BRECKLAND DISTRICT COUNCIL

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

To: Cabinet 26th March 2013

(Author: Phil Mileham – Planning Policy Team Leader (Capita Symonds) and Sarah Robertson – Planning Policy Officer (Capita Symonds)**)**

Subject: Breckland Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule and Viability Assessment

Purpose: The purpose of this report is for Members to consider the findings of the CIL viability assessment, and review the Preliminary Draft Charging Schedule and agree this for a period of public consultation.

Recommendation(s):
It is recommended that Cabinet endorse option 1 of this report, and agree the Preliminary Draft Charging Schedule, Viability Assessment and Infrastructure Funding Paper for public consultation.

1. BACKGROUND

1.1 Members will recall that the Council formally committed to the investigation and preparation of a Community Infrastructure Levy (CIL) for Breckland in autumn 2011. At that time, it was recommended that further detailed evidence would be required in order to inform a more precise rate of CIL for particular land uses for the purposes of future public consultation.

1.2 A CIL represents a tax on new developments over 100sqm and is intended to produce a fairer system for the funding of community infrastructure than the existing use of section 106 (s106) agreements. Furthermore, the role and use of section 106 agreements is being scaled back through national planning regulations which will come into effect from April 2014. Due to these changes to the s106 process the production and implementation of a CIL for Breckland has become more imperative.

1.3 As a result, the Council commissioned Capita Symonds/ Urban Vision in July 2012 to undertake a more detailed viability assessment to help inform the first formal stage in the CIL process, namely the production of the Preliminary Draft Charging Schedule (PDCS).

1.4 The viability assessment has now been completed and is included at Appendix B of this report. Member views are now sought on the implications of the findings and what these mean for a CIL in the district.

1.5 Members are reminded that CIL rates will need to be set having regard to the general viability of development versus the desirability of funding for infrastructure from CIL. Therefore, it may be that the imposition of CIL in the District may unfortunately render some specific development sites unviable. However, that is not to mean that the approach is unsound providing that it can be demonstrated that the majority of a particular form of development will still remain viable.

1.6 A CIL rate can only be set on grounds of development viability. The State Aid rules apply to CIL and as such, rates cannot be set arbitrarily or as a form of 'policy decision' to stimulate or discourage development.

1.7 The remainder of this report considers the findings of the viability assessment, and goes on to discuss what the implications are to addressing any infrastructure funding shortfall.

2. Viability Assessment - Implications for the approach to CIL

2.1 The approach taken in the viability assessment was to consider a range of notional development scenarios that aim to demonstrate whether there are variances in viability across the district for particular land uses. The approach is in accordance with best practice, has been adopted in other Local Authority CIL viability assessments that are further progressed through the process, and also represents a pragmatic way of dealing with viability. The viability of the scenarios was assessed using the residual valuation method.

Residual Land Value = **Gross Development Value** minus **Total Development Costs** minus **Developers Profit**

2.2 The residual land value for a site forms the sum which is left over to pay for the land once all the other associated costs have been deducted. If a CIL is applied to the development, this would see a reduction in the residual land value to accommodate the cost. In order for a development to be able to support a CIL and see the land sold for development, the residual land value must be greater than the existing use value or an alternative use value.

2.3 The extent of any changes in viability across the District may warrant multiple zones or charges per different types of development. The notional scenarios that were tested in the assessment are as follows:

Development type/ use class	Number of Units/Site Area	Assumptions
Residential – Market town – Greenfield site	200 dwellings	• Low, medium and high densities to be tested • 40% affordable housing (75% affordable rent, 25% intermediate)
Residential – Market town – Brownfield site	25 dwellings	• Low, medium and high densities to be tested • 40% affordable housing (75% affordable rent, 25% intermediate)
Village	15 dwellings	Only low density scenario, 40% affordable housing (75% affordable rent, 25% intermediate)
Other small housing sites	4 dwellings	Low density, no affordable housing (as below threshold)
Offices - B1a	500m2	Floorspace to gross site

		area ratio 40%
General Industrial (B2)	1,000m2	Floorspace to gross site area ratio 30%
Storage and Distribution (B8)	1,000m2	
Retail – foodstore type (A1) – Outside of town centres	3,000m2	
Retail – foodstore type (A1) – town centres	3,000m2	
Restaurants and Cafes (A3)	100m2	
Drinking Establishments (A4)	650m2	
Hot Food takeaway (A5)	450m2	
Residential Care Home (C2)	50 bedroom	Total accommodation size 925m2
Hotels (C1)	50 bedroom	
Holiday accommodation	3 self-catering units	

2.4 The initial stage 1 work concluded that CIL would likely require a more refined approach than a single payment for all forms of development. The stage 1 report indicated that there were potentially multiple zones and differential rates in Breckland in respect of residential development. There was also evidence that a single rate could not be introduced due to the viability differences between residential and other commercial developments.

2.5 The variations across Breckland are particularly notable for the approach to residential development which is characterised by a number of different sales value areas. This was confirmed in the latest viability assessment from a review of residential sales data (supplied from the Council's Hometrack system). This established that when looking solely at sales values there are, in effect, three residential zones in Breckland. The first zone includes the market town of Attleborough and the majority of the rural parishes within the District (see map at Appendix A to this report). These have the highest residential sales values within the District and consequently, proposals would result in a greater overall development value. The viability assessment concludes that there is a sufficient residual land value within this zone to charge a CIL rate.

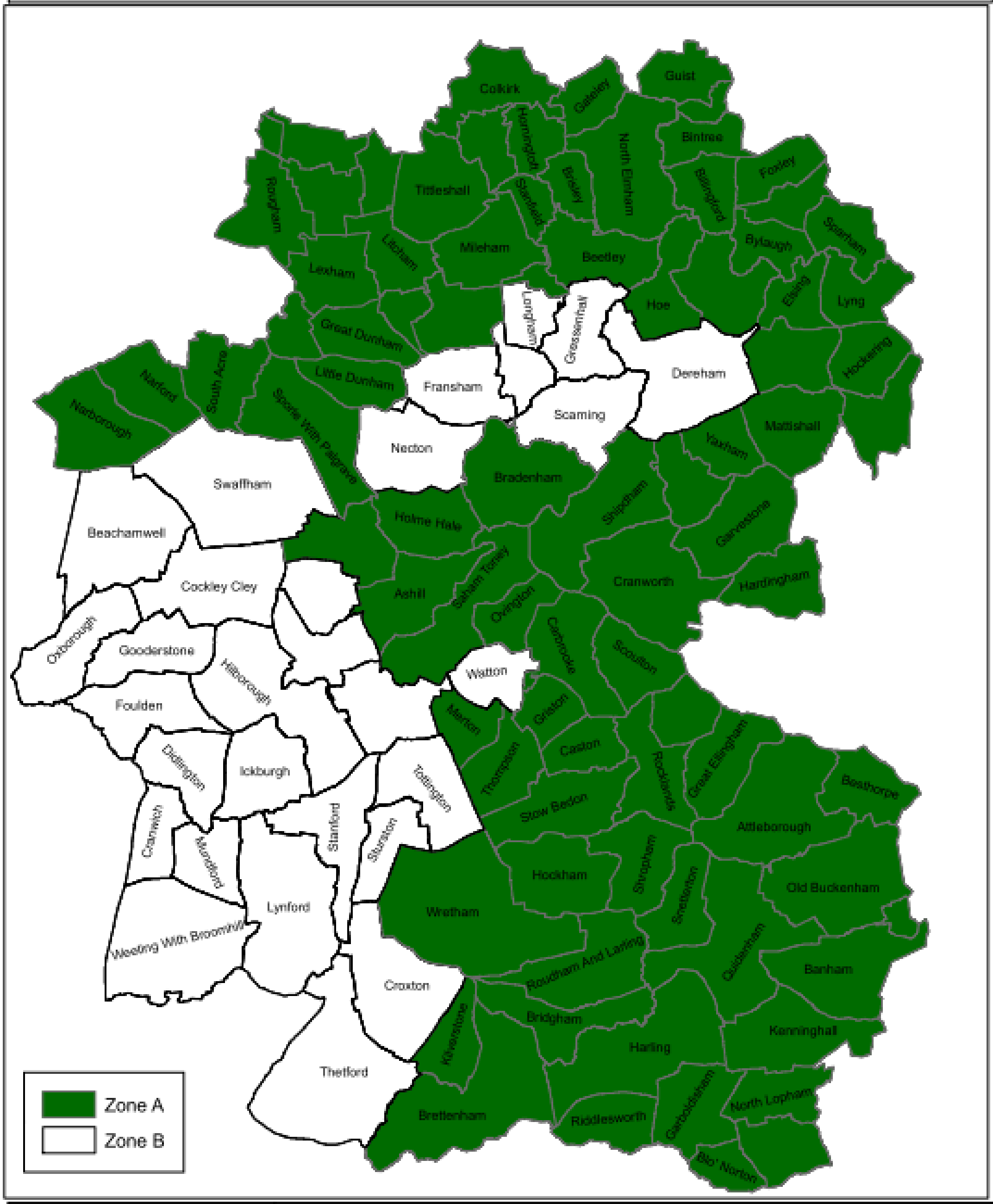
2.6 The second residential sales value zone includes the market towns of Dereham, Swaffham and Watton, a number of the rural parishes located to the south west of the District and some of the rural parishes to the west of Dereham. In this area the viability assessment concludes that development conditions are much less positive. The assessment concluded that there is currently insufficient evidence of viability that would indicate that the majority of development in this area could support a CIL charge. This is due to the fact that the residual land values are below a benchmark level (£371,000 per hectare) at which land would reasonably transact for.

2.7 The third residential sales value zone which can be clearly identified using the recent sales value data is Thetford. Residential sales values within the town (for all property types) are lower than seen in the rest of the District. Whilst land values within the town are reflective of the lower sales values, the assessment concludes that there is not sufficient viability to support a CIL charge for the town. In effect the viability assessment therefore establishes two residential CIL charging zones. A higher value zone as identified in paragraph 2.4, where a CIL rate of £60 per sqm is proposed, and a £0 per sqm rate for residential development in the rest of the District.

2.8 The viability assessment has taken into account the Government expectation that the imposition of CIL will exert a downward pressure on land values. Furthermore, sensitivity testing has been carried out looking at carrying the costs associated with external works. This included lower rates for external works (i.e. local access roads and connection of utilities etc) as a percentage of development costs which reveals that CIL could potentially rise to £170 in the higher value zone. However, having regard to the earlier issue of 'general viability', caution should be exercised if considering setting a CIL rate at the very upper limit of what may be viable in a notional example. This might make a greater amount of development unviable.

2.9 Levels of affordable housing were also sensitivity tested for interest as affordable housing remains a 'policy decision', unlike CIL. However, in calculating the level of CIL, guidance indicates that this should be based on delivering the Council's full policy requirements which at the present time equate to 40% affordable housing on sites over 0.17ha or proposed more than 5 dwellings and this should be borne in mind in Members deliberations. The table on the following page shows the implications of the sensitivity testing of the assumptions on the proposed CIL rate for residential developments within the high value zone.

2.10 The following map shows the two residential CIL charging zones. Zone A on the map represents the higher sales value zones, where a CIL rate of £60 per sqm is proposed. Zone B represents the medium and lower value zones, where no residential CIL rate is proposed.



Breckland Council Elizabeth House Walpole Loke Dereham NR19 1EE Breckland Tel. 01362 656870 - Fax. 01362 656297	Title **Residential CIL Charging Zones**	N W E S	Scale
			Date **February 2013**
	Project / Details	Drawn by / Department	
		Drawing / Reference Number	

Scenario	Density	35% Affordable Housing	25% Affordable Housing	Reduced Developers Profit – 40% Affordable Housing	Reduced Developers Profit – 25% Affordable Housing	Reduced Developers Profit – 15% External Works - 40% Affordable Housing	Reduced Developers Profit – 15% External Woks – 25% Affordable Housing	Reduced Developers Profit – 10% External Woks – 40% Affordable Housing	Reduced Developers Profit – 10% External Woks – 25% Affordable Housing
Market Town Greenfield	45ha	£0	£0	£0	£27.13	£60.14	£98.73	£93.32	£131.96
	30ha	£50.43	£74.97	£71.82	£109.40	£140.57	£177.13	£171.49	£208.11
	20ha	£0	£0	£0	£27.76	£58.93	£96.28	£89.85	£127.27
Market Town Brownfield	45ha	£0	£0	£0	£0	£0	£35.79	£27.98	£74.32
	30ha	£0	£0	£0	£0	£0	£0	£26.51	£31.40
Village	20ha	£0	£0	£0	£0	£3.15	£21.92	£43.69	£62.47
Other Location	24ha	£178.27	£178.27	£178.27	£178.27	£242.21	£242.21	£283.47	£283.47

3. Viability Assessment Findings

3.1 Residential development – Results find that in the highest value zone, zone A, CIL could be charged at £60 per m2. In the second and third sales value zones (as described in paragraphs 2.5 and 2.6), the results indicate that there is insufficient viability to support any residential CIL charge.

3.2 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.

3.3 However, there are certain forms of commercial development that are viable across the district. In particular, the assessment indicates that retail superstores 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 PDCS.

3.4 Other viable forms of development include residential care homes, holiday accommodation and hotels.

3.5 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 Preliminary Draft Charging Schedule. The Preliminary Draft Charging Schedule proposes the following CIL rates:

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

3.6 The assessment has also considered the potential impacts on viability of introducing an instalment policy as part of the councils approach to CIL. As can be seen at pages 58-59 of Appendix B, 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. There is also a need to secure funds swiftly in order to ensure that funds can be secured to the CIL 'pot' to enable delivery. Without introducing an instalment policy, the liability would otherwise be due shortly after notice of commencement by the developer.

4. Infrastructure Funding Gap

4.1 The stage 1 outline study (2011) indicated that there was expected to be an infrastructure cost of £209million to deliver the planned growth agenda. There is currently committed funding of £16.2million from public and other sources. This left a funding gap of £193million. Of this, the stage 1 study estimated that £149million would come from S106 and other identified funding, leaving a net funding gap of **£59.9million** to be funded from CIL or other sources (grants etc).

4.2 The CIL infrastructure funding paper at Appendix C seeks to understand what the level of funding arising from CIL could be based on the conclusions of the viability assessment. The paper also updates the infrastructure costs and funding sources in accordance with updates to the recent evidence base. The paper shows a slight increase in the total infrastructure cost within the District to £233million. However, the main difference is the cost of infrastructure which the Council expects to come forward through S106 agreements on the identified Urban Extensions (Attleborough and Thetford) which has risen to £195million. Committed public and utility company funding of £15.2million has also been identified, which leaves a funding gap of £22.3 million. The paper at Appendix C estimates that CIL could generate £9.09million gross, based on the expected level of growth in Council's current adopted DPDs and assuming an annual rate of rural windfall development equivalent to the level achieved in 2011/12.

4.3 Therefore, there is likely to remain a funding gap (after potential CIL income and s106 requirements) of £13.21million. However, this funding gap may further increase due to a meaningful proportion of the money raised from CIL going to local communities, which might not be spent on the items of infrastructure that the Council has identified or if items identified as being funded through s106 are not provided through this mechanism. However, the Government has recently published further draft amendments to the CIL Regulations which seek to ensure that communities spend their proportion of CIL monies on infrastructure to support the development of their areas.

5. Meaningful proportion for communities

5.1 The Department for Communities and Local Government released guidance in January 2013 for Local Authorities on the level of CIL receipts which will be payable to the local community. Communities without a Neighbourhood Plan will receive 15% of the CIL receipt, however this will be capped at a maximum amount of £100 per Council tax paying dwelling.

5.2 In locations with an adopted Neighbourhood Plan, 25% of CIL generated in those areas will be given over to communities, with the amount uncapped. Currently within Breckland there are no adopted Neighbourhood Plans.

6. OPTIONS

6.1 There are two options available to Members:

- i Cabinet consider the PDCS, Viability Assessment and Infrastructure funding paper and agree to be released for consultation
- ii Cabinet does **not** approve the PDCS, Viability Assessment and Infrastructure funding paper for consultation.

7. REASONS FOR RECOMMENDATION

7.1 It is recommended that Members endorse option 1, which will allow consultation to be carried out on the Preliminary Draft Charging Schedule. This option will allow the Council to further progress the implementation of a CIL for the District.

7.2 It is important to progress CIL to enable the Council to have a mechanism in place to secure funding from multiple developments after 1st April 2014 (the date on which S106 will be scaled back). However, once implemented the CIL Charging Schedule will need to be kept under review, and it is recommended that a post-adoption timeframe of 3 years be used which will establish whether there are any significant changes in the development market or other events which may affect viability in the district.

7.3 Endorsing option 2 has two impacts. The first may be to effectively cease the preparation of CIL and rely on S106 (with limitations post April 2014). However, in agreeing option 2, the Council could delay the consultation on CIL in order to commission further research or evidence to cover a greater range of scenarios. Whilst this is may be a reasonable option, it is considered that any further evidence may still conclude that other forms of development are not viable.

8. EXPECTED BENEFITS

8.1 The expected benefits of agreeing the CIL PDCS 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 will cease.

8.2 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.

9. IMPLICATIONS

9.1 **Legal**

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.

9.2 **Risks**

9.3 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.

9.4 **Financial**

9.5 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).

9.6 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.

9.7 **Timescales**

The timescale for the production of CIL is set out at page 6 of Appendix A of this report.

9.8 **Equality and Diversity**

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

9.10 **Stakeholders / Consultation**

The report seeks approval from Cabinet to undertake a period of consultation on the Preliminary Draft Charging Schedule.

9.11 **Contracts**

9.12 There are no contract implications arising from this report.

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

9.14 There are no Crime and Disorder Act implications arising as a result of this report.

10. WARDS/COMMUNITIES AFFECTED

10.1 This report will affect all Wards in Breckland as the CIL is applicable district-wide.

Background papers:-
None

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Director/Officer who will be attending the Meeting

Name/Post: Phil Mileham (Planning Policy Team Leader – Capita Symonds)
David Spencer (Deputy Planning Manager – Breckland and South Holland Councils)

Key Decision – Yes

Appendices attached to this report:

Appendix A: Breckland CIL Preliminary Draft Charging Schedule
Appendix B: Breckland CIL Viability Assessment
Appendix C: CIL Revenue and Gap Funding – Supporting Evidence Paper