Community Infrastructure Levy
Preliminary Draft Charging Schedule
Report of Responses

January 2017

Overview

The District Council went out to consultation on the Preliminary Draft Charging Schedule (PDCS) for a 6 week period that ended on Friday 9th December 2016. A wide range of consultees with an interest in the Newark and Sherwood District Council Community Infrastructure Levy (CIL) were invited to comment on the PDCS. Comments received from seventeen sources (listed at the end of this document) are summarised below:

Question 1: Do you agree that the infrastructure funding assessment shows that there is sufficient justification for the proposed revisions to be made to the existing Newark and Sherwood Charging Schedule?

Summary of Key Issues Raised in Consultation

General support was received for the proposed revisions, comments/concerns included:

- The proposed provisions do not adequately contribute to meeting the requirements of the NPPF or business and developer requirements
- It is premature to review the CIL ahead of the Local Plan review, this is due to the likelihood that infrastructure requirements will be different from those identified on the current Regulation 123 List. It is considered that a review at this time is not properly evidenced and does not satisfy the requirements of Regulation 14 (5) of the CIL Regulations and s211 (7A) of the Planning Act 2008
- Concern raised over the need to zero rate apartments
- Concern raised that ward boundaries is the most appropriate way to assess charging areas in Newark

Officer Response

An assessment has been carried out of the ability of different categories of development within the Local Plan area to make contributions via CIL (having taken account of the cost impacts of affordable housing delivery and other relevant policies). This assessment identifies additional return beyond reasonable allowances this is then the margin available to make CIL contributions.

The CIL Regulations permit the review of a CIL Charging Schedule at any time provided the Development Plan is up to date, the Local Plan is currently being reviewed as part of this review infrastructure specialists have reviewed the infrastructure requirements of the District and produced the (Draft) Infrastructure Delivery Plan that will form part of the CIL evidence base. It is acknowledged that there have been changes to infrastructure provision since the original Regulation 123 list was prepared and that a number of projects have commenced. This is why it is considered a review is needed under the terms of CIL Regulation 14(1) (a).

As previously identified when the Community Infrastructure Levy was first adopted by the Council in 2011, there is a very substantial Infrastructure Funding gap and CIL will only partially contribute to meet this gap with residual S106 contributions being sought to support CIL for infrastructure projects that are not identified by the Reg 123 List. This gap is highly unlikely to be bridged by changes identified by a review of the Local Plan to the extent that CIL charges would exceed the level of funding required to meet infrastructure needs.

It is a matter for the Authority to determine the appropriate balance in accordance with CIL Reg 14 (1) (a) of raising funds to support the infrastructure required to support development and the effects of the imposition of CIL on the economic viability of development across its area. This is what the CIL review is seeking to achieve.

CIL Reg 14(5) states that for the purposes of section 211(7A) of PA 2008(1), a charging authority's draft infrastructure list is appropriate evidence to inform the preparation of their charging schedule. As such it is considered that the updated schedule of infrastructure requirements and costs prepared in July 2016 represents appropriate evidence to inform review of the CIL Charging Schedule.

In addition The Business Manager – Planning Policy contacted PINS with the following request:

"We are currently reviewing both our Community Infrastructure Levy and the two DPD's (Core Strategy and Allocations & DM Policies) which make up our development plan. Initially we had aimed to synchronise both reviews (as set out in our LDS) however for various reasons work on the Plan Review is delayed. The Council is keen that the delays in the Plan Review do not unnecessarily delay the CIL Review. I am mindful when I last spoke to PINS about this matter I was advised that it is best to run a CIL review alongside Plan Review with the CIL Examination following on afterwards. Do you think it would be at all possible that we could conclude the CIL Review first?

I say this in the knowledge that:

- We are not talking about a new Development Plan just a review of the existing policies and proposals
- Infrastructure requirements and provision is broadly similar both now and looking forward post review
- Our initial viability work for the Plan and CIL is suggesting that industrial development can no longer bear a charge and therefore we do not want to create a situation where development is delayed whilst developers wait for an amended CIL Charging Schedule"

Andy Gadsby from the PINS CIL team responded to the Business Manager – Planning Policy accordingly:

"Where possible, it is best for a CIL examination to be dealt with alongside or shortly after the Local Plan examination. However, I note that you are keen to progress your CIL review ahead of the other Plans because of delays to them.

This is a subject that has been raised a number of times by Local Authorities and our general advice is that we don't rule out progressing a CIL examination ahead of a Local Plan. Indeed, we have recently examined the CIL for South Downs NPA despite the fact that their Local Plan is not expected to be submitted for at least another year or so. In saying this, however, it is worth considering that the matters would need to be fairly straightforward, with CIL rates being reasonably simple and not dependant on any proposals in an emerging plan. There shouldn't be any big infrastructure projects that might be questioned later in the Local Plan examination and the CIL rates would also to be backed up by up to date evidence.

Provided the above criteria is met it should be possible to examine your CIL review ahead of your two Plan documents, particularly as this is a review rather than an all new Charging Schedule and that your current Plan dates back only 5 years."

Considering the criteria in Mr Gadsby's email in turn;

The matters would need to be fairly straightforward. In essence the recommendations of the National CIL Service have resulted in some simplifications to the charging zones and the only changes of significance relate to the zero rating of Bridge, Devon and Balderton South wards and apartment development and commercial development across the District.

CIL rates being reasonably simple and not dependant on any proposals in an emerging plan. The CIL rates are relatively simple and will be charged in the more viable areas of the District. CIL revenues will be driven primarily by development in the Strategic Urban Extensions at Land around Fernwood and Land East of Newark which of course are in existing Plans.

Shouldn't be any big infrastructure projects that might be questioned later in the Local Plan examination. We will continue to ask for strategic infrastructure as we currently define it, namely strategic highway projects and secondary education provision. Given that the plan remains broadly the same accommodating the impacts of Thoresby Colliery will be the only major change. It is likely therefore that in terms of strategic infrastructure the Council will need to decide how best to fund improvements to Ollerton roundabout. Whilst this infrastructure project is not currently identified on the Regulation 123 list it is already known about and to some extent whether or not it is funded by the Thoresby Colliery redevelopment or CIL contributions it will still need to be delivered in the Plan period.

CIL rates would also to be backed up by up to date evidence. The National CIL Service has carried out an up-to-date assessment of the viability and valuation evidence as part of the process. The Infrastructure Delivery Plan is being updated as part of the Plan Review and is substantially completed.

It is concluded that on the tests set out by Mr Gadsby in his email, the Council is able to demonstrate that the CIL review can progress ahead of the Plan Review.

Based on the viability evidence, it would only be possible to justify charging for development of apartments in the highest zone. It is considered that this is a matter for each Authority, in setting CIL rates, to determine its approach and appropriate balance. The CIL Regulations and CIL Guidance do not require that viability appraisal evidence is specifically adhered to in setting CIL rates, only that the rate that is adopted does not threaten the viability or delivery of the relevant type of development.

The District Council has considered various charging zone options and in a diverse District such as ours whatever methods are used to divide it up there will always be anomalies created by the nature of administrative boundaries. Wards are the building blocks for much of the statistical information used to determine CIL levels and therefore represent the most appropriate method to split charging areas.

Question 2: Bearing in mind that CIL cannot be negotiated do you have any views on whether CIL receipts should continue to only be collected for specific highway improvements and secondary education and whether you consider funding for any additional infrastructure types should be collected from CIL receipts. Should Section 106 planning obligations be scaled back further?

Summary of Key Issues Raised in Consultation

It was generally considered that Section 106 should not be scaled back and that CIL should continue to be collected for secondary education and specific highway improvements, comments/concerns included:

- An increase in CIL levy will result in a further scaling back of S106 obligations as less planning gain will be available and as a consequence less provision of local infrastructure
- Some support for additional projects to be funded by CIL include: Flood mitigation, primary education, town centre management and some healthcare provision.
- An adequate mechanism should be introduced between the District and County Council to ensure that monies are forwarded in sufficient timescales and amounts for the funding of secondary education and highway projects as detailed on the Regulation 123 List.

Officer Response

Under CIL developers are still required to provide ‘on-site’ infrastructure through Section 106 contributions to mitigate direct impact of the development proposed.

Infrastructure to be funded by CIL will be assessed in more detail at Draft Charging Schedule Stage in accordance with infrastructure needs and funding gap identified in the Draft IDP. Any increase in the range of infrastructure types needs to be considered in the context of the existing infrastructure funding gap which CIL aims to help address, increasing the types of infrastructure will not increase the amount of CIL receipts; furthermore Town & Parish Council’s receive a meaningful proportion of CIL from new development (where a Neighbourhood Plan is in place this is 25% of receipts) which they can spend on infrastructure as they see fit.

The District Council will ensure that the most appropriate mechanism for spending/transferring of CIL receipts is adopted which will be in accordance with the priority of projects detailed on the Regulation 123 List.

Question 3: Do you consider that the key assumptions that underlie the viability evidence are appropriate? If not what alternative assumptions would you suggest and why?

Summary of Key Issues Raised in Consultation

There was some support for the appropriateness of key assumptions comments/concerns included:

- Strong objection to the approach of a single retail charging zone was raised by consultees with a specific interest in retail development. Scale of development and type of retail e.g. convenience/comparison should be a factor when determining charging zones.
- Viability evidence has not taken into account the difference in costs of a full range of size of proposals and assumption made do not reflect local costs and prices.
- Concern with regard to a ward based approach for determining zones in Newark
- Viability assessments do not reflect the local market conditions, and should be open book to allow community audit

Officer Response

It is acknowledged that, based on the viability evidence, it might be possible to justify higher rates for food retail use but it is considered that this is a matter for each Authority, in setting CIL rates, to determine its approach and appropriate balance. The CIL Regulations and CIL Guidance do not require that viability appraisal evidence is specifically adhered to in setting CIL rates, only that the rate that is adopted does not threaten the viability or delivery of the relevant type of development. There is no evidence put forward to suggest the proposed rate of £100sqm is not viable for both food and non-food retail which is considered to be the key consideration.

An assessment has been carried out of the ability of different categories of development within the Local Plan area to make contributions via CIL (having taken account of the cost impacts of affordable housing delivery and other relevant policies). This assessment identifies additional return beyond reasonable allowances this is then the margin available to make CIL contributions.

Further work will be carried out to investigate the potential of different routes to consider the appropriateness of splitting retail charging rates and any potential impact of small scale retail needs.

Question 4: Do you agree that differential residential rates across the District are beneficial? If you disagree please give reasons?

Summary of Key Issues Raised in Consultation

There was general support for the appropriateness of the reduced number of Charging Zones and differential residential rates across the District comments/concerns included:

- Proposed rates are being set to promote development in some areas and discourage in other areas, with the outcome of less/more affordable housing being delivered in specific parts of the District
- Proposed Charging Zones do not reflect the policy areas or the housing market areas utilised in the current LDF or the emerging Local Plan Review.
- Concern that Ward boundaries do not reflect the actuality of land value, deprivation or housing need in Newark.
- Zones should be spread more equally across the district to encourage a variety of development and avoid over development in some areas.

Officer Response

An assessment has been carried out of the ability of different categories of development within the Local Plan area to make contributions via CIL (having taken account of the cost impacts of affordable housing delivery and other relevant policies). This assessment identifies additional return beyond reasonable allowances this is then the margin available to make CIL contributions.

The District Council considers that the proposed Charging Zones do reflect the policy areas of the emerging local plan review. Affordable Housing Target Areas are identified and set out in the Preferred Approach Strategy that was consulted on in September 2016.

The District Council has considered various charging zone options and in a diverse District such as ours whatever methods are used to divide it up there will always be anomalies created by the nature of administrative boundaries. Wards are the building blocks for much of the statistical information used to determine CIL levels and therefore represent the most appropriate method to split charging areas.

Question 5: Do you agree with the removal of a CIL charge for commercial development with the exception of retail (A1 to A5 use) and a single Districtwide rate for retail, if you disagree please give reasons?

Summary of Key Issues Raised in Consultation

There was some support for zero rating 'Industrial' commercial use and strong objection from interested parties in respect of a single retail Charging Zone. Comments/concerns included:

- There is a fundamental issue with a single retail rate that does not differentiate between size and scale of retail floorspace. There is a clear difference between the viability of supermarkets and smaller stores. Supermarkets should be charged at a higher rate than smaller convenience stores.
- Most towns are struggling with occupying retail space, national operators have the choice of where to operate and CIL can put Newark at a disadvantage when compared to other towns that do not operate a CIL.
- The County Council requested a forecast of CIL receipts utilising the proposed revised CIL rates and affordable housing policy in order to better understand any funding gap.
- Commercial development should contribute towards CIL as they will benefit from infrastructure improvements

Officer Response

It is acknowledged that, based on the viability evidence, it might be possible to justify higher rates for food retail use but it is considered that this is a matter for each Authority, in setting CIL rates, to determine its approach and appropriate balance. The CIL Regulations and CIL Guidance do not require that viability appraisal evidence is specifically adhered to in setting CIL rates, only that the rate that is adopted does not threaten the viability or delivery of the relevant type of development. There is no evidence put forward to suggest the proposed rate of £100sqm is not viable for both food and non-food retail which is considered to be the key consideration.

Further work will however be carried out to investigate the potential of different routes to consider the appropriateness of splitting retail charging rates and any potential impact of small scale retail needs.

The District Council will provide forecasts of CIL Receipts and a revised Regulation 123 List at Draft Stage that will inform the potential infrastructure delivery funding gap.

The viability appraisal evidence that has been prepared demonstrates that all non-residential uses tested, with the exception of retail use, cannot viably support CIL charges at this time. The suggestion that all uses should contribute to infrastructure costs is not supported by the CIL Regulations or statutory guidance. CIL charges must be based on an ability to for the relevant category of development to contribute whilst maintaining a competitive return to the developer and landowner.

Question 6: Do you support the proposed rates in the PDCS Tables? Please explain your reasoning

Summary of Key Issues Raised in Consultation

There was some support for the proposed revised rates concern was also raised that the proposed rates were too high; comments/concerns included:

- Increased rates will reduce the viability of some sites which will result in either less development or less affordable housing delivery
- Rates should be varied for retail development in accordance with size, scale and use. This is an approach taken by other charging authorities.
- Rates are too high when compared with neighbouring areas and similar economic markets
- The definition of ‘Low Zone’ should be amended to clarify the fact that it is ‘Zero’ rated
- The rural market is too buoyant and CIL should be increased even higher in these areas to alleviate pressures

Officer Response

An assessment has been carried out of the ability of different categories of development within the Local Plan area to make contributions via CIL (having taken account of the cost impacts of affordable housing delivery and other relevant policies). This assessment identifies additional return beyond reasonable allowances this is then the margin available to make CIL contributions.

It is acknowledged that, based on the viability evidence, it might be possible to justify higher rates for food retail use but it is considered that this is a matter for each Authority, in setting CIL rates, to determine its approach and appropriate balance. The CIL Regulations and CIL Guidance do not require that viability appraisal evidence is specifically adhered to in setting CIL rates, only that the rate that is adopted does not threaten the viability or delivery of the relevant type of development. There is no evidence put forward to suggest the proposed rate of £100sqm is not viable for both food and non-food retail which is considered to be the key consideration.

It is noted that the definition of 'Low Zone' should be amended to clarify the fact that it is 'Zero' rated.

Question 7: Do you agree that the existing Phased Payments Policy is suitable and if not what amendments would you suggest?

Summary of Key Issues Raised in Consultation

There was general agreement for the existing Phased Payment Policy comments/concerns included:

- Consideration should be given to a maximum payment period and incentive for early completion
- The trigger for payment should be occupation and not commencement as this is when value is created

Officer Response

The District Council operates a phasing policy for CIL payments, Government CIL regulations require that payment is triggered on commencement of development and not occupancy.

Additional Comments: Do you have any additional comments to make about the contents of the Preliminary Draft Charging Schedule (PDCS)

Summary of Key Issues Raised in Consultation

A number of additional comments were raised that could not be categorised within the specific questions comments/concerns included:

- Notts County Council have raised concern with regard to the highways position stated in the Infrastructure Delivery Plan (IDP) that has not as yet been agreed by the County Council
- Notts County Council have raised concern that the District Council is treating the whole area as one planning area, and that secondary education places should actually be agreed on a site by site basis
- Concern over potential for payment in kind due to the District Council's current policy in actively seeking to devolve land ownership responsibility
- The Regulation 123 List should be updated to reflect the proposals for the A46

Officer Response

The Notts County Council concern with regard to the highways position stated in the Infrastructure Delivery Plan (IDP) is noted. The document that formed part of this consultation was the Draft IDP the Final IDP will inform the next stage.

The Notts County Council concern with regard to the District Council treating the whole area as one plan area and that secondary education should places should be agreed on a site by site basis is noted. On-going work will identify requirements for catchment areas.

‘Payment in Kind’ forms part of Government CIL legislation it is for each collecting authority to determine on a case by case basis whether it is appropriate. The Regulation 123 List will be updated to reflect infrastructure requirements as part of the review.

It is agreed that the Regulation 123 List should be updated to reflect the proposals for the A46 this will be actioned at Draft stage.

List of Respondents

Balderton Parish Council; Barnby in the Willows Parish Council; Barton Wilmore on behalf of Urban and Civic; Cerda Planning on behalf of Marston’s Estates Ltd; Coddington Parish Council; Collingham Parish Council; Gusto Group; Harlaxton Estates; Highways England; Lincolnshire County Council; A. Northcote; Newark Town Council; Nottinghamshire County Council; Planning Potential on behalf of Aldi; Councillor Rouse; Southwell Town Council; Taylor Lindsey Limited;