

## **BRECKLAND DISTRICT COUNCIL**

### **Report of Mark Kiddle-Morris, the Executive Member for Assets and Strategic Development**

**To:** Cabinet 29<sup>th</sup> October 2013

**(Author:** Sarah Robertson, Planning Policy Officer (Capita Symonds))

**Subject:** Breckland Community Infrastructure Levy Draft Charging Schedule

**Purpose:** The purpose of this report is to present the Draft Charging Schedule to Members

#### **Recommendation:**

- 1) That Members approve the Draft Charging Schedule to be published for public consultation for a six week period. Following the end of the consultation, this recommendation is to submit the Charging Schedule (including any minor modifications) for examination in consultation with the Executive Member for Assets and Strategic Development and the Leader of the Council.
- 2) Should the CIL regulations change prior to the submission of the Charging Schedule for public examination, the implications of any changes should be considered by Cabinet before submission (see Option 1).

#### **1. Background**

- 1.1 Members will be aware that following agreement from Cabinet on 26<sup>th</sup> March the Preliminary Draft Charging Schedule for the Community Infrastructure Levy (CIL) was published for public consultation between 15<sup>th</sup> April and 28<sup>th</sup> May. This report seeks to inform Members of the responses to the consultation, the outcomes of the additional viability work which has been undertaken and the proposed Draft Charging Schedule for consultation.

#### **Preliminary Draft Charging Schedule Consultation (April – May 2013)**

- 1.2 Consultation on the Preliminary Draft Charging Schedule represented the first opportunity for public engagement within the CIL process. The consultation was carried out in accordance with regulation 15 of the Community Infrastructure Regulations 2010 (as amended). In total 18 representations were received during the consultation from a range of stakeholders, developers and agents. The representations were received in regards to the charging schedule, the viability assessment and the draft regulation 123 list (also known as an infrastructure list), and represented both support for the charging schedule and objections to it. The key themes raised within the representations were:
  - Concern regarding the use of different charging zones for residential development. This also included objections based on whether parishes were included within either zone A or B, and how infrastructure would be funded/provided in those areas where no CIL charge was proposed.
  - Norfolk County Council raised issues in regard to the potential renegotiation of existing section 106 agreements within the £0 per sqm zone. This particularly relates to contributions already secured for education and concern these would be lost.
  - The role of/continued use of s106 agreements in conjunction with CIL.
  - The loading of the CIL charging schedule towards a limited range of development types (use classes).
  - The assumptions used within the viability assessment, particularly in regards to residential and retail scenarios.
  - The infrastructure items which would be funded through CIL.
  - The benchmark land values which were used to assess the residual land valuations for the individual scenarios.
  - The need for an instalment policy, and the timings for when the CIL charge should be collected.

### **Viability Assessment –Additional Work**

- 1.3 Following the consultation on the Preliminary Draft Charging Schedule, and in response to some of the representations received, additional viability work evidence has been undertaken. The study can be seen at Appendix B. The study included:
  - Investigation into education contributions being sought through section 106 agreement rather than through CIL.
  - A s106/s278 charge for retail developments to account for on-site infrastructure within the appraisal model.
  - A retail scenario for retail warehouses (as distinct from food retailing).
  - Consideration of the viability cushion which has been applied to the threshold land value for residential development scenarios.
- 1.4 Norfolk County Council raised objections to the PDCS based on the potential renegotiation of existing s106 agreements for education contributions within the zero rated CIL zone. They suggested that education contributions should be excluded from CIL and remain negotiated through s106. The additional viability work included revised appraisals for residential development, to include a £5,000 education s106 for each dwelling. When taking this into account the viability appraisals show that there was very little scope for a CIL charge within Breckland (even within the higher value zone). This would significantly impact upon the Council's ability to fund other infrastructure requirements associated with the development. It is therefore proposed that education should remain within the scope of CIL, contrary to the County Councils comments.
- 1.5 The additional viability work included an appraisal for retail warehouses. Whilst having an A1 use class, profit levels for this type of scheme are distinct from retail foodstores which were previously tested. The appraisals showed that there is scope to charge CIL on retail warehouses outside of the defined town centres.
- 1.6 For retail foodstores additional appraisals were carried out to consider the implication of including a s106/s278 cost for onsite works, and also BREEAM costs. The inclusion of a £100,000 s106/s278 showed that a £150 per sqm CIL charge outside of town centre was still appropriate. When considering the inclusion of BREEAM costs up to excellent standards, this reduced the viability. BREEAM standards are not explicitly required by adopted council policy, so it is not proposed to reflect them within any revised CIL rate.
- 1.7 A number of representations related to potential for double-counting CIL and the approach to s106 on Strategic Urban Extension sites (particularly Attleborough). Due to a clear and demonstrable link between the scale of growth in strategic locations and necessary infrastructure, most requirements will be on-site or such that they would not be subject to the need for pooling of obligations. There are also provision in the CIL Regulations that provide exemptions from CIL if s106 contributions are greater than the CIL liability and it is expected that the exemptions would apply in this case.
- 1.8 In addition to the above viability work, further assessment of residential sales values was also carried out. This work reflected the discussion of Overview and Scrutiny Commission to re-consider the charging zones and looked at the most recent housing sales values from the Council's Hometrack system. This further review also considered the role of new build premium on properties within the District. This is included within Appendix E of this report.
- 1.9 The additional work on housing sales values, focussed on the parishes to the west of Dereham, including Scarning, Wendling, Longham, Gressenhall, Fransham and Necton. The more recent Hometrack data showed little change in the housing sales values. However, when looking specifically at new build properties within this zone, the values are significantly above those being achieved for second hand properties, suggesting that there is a premium for new build properties in the area. This is significant as CIL will be charged on new build, and would suggest that these parishes could be included within the higher value zone. Similarly, information for Dereham would suggest that there is also a new build premium within the town, with prices more closely aligned to those being achieved on new build within Attleborough. This would indicate the inclusion of

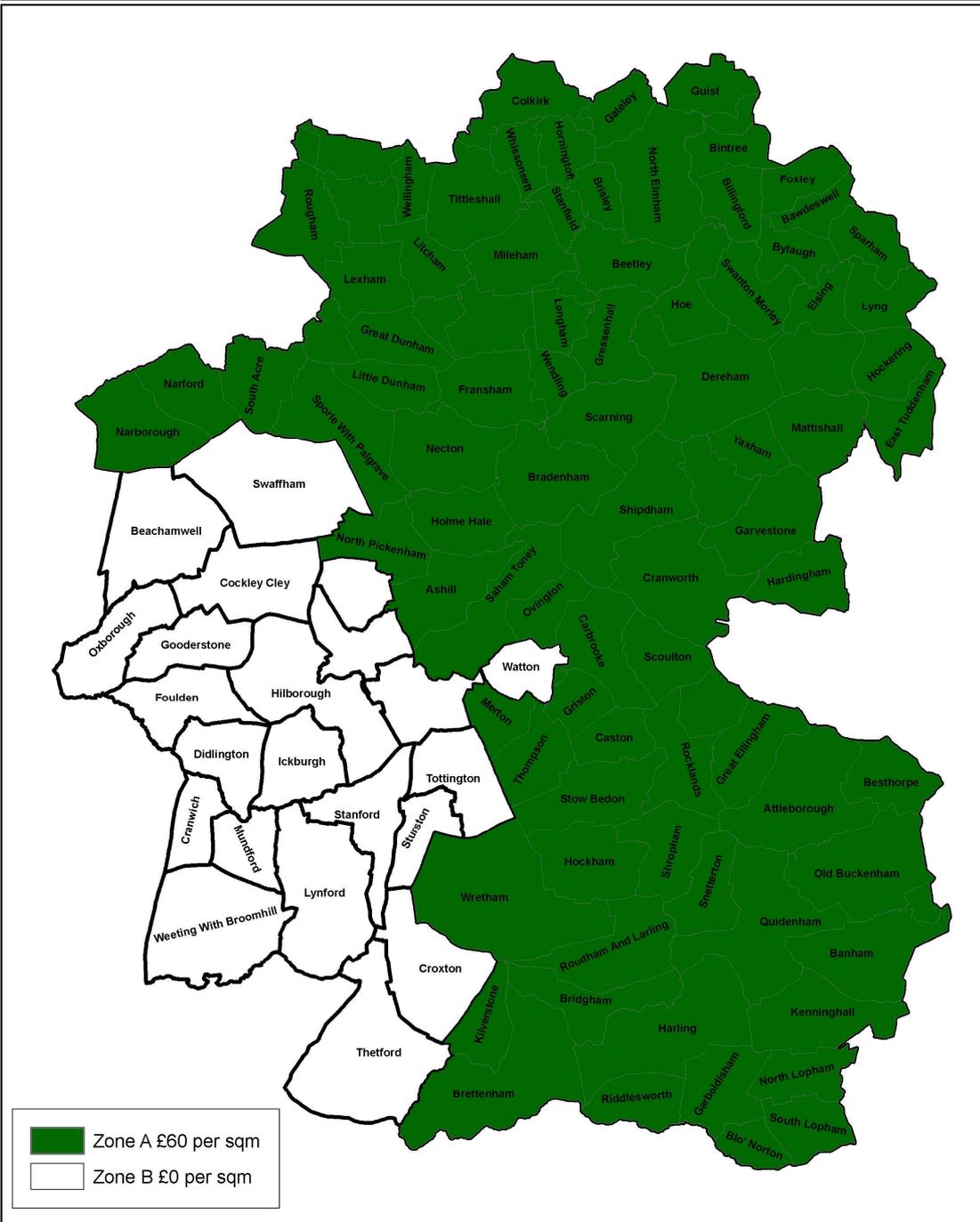
Dereham within the high sales value zone, and could be charged the residential CIL rate.

### Draft Charging Schedule

- 1.10 Residential development – Results find that in the highest housing sales value zone, (i.e. zone A), CIL could be charged at £60 per m2. Across the remainder of the District the results indicate that there is insufficient viability to support any residential CIL charge. Members attention is directed to the processes report on CIL and the need to consider full policy requirements.
- 1.11 Commercial development – the assessment finds that no development within the ‘B class’ uses (manufacturing, warehouses, offices) is viable in Breckland. This is not unsurprising given current economic conditions in the UK at this time and is coterminous with the results of other CIL viability assessments locally and nationally. Therefore, it is considered that for commercial development, the commercial CIL zone should extend to the whole district and a rate set at £0 per m2.
- 1.12 However, there are certain forms of commercial development that are viable within Breckland. In particular, the assessment indicates that retail stores outside town centre boundaries (as defined on adopted LDF Policies Map) are viable to the extent that they could support CIL. Based on sensitivity testing the assumptions for external works costs, retail developments in class A1 could support CIL at a rate between £150 and £240 per m2. It is proposed to include a CIL rate of £150 per sqm within the DCS which reflects the higher end of external works costs.
- 1.13 Other viable forms of development include residential care homes, holiday accommodation and hotels. Viability evidence cannot practicably consider all forms of development, but it is unlikely that there is sufficient evidence of viability to enable CIL to be levied on other forms of development that are not specifically listed in the Draft Charging Schedule. This would indicate that any “notional” CIL charge may be at the margins of viability. The Draft Charging Schedule proposes the following CIL rates:

Use Class	Rate (£ per square metre)	
	Zone A	Zone B
Residential Dwelling Houses (C3)	£60	£0
Commercial Development (B1, B2 and B8)	£0	
Out of Centre Retail Development (A1) excluding retail warehouses	£150	
Out of Centre Retail Warehouses (A1) – where subject to a planning condition or legal agreement restricting use to bulky goods.	£100	
Other Retail Developments (A1 in defined town centre, A2, A3, A4 and A5)	£0	
Hotels (C1)	£140	
Residential Care Homes/Institutions (C2)	£90	
Holiday Accommodation (C3) – where subject to a planning condition or legal agreement restricting occupation to holiday accommodation	£30	
All other development	£0	

- 1.14 The following is a revised map showing the residential charging zones and which parishes are located within the two zones.



<b>Breckland Council</b>  Elizabeth House Walpole Loke Dereham NR19 1EE Tel. 01362 656870 - Fax. 01362 656297	Title		 Scale <b>1:230,548</b>
	<b>Residential CIL Charging Zones</b>		
	Project / Details		Drawn by / Department
		Drawing / Reference Number	

### Instalment Policy

1.15 The CIL regulations allow Charging Authorities to introduce an instalment policy for the payment of the CIL liability. The assessment has also considered the potential impacts on viability of introducing an instalment policy as part of the councils approach to CIL. An instalment policy needs to be triggered by a period of time rather than an amount of development completed. This is due to the fact that CIL is effectively administered in the same way as other taxes/ levies, and as such, the Council will need to take into account the fact that development could stall and income not be received for some time. In setting

the instalment policy a balance needs to be sought between the need for monies to be collected in a timely manner to secure infrastructure provision, but also the impact on the finances of the development.

- 1.16 The Draft Charging Schedule proposes to extend the time period for the instalments of CIL payments and the thresholds for payments from those consulted on within the preliminary draft charging schedule in response to representations received during the consultation. Without introducing an instalment policy, the liability would otherwise be due 60 days after notice of commencement by the developer.

### **3. Government Consultation on reforms to the CIL Regulations (2013)**

- 3.1 The Department for Communities and Local Government consulted on proposed changes to the CIL regulations over the same time period as the Council's Preliminary Draft Charging Schedule was out to consultation. It is currently anticipated that a further change to the CIL regulations could occur as early as November this year.

3.2 The following is a summary of the key reforms proposed to the CIL regulations:

- The extension to the transition period prior to the limitations of pooling planning obligations from April 2014 to April 2015.
- Introducing relief from the levy for self build homes, this includes relief from the levy for those either building or commissioning their own home to become their principal house.
- Changing the way the infrastructure list is examined and reviewed.
- Allowing payment in kind through provision of both land and infrastructure either on-site or off-site.
- Allowing phased payments for all types of planning applications, including outline, full and hybrid applications.
- Allowing authorities to apply the discretionary relief from CIL for social housing to discounted market housing.

3.3 The reforms to the CIL regulations set out above have the potential to impact on the collection of CIL within Breckland. Whilst the extension to the transitional period would allow the Council more time to implement CIL in Breckland, there is currently no guarantee if this change will come into force or when.

3.4 A potentially significant reform would be to exempt self-build properties from CIL. A key difference of CIL from section 106 agreements is that it can be collected on smaller schemes including individual properties. A number of the individual windfall properties built within Breckland's rural parishes have the potential to be classified as self-build. Whilst the exact amendments to the regulations are unclear at present, it has the potential to further reduce the amount of money available for collection from CIL to fund infrastructure within the District. Further analysis of the financial impact of such a change may therefore be required in due course.

3.5 Should regulations change, it is recommended that these be reviewed prior to the submission of the Charging Schedule.

#### **Next Steps**

3.6 Following consultation on the draft charging schedule, in consultation with the Council Leader and Executive Member for Assets and Strategic Development, it is recommended that the charging schedule is submitted for examination with an independent Inspector.

## **4 OPTIONS**

4.1 There are three options available to Members:

- i. Cabinet agree the Draft Charging Schedule to be published for consultation. Further to this Members to also agree for the Charging Schedule and any minor modifications to be submitted for public examination with an Independent Examiner following agreement from the Council Leader and Executive Member for Assets and Strategic Development. Should the CIL regulations change prior to the submission of the Charging Schedule for public examination, the implications of any changes should be considered by Cabinet before submission.

- ii. Cabinet agree the Draft Charging Schedule to be published for consultation and to bring back the Charging Schedule to Members before submitting it for examination.
- iii. Cabinet do not approve the Draft Charging Schedule to go out to consultation

## **5 REASONS FOR RECOMMENDATION**

5.1 It is recommended that Members endorse option 1, which will allow the consultation to be carried out and the charging schedule to be submitted for examination. This option will allow the Council to progress the implementation of CIL prior to the ceasing of pooling of s106 contributions, which is currently scheduled for April 2014.

## **6 EXPECTED BENEFITS**

6.1 The expected benefits are that the Council will progress the preparation of a CIL prior to the end of the prescribed period in the CIL regulations after which, the ability of the Local Authority to pool s106 contributions from 5 or more obligations towards infrastructure projects will cease (currently 1<sup>st</sup> April 2014).

6.2 CIL will also allow the authority to collect contributions towards infrastructure from a greater range and scale of developments than would have been possible under the existing S106 regime.

6.3 However, should certain proposed changes to the CIL regime be implemented, some of the expected benefits in terms of the amount of contributions from CIL may be reduced.

## **7 IMPLICATIONS**

### **7.1 Legal**

7.2 There are no direct legal risks resulting from the contents of this report; however, Local Planning documents need to be prepared in accordance with relevant Local Planning Regulations (particularly the CIL Regulations, as amended) and Acts of Parliament, having regard to relevant considerations and case-law.

### **7.3 Risks**

7.4 There are risks associated with the funding of community infrastructure following the scaling back of s106 agreements from April 2014, if the Council does not develop and implement CIL.

7.5 Further risks exist if CIL regulations significantly affect work done on CIL to date and requires further work or resource.

### **7.6 Financial**

7.7 Although this report does not have a direct financial implication, there are indirect financial implications. These are effectively considered in two parts. Firstly there will be costs associated with the preparation adoption, examination and adoption of the CIL, and secondly the costs associated with the implementation and charging of a CIL. The costs associated with the preparation of the CIL will principally include engagement methods, and the Charging Schedule will also be subject to an Examination in Public, which will incur costs from engaging a suitably qualified person (which could be a Planning Inspector).

7.8 As council has already committed to preparing CIL, the other indirect financial implications are principally centred on the resources to deal with implementation, administration and enforcement of CIL which could include the need to consider additional IT software to aid in the administration of CIL. The CIL regulations provide the ability for the Charging Authority to retain 5% of CIL receipts to cover administration costs, and these could assist with any additional financial burdens.

### **7.9 Timescales**

### **7.10 Equality and Diversity**

7.11 There are not considered to be any equality or diversity considerations as a result of this report.

**7.12 Stakeholders / Consultation**

7.13 This report provides updates on the recent consultation on the Preliminary Draft Charging Schedule

**7.14 Contracts**

7.15 There are no contract implications arising from this report

**7.16 Section 17, Crime & Disorder Act 1998**

7.17 There are no Crime and Disorder Act implications arising from this report.

**8 WARDS/COMMUNITIES AFFECTED**

All wards in Breckland

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**Director/Officer who will be attending the Meeting**

Name/Post: Sarah Robertson, Planning Policy Officer

Phil Mileham, Planning Policy Team Leader

**Appendices attached to this report:**

Appendix A: Community Infrastructure Levy Draft Charging Schedule

Appendix B: Additional viability study

Appendix C: Community Infrastructure Levy Viability Assessment

Appendix D: Summary of responses to Preliminary Draft Charging Schedule consultation

Appendix E: Breckland Housing Sales Values Addendum

Appendix F: Regulation 123 List

Appendix G: CIL Processes and Assumptions Paper