs of reporting and liaising with the public. It is therefore proposed that the cap on the amount of levy funding that charging authorities may apply to administrative expenses is removed to provide greater flexibility for charging authorities. The removal of the cap is welcomed to give charging authorities the flexibility to successfully administer the CIL process. The level of finance utilised for administration should be subject to monitoring and review on an ongoing basis and for reasons of transparency reported as part of the AMR.

7.2 Using CIL funding to deliver affordable housing

- 7.2.1 The Government is also seeking views on whether local authorities should have the flexibility to use the CIL to deliver affordable housing where there is robust evidence that this would allow for more efficient provision of affordable housing. This will mean in addition to securing traditional onsite or offsite provision through planning obligations CIL funding could be used to provide or subsidise alternative / additional provision.
- 7.2.2 This approach is supported as it acknowledges that local authorities are in the best position to choose the most effective way of meeting the affordable housing needs of their local area.
- 7.2.3 In allowing affordable housing to be funded through the CIL the government recognises the need for consideration of how an appropriate balance with the use of planning obligations can be sought. Under current arrangements for implementing the CIL local authorities are restricted to entering into a maximum of five separate planning obligations to contribute towards a single affordable housing project once a CIL has

been adopted locally or nationally after 6th April 2014. If affordable housing could be provided through the CIL, the government is therefore asking whether the rules on pooling section 106 contributions should not apply. In our response it is considered that given the high costs associated with delivering affordable housing, local authorities should be allowed to use all mechanisms available to maximise opportunities and not be subject to any restrictions.

- 7.2.4 It is also acknowledged that should local authorities decide to fund affordable housing through the levy this could lead to some uncertainty as to whether contributions are to be sought through planning obligations or through the CIL. It will therefore be necessary for local authorities to clearly set out and justify in what circumstances CIL funding will be used to provide or subsidise affordable housing and make this available along with the charging schedule.