



PRCC.11 15/16
Prosperous Communities Committee
Date: 22 July 2015

Subject: Community Infrastructure Levy (CIL) – Update Report

Report by:

Chief Operating Officer

Contact Officer:

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Purpose / Summary:

To provide members with an updated positions on the implementation of a Community Infrastructure charging schedule in West Lindsey, to set out the timetable for the implementation of CIL and to highlight some of the issues with the implementation of a CIL regime across the District.

Members have considered some of these issues before and in order to aid understanding of the process Prosperous Community Committee reports from the discontinued Core Strategy process are attached as background papers.

RECOMMENDATION(S): Members are asked to consider the issues around the introduction of a CIL charging regime in the District and raise any issues of concern so they can be used to influence the final scheme.

IMPLICATIONS

Legal: The legal implications of introducing a CIL regime across the District are being considered as the scheme develops.

Financial : The introduction of a CIL regime would allow the council to capture a contribution to the development of infrastructure in the district from a wider range of developments than is possible using s106 agreements. It would also allow more flexible use of any monies collected to better meet the district's needs for infrastructure.

However it must be emphasised that CIL will only be a "top up" to the standard budgeting arrangements for infrastructure which organisation have in place.

As part of the arrangements for the implementation of CIL charging authorities, such as this council, can retain up to 5% of the monies collected to cover administration costs.

Staffing : At this stage it is not anticipated that the introduction of CIL will lead to the need for additional staff

Equality and Diversity including Human Rights :

At the present time no Equalities Impact Assessment has been produced. However this will be part of a final version of the CIL scheme.

Risk Assessment :

Key risks around the introduction of a CIL regime across the district include:

- Potential loss of resources for infrastructure if a CIL regime is not introduced
- Potential disincentive for companies to invest in the district if the charge is set too high.

Climate Related Risks and Opportunities :

None arising from this report

Title and Location of any Background Papers used in the preparation of this report:

- [Prosperous Communities Committee, 28 March 2012, Community Infrastructure Levy \(report\)](#)
- [Prosperous Communities Committee, 12 February 2013, Infrastructure Planning in Central Lincolnshire \(report\)](#)

- [Prosperous Communities Committee, 3 September 2013, Community Infrastructure Levy Regulation 123 List \(report\).](#)

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No

Chief Operating Officer: Background and Executive Summary

Background

The successive governments have been attempting to design a method for capturing the up lift in the value of land brought about by the granting of planning permissions in order to deal with the negative effects of that development since the start of statutory planning in this country.

Previous attempts to do this in the 1950s, 60s and 70s did not prove durable. A system for seeking contributions from developments towards mitigating the harm they caused (a way for the development to “absorb its own smoke”) was introduced in 1971 and continues in a modified form in s106 agreements today.

As members will see in the report s106 agreements are tightly controlled in terms of when they can be applied and how any contributions to towards infrastructure resulting from them can be used. For example, there are new restrictions on pooling contributions that can then be used on major infrastructure projects across an area.

A Community Infrastructure Levy (CIL) is a tool available to a district council which will allow a contribution to towards infrastructure provision to be levied on all qualifying developments and used in accordance with the infrastructure priorities of that district council. Five key aspects of CIL need to be emphasised here:

1. It is discretionary: a council does not have to introduce a CIL scheme but there are now restrictions on s106 agreements (noted above)
2. It is a district council responsibility to introduce, collect and distribute any money collected
3. It works alongside and does not replace s106 agreements
4. It is districtwide and will allow any money collected to be pooled and spent upon the council’s priority infrastructure requirements
5. It is based on viability and should not, if properly applied, affect the attractiveness of a district as a place to invest.

At its meeting on 28 March 2012 the Prosperous Communities Committee agreed to implement and pursue an aligned CIL charging schedule with North Kesteven and City of Lincoln councils as part of the development of a Core Strategy (Local Plan) for central Lincolnshire. It is important to bear in mind that a CIL scheme cannot be introduced without an up to date adopted local plan and that any CIL scheme should be designed to deliver the infrastructure required to implement the growth proposals in the local plan. It also makes sense to develop a CIL charging schedule across a number of district areas so that no one district becomes more attractive than another in terms of the levels of CIL it charges.

The Committee has also had reports periodically from 28 March 2012 updating it on the progress towards the introduction of CIL.

Following the withdrawal of the Core Strategy for central Lincolnshire in December 2013 the programme for the introduction of CIL had to be revised in order to run in parallel with the new timetable for the adoption of the Central Lincolnshire Local Plan.

Executive Summary

This report is designed to reacquaint members with the CIL progress (by providing background papers which link to previous decisions on this issue taken by the Prosperous Communities Committee), to firmly link that process to the development of the Central Lincolnshire Local Plan, to update members on the viability work that is being undertaken at present and to provide a timetable on the process for agreeing a CIL charging schedule.

A number of important points to note in the report are:

- There needs to be a balance between setting the charge for CIL and therefore helping the provision of essential infrastructure in the district and not setting that charge so high that it deters potential investors - this is at the heart of the viability issue.
- Any CIL charging schedule needs to take account of differences in viability across central Lincolnshire and set charges accordingly
- That the provision of affordable housing is not covered in the CIL regime and any requirement for affordable housing needs to be taken account of in viability testing – this will include deciding whether and how CIL should be levied on sites of ten houses or fewer (the threshold for the provision of affordable housing)
- It is a requirement that district councils pass on a meaningful proportion of the CIL collected to the town and parish councils in which development takes place. In practice this means that towns or parishes designated as a neighbourhood plan area will receive 25% of the CIL collected in their area and in areas without a neighbourhood plan designation this will be, subject to the number of existing dwellings, up to 15%.
- That CIL is not expected to provide 100% (indeed in central Lincolnshire it is estimated to provide between 6 to 8%) of the funding required for the infrastructure to support new developments and is seen as a “top up” to enable essential infrastructure to happen.

The latter sections of the report seek to:

- Quantify the likely infrastructure demands across central Lincolnshire
- Explain how contributions towards infrastructure could be split between CIL and s106
- Relate CIL to other work such as the Local Plan, the Infrastructure Delivery Plan and Developer Contributions SPD.

Members should see this report as a tool in helping them to understand the CIL and how it could be used to benefit the communities in West Lindsey by contributing to essential infrastructure in their areas. It is also a precursor to reports that will be brought to the committee later in the year where members will be expected to take important decisions around this subject.

1.0 Introduction

- 1.1. This report provides an overview of work on infrastructure and viability, specifically to inform the council on its role in Community Infrastructure Levy setting and distribution.
- 1.2. Where figures are provided, these should be treated as indicative and on the basis that further assessment is ongoing. Many figures in the report are rounded to the nearest million – therefore totals might not appear to tally and small figures might be omitted – and where exact figures are given this is likely to come from a calculation and should not be read as a necessarily accurate forecast. The figures and comments should be read within the context of the draft Local Plan and other draft evidence.
- 1.3. An infrastructure funding gap was expected and the likely scope is set out below through potential scenarios. A large gap is expected with a long term plan, a large plan area and a significant level of growth. A gap is common for authorities and should not necessarily be seen as a concern but needs to be managed through the delivery of the plan. Equally, it was expected that affordable housing need would be greater than viability would allow to be delivered through section 106 only.
- 1.4. There are certain infrastructure needs which are unlikely to be met through section 106 because of the restrictions now in place. Section 106 is site-specific within the new statutory limits¹. It cannot easily be re-allocated whereas CIL receipts can be pooled to contribute to infrastructure items with a district-wide or beyond district impact. It is therefore recommended that a CIL at some level is taken forward; although the introduction of any CIL scheme is entirely a matter for this council. In addition, the statutory tests are more easily met with a robust policy position that is now proposed in a draft Central Lincolnshire Developer Contributions Supplementary Planning Document which will be taken through the Joint Strategic Planning Committee ready for consultation alongside the Joint Local Plan and aligned CIL schedules.

1 CIL process and district councils

- 2.1 The district councils are the charging authorities in central Lincolnshire. Once established, the district councils will be responsible for collecting CIL and can retain up to 5% to cover administrative costs. The district councils are also responsible for distributing CIL within the scope of the agreed – or a future revised – regulation 123 list (a regulation 123 list identifies the type of developments for which the council will charge CIL). The authorities do not need to go through examination to add to their regulation 123 list.
- 2.2 Items outside the regulation 123 list can continue to be funded through section 106 agreements (under the planning acts) and section 278 (under

¹ Under the Community Infrastructure Levy regulation 2010 (as amended)

the highways acts). So this local list allows authorities to set out how it will distribute expected infrastructure spending between types of developer contributions thus permitting the systems to operate together locally.

2.3 It is proposed that the three districts consider draft CIL charges and draft regulation 123 lists as set out below relating to West Lindsey:

2.3.1 22nd September 2015 committee: preliminary draft charging schedule (PDCS) and first draft regulation 123 list to be considered.

2.3.2 1st October 2015: PDCS consultation

2.3.3 Late 2015/ Early 2016: Committee to consider Draft Charging Schedule (DCS)

2.3.4 Early 2016: DCS consultation

2.3.5 Later in 2016: Joint CIL and Local Plan examination

2.3.6 Early 2017: CIL adoption by WLDC and other Central Lincolnshire districts

2.4 There is a possibility that a delay in agreeing these documents could put at risk the proposed joint CIL and Local Plan examination. Delay to CIL could result in potential loss of CIL revenue and additional examination costs. It is not expected that a delay to CIL should hold up the Local Plan however.

3.0 Viability

3.1 The intention of the final whole plan report is to demonstrate the whole Local Plan, Community Infrastructure Levy (CIL) and supplementary policies as viable: 'deliverable' and 'effective' supporting a "sound" Local Plan². These local policies must also be understood in the context of national policies. Proposed CIL rate options (in the context of affordable housing and residual section 106 options) are in preparation and are intended to be presented at the meeting of the Prosperous Communities Committee. It should be noted that any increase in one of these types of contributions must be reflected by a reduction in another.

3.2 The Harman Report (prepared by the Local Housing Delivery Group – a cross-industry group chaired by Sir John Harman) provides two diagrams which explain the challenges for authorities in setting policies through the development plan and associated documents. The first, reproduced immediately below, explains the importance of considering the balance in policy setting. The second, reproduced further below, explains the importance of considering all potential policy costs to understand the cumulative impacts on development.

² National Planning Policy Framework paragraph 182

Figure 1: Balancing delivery risk and sustainable plan policies (from page 16 of Harman)

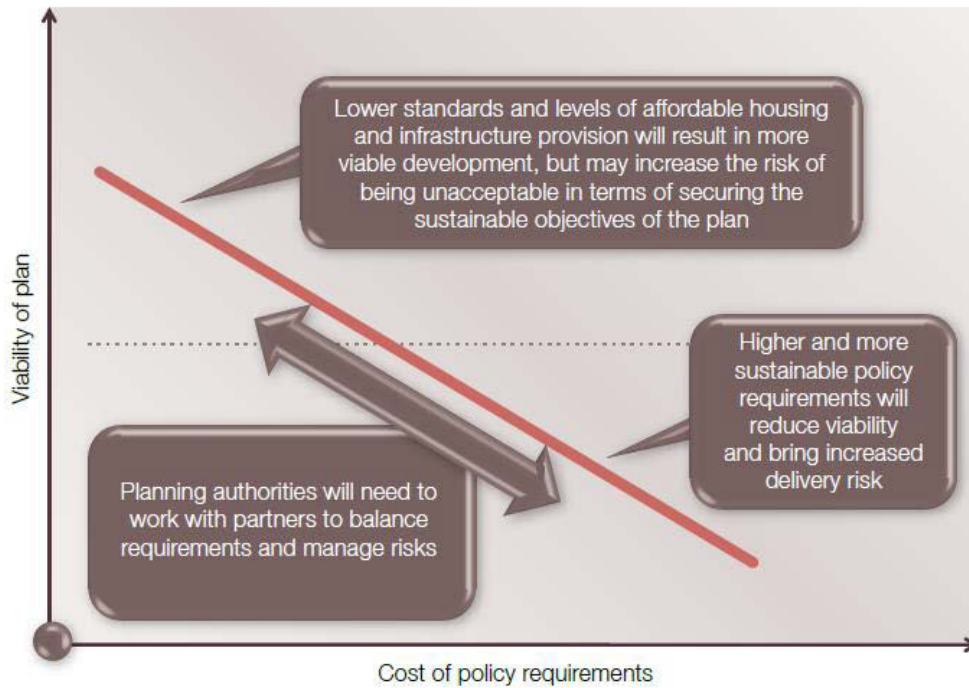
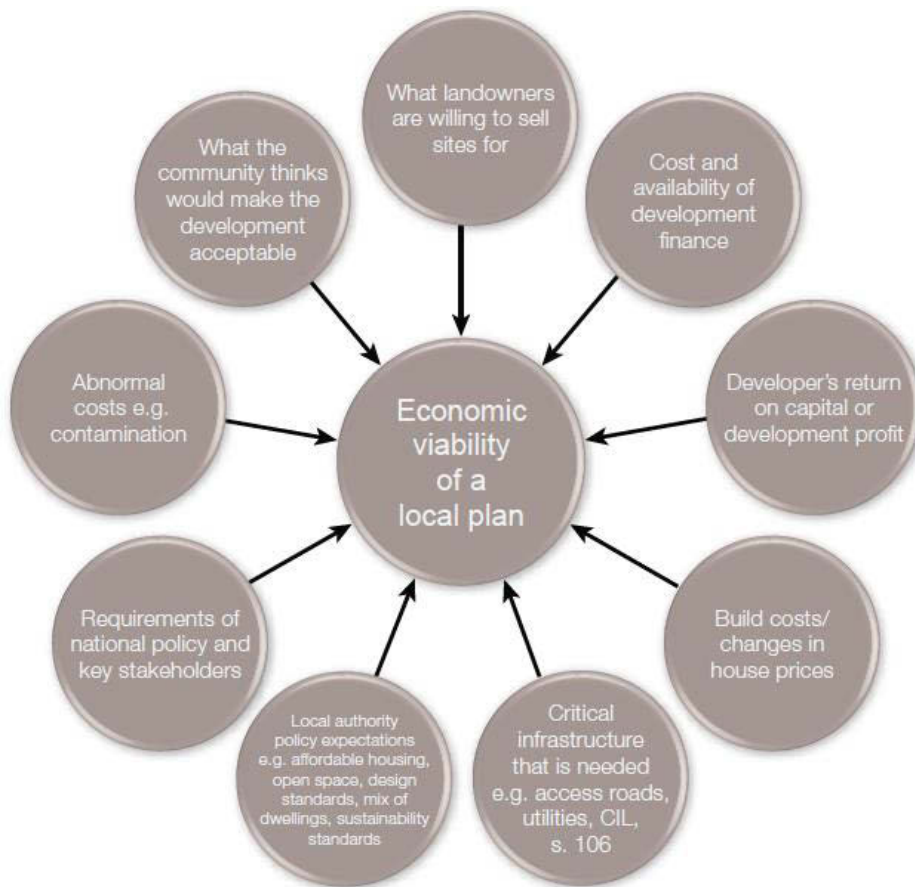


Figure 2: "Cumulative policy burdens" and plan viability



- 3.3 The emerging whole plan viability (WPV) assessment has been undertaken by Peter Brett Associates (PBA) overseen by Lincolnshire County Council and the Infrastructure & Viability Task Group (I&VTG).
- 3.4 Since an assessment in the run up to 2013, both development costs (principally build costs which have drastically increase) and revenues (residential sales values) have changed. This viability picture is therefore less optimistic than previously. The emerging CIL rates alone from the draft (2015) assessment would suggest a much bleaker picture than in 2013. However, this needs to be considered against the proposed location of development because results in some areas are more consistent with 2013 (see further explanation below and forecasts in table 3).
- 3.5 On the basis of the factors above and others in the viability appraisal, three broad value areas have emerged:
- 3.5.1 The 'Lincoln Sub Region' (viability evidence accords with the boundary from the draft Lincoln Sub-Regional Growth Study) as most viable
 - 3.5.2 Gainsborough, Sleaford, Market Rasen and Caistor as less viable than the above
 - 3.5.3 The Strategic Urban Extensions as less viable than the above.
(although review is needed in Gainsborough, particularly SUEs, because PBA's evidence showed a higher than expected viability, particularly in the north of the town and this needs understanding)
- 3.6 Greater infrastructure "head-room" was also identified for sites of below ten units which would now come under the Government's exemption for affordable housing. However, there are genuine viability risks (as well as opportunities) with these sizes of sites and the authorities should prepare for such an approach to be challenged.

Forecasting revenue

- 3.7 Residential development makes up the vast majority of potential CIL revenue because it accounts for the vast majority of CIL liable floor space. There is perhaps greater per square metre potential for convenience retail but any charge has a small percentage impact on projected CIL revenue given its limited floor space over the plan period. The same is true of residual section 106 from retail.
- 3.8 Officers leading the infrastructure and viability work have prepared a forecast model to be populated as rates continue to be discussed amongst the officer group and with PBA. Findings and recommendations are

intended be presented to the WLDC committee on the 22nd July on the following four scenarios which also feed into table 3 further below:

Table 1: Viability scenarios

Scenario		
1. high affordable housing	70% affordable housing revenue and 30% of infrastructure revenue "head-room"	For simplicity, both include infrastructure as a lump sum but split to be in new table 3
2. high Infrastructure	The opposite proportions to the above	
3. balance	infrastructure and affordable housing at roughly nearer a balance (slightly in favour of affordable housing)	both allow for a CIL-S106 split
4. balance plus small schemes	As scenario 3 but with additional CIL charging on schemes of ten units or below	

3.9 Scenarios 3 and 4 above add additional complexity. Scenario 4 also applies a higher rate of charge to units assumed to come forward at ten units or below.

3.10 Once a scenario is taken forward, there will be refinement of CIL and affordable housing rates so that a final proposal can be put forward in September 2015. Officers are preparing a recommendation to support scenario 4 which will include indicative CIL and affordable housing rates.

4.0 Infrastructure needs

4.1 Looking at infrastructure need on a purely financial basis, the most significant need would appear to be transport (principally highways infrastructure) and education. However, the other factors that communities' value in adding to their environment, such as green spaces and community facilities, should not be underestimated.

4.2 The following table provides a summary of the Infrastructure Delivery Plan (IDP) as well as an overview of where certain types of infrastructure fit as a priority and a total "ask" for that type of infrastructure.

Table 2: Infrastructure by priority as included in the draft IDP

Proposed Priority	Description	CIL "ask"	S106 "ask"
0 – assumed to be funded	For example, utilities connections and existing LEP allocations. Also, flood management / resilience	N/A	N/A
1 – High	Currently Lincoln Eastern Bypass (LEB) only against CIL Western Growth Corridor (WGC) flood measures against s106 (* is early estimate)	£34m	£2m*
2a – High / medium	Education provision and GP surgeries (need for the latter still not clarified by health bodies)	£90m	£50m
2b – Medium	Other health, most transport, fire, sport / community centres, high participation sport, green infrastructure and carbon reduction measures.	£90m	£20m
3 – low	Lower participation sports; <i>[parish/ neighbourhood link]</i>	£3m	zero

- 4.3 The above table is an iteration of the priorities agreed by the CLJSPC in advance of publishing the 2013 draft Infrastructure Delivery Plan alongside the Core Strategy consultation. These revised priorities have been shared with the CLJSPC bringing (June 2015) and will be presented again in July 2015 and to committee in September 2015.
- 4.4 At the beginning of June, close to £140m of transport schemes were taken out of priority 2b. Many of these proposals date from the Lincoln Transport Strategy (2009), some have now been delivered but going forward most are now assumed to be delivered through non-developer funding. Although there is potential for a more favourable funding climate for transport schemes in the latter stages of the plan, it is unlikely in the short term for Central Government money to be provided for local transport and is unlikely that any local money will be found.

Applying the forecast to need

- 4.5 The following table considers some of the emerging outputs (or assumptions) in the table 1 scenario to the needs in table 2.

Table 3: Infrastructure needs in each viability scenario

Scenario	CIL	Section 106
1. High affordable housing	Assuming a 50:50 split between CIL and S106: This scenario is expected to provide enough residual CIL funding for the Lincoln Eastern Bypass (the only priority 1 project above) allowing for some neighbourhood (parish) and administrative costs; leaving residual section 106 that (given little to no primary school capacity is available) would almost all be taken up by primary schools.	
2. High infrastructure	Also assuming a 50:50 split between CIL and S106: There would be enough residual CIL funding for the LEB and nearly half of the secondary school requirement (moving into priority 2a) or potential to move some of that funding (perhaps in the latter part of the plan) to contribute to priority 2b projects such as the Lincoln Southern Bypass. Again, this allows for some neighbourhood (parish) and administrative costs. It would leave perhaps too high a residual section 106. On smaller sites would be difficult to spend on-site (given practicalities) or off-site (given pooling restrictions). On larger sites, residual section 106 could cater for primary education, facilities such as sports/ play, primary healthcare and others	
3. Balance	This scenario provides enough net CIL to pay the for the LEB and, ignoring LEB borrowing costs, can make a contribution (less than 10% of need) to secondary schools.	Both scenarios 3 and 4 allow for sufficient section 106 outside SUEs to, assuming no capacity, provide primary school places only and where there is need for GP surgeries too (yet to be evidenced) there would need to be a split of funding or dialogue over priorities. In the SUEs, on-site facilities such as sports/ play and primary healthcare could additionally be provided.
4. Balance with additional charging on ten units	In this scenario, all of the above facilities could be provided plus there is the potential for a total of 20% of the secondary school need to be addressed.	

5.0 Developer Contributions Supplementary Planning Document (SPD)

- 5.1. The SPD will explain when CIL and section 106 is proposed to be used. The following table provides a summary of how each type of developer contributions is proposed to be used. The table has been considered prior to drafting table 3 above. These proposals are broadly compliant with legislation, although an assessment of legal compliance will also be required where an application is determined

Table 4: Requirements secured through Planning Conditions, S106 and CIL

Type of Infrastructure	Planning Condition	S106	CIL
Affordable Housing	√	√	×
Archaeology, Conservation and the Historic Environment	√	√	×
Community Halls and Facilities	×	√	× (potential through "neighbourhood proportion")
Drainage & Flood Risk management	√	√	√ (although no schemes identified yet)
Education	×	√ Primary Provision	√ Secondary Provision
Health	×	√ Primary Provision	√ Secondary Provision
Libraries	Proposed to be included with community facilities		
Open Space & Green Infrastructure	√	√ site-specific	√ strategic
Transport	√	√ Local site-related transport and accessibility requirements.	√ Strategic / Central Lincolnshire-wide impact projects
Waste Management	TBC	TBC	TBC
Other Contributions which may be sought	Contaminated Land, Minerals and Waste Development (solely as part of the implementation of the Lincolnshire Minerals and Waste Local Plan)		

6.0 Respective roles of the Authorities

- 6.1. As set out above, it is the three district councils in Lincolnshire that set CIL rates and agree a Regulation 123 list. At its meeting on 28 March 2012 the Prosperous Communities Committee agreed to do this on a separate but aligned basis: working together on evidence and processes but retaining individual statutory responsibilities. Once CIL is in place, district councils will then distribute CIL and have the option to update their lists.
- 6.2. The CLJSPC will set out the policy framework for affordable housing and infrastructure developer contributions in the Local Plan and, in more detail, through the SPD. The CLJSPC is also responsible for the Local Plan evidence including the whole plan viability report and infrastructure delivery plan which will inform the district CIL rates.