

CABINET

The Use of a Community Infrastructure Levy (CIL) in Lancaster District

23 April 2013

Report of Head of Regeneration and Planning

PURPOSE OF REPORT			
To present to Members the findings of the Economic Viability Assessment on the use of Community Infrastructure Levy in Lancaster District and to seek a decision on the recommendations of the Study and the next steps			
Key Decision	<input checked="" type="checkbox"/>	Non-Key Decision	Referral from Cabinet Member
Date of notice of forthcoming key decision	22 March 2013		
This report is public			

RECOMMENDATIONS OF COUNCILLOR HANSON

- (1) That, at this point in time a Community Infrastructure Levy (CIL) is not introduced in Lancaster District.
- (2) That the Council continues to monitor the prospects for introducing a CIL Levy and may seek to introduce a Levy at an appropriate time in the future when economic conditions are more amenable to supporting the charge.
- (3) That the schemes identified within the Infrastructure Delivery Plan (IDP) (in Appendix 2) are recognised as schemes which should be given due consideration in the future if the Council does subsequently resolve to prepare a CIL charge for the District.

1.0 Introduction

- 1.1 In 2012 the Council commissioned consultants GVA to investigate the feasibility of introducing a CIL charge Lancaster District. At the same time Consultants AECOM prepared an Infrastructure Delivery Plan (IDP) relating to highways and utilities infrastructure. Both studies were completed in autumn 2012.
- 1.2 A report on the findings of the studies was presented to Members of the

Planning Policy Cabinet Liaison Group (PPCLG) in December 2012.

- 1.3 This report sets out the findings and conclusions of both pieces of work and provides recommendations on the introduction of CIL in this district. This report is accompanied by a supplementary paper explaining the potential consequences for the District of either adopting CIL or not adopting CIL.

2.0 Proposal Details

Background to the Community Infrastructure Levy (CIL)

- 2.1 CIL is a charge which local authorities in England and Wales can, in principle, place on developers/landowners for most types of development in their area. The money generated from CIL can be then used, or pooled for future use, to pay for strategic infrastructure improvements within the authority area to realise social, economic or environmental benefits. The CIL charges would be based on the size of the site, and the type and location of the development proposal.
- 2.2 Central Government views CIL as a more effective and transparent way of securing financial contributions from development, providing a part replacement for the current S106 planning obligations system. CIL is designed to draw in substantial funding to bridge financial gaps associated with the provision of enabling infrastructure to serve new development. Section 106 agreements will focus on the direct impact mitigation that enables the granting of planning permission.
- 2.3 The concept of CIL as a standard charge for development is intended to be a fairer and more transparent method of seeking financial contributions from development and an opportunity for local authorities to plan ahead for infrastructure improvements and deliver the aspirations of local communities.

Progress on the Community Infrastructure Levy (CIL)

- 2.4 Prior to the preparation of the 'Economic Viability Assessment' the Council have already taken time to understand how any future CIL charge could possibly be implemented within the district and in particular the potential use of any CIL monies.
- 2.5 In 2009 the Planning and Housing Policy Team put together an Infrastructure Delivery Schedule (IDP); a list of schemes and projects which could be delivered through CIL. Refreshed in 2011, this schedule provided an understanding of the infrastructure gaps in the district.

Preparation of the Economic Viability Assessment

- 2.6 The GVA Viability Assessment provides advice to the Council on the level of CIL that it would be viable to charge on built development. The study also considers whether CIL should be charged as a single levy or be applied at different rates dependent on geographical location.
- 2.7 The purpose of the assessment work was to look at a number of key issues, particularly in *determining* whether a CIL charge is viable in the current economic climate and if so what that level should be. The objectives for this exercise included:
- A high level appraisal of developer contributions, rather than a detailed analysis of individual site or schemes;
 - Assessing the potential overall level of contributions by testing key 'what if' scenarios by varying underlying assumptions; and,
 - Assessing potential CIL levels on the basis of clearly reasoned evidence.

Viability Modelling

- 2.8 In undertaking that high level appraisal work GVA have used a residual development appraisal model to determine development viability. This model assumes that the land value is the difference between the Gross Development Value and the overall cost associated with development (once a realistic element of developer profit has been taken in account). The following formula is used to describe this calculation:

Gross Development Value (GDV) - Total Costs – Developer Profit = Residual Land Value (RLV)

Gross Development Value – Includes all income generated by the development, including temporary revenue and grants.

Total Costs - Includes construction costs, fees, planning, finance charges and also payments under s106, s278 and CIL.

Developer's Profit – Is expressed by reference to a percentage of the Total Costs or Gross Development Value.

- 2.9 Through the use of the appraisal model GVA tested the impact of differing levels of CIL contributions on land value.

Benchmarking

- 2.10 The CIL Assessment needs to establish a benchmark land value against which to compare the viability appraisal results. This benchmark assessment represents the level of value which is required in order to incentivise a landowner to sell land for development. GVA suggest that should, as a consequence of promoting CIL, the benchmark / market value be reduced by more than 25% then it would risk causing land to be withheld from development, or delayed from coming forward.
- 2.11 In terms of residential development, the assessment of land values was undertaken on a ward-level basis and identified a series of high, medium and low value areas – the valuation of areas was based on the last Property Market Report (prepared by the Valuation Office) in 2009 which included data on residential land in Lancaster.
- 2.12 The 'high value' areas within the district are concentrated in the north of the District, in areas such as Silverdale and the Kellets and within the Lune Valley, in wards such as the Lower and Upper Lune Valley. These areas can be characterised as being rural with no major urban areas located within them. Other high value areas also exist in the Slyne and Skerton West areas which are more urban in nature.
- 2.13 Predominantly the main urban areas of the District are located within the medium value areas or, in the case of Morecambe, within the low value areas. This already suggests that introducing CIL in such areas would be very challenging.
- 2.14 The viability assessments were based on the potential located for development (i.e. whether it was in a high / medium / low value area and the density of development). Other variables were also considered including whether potential development would take place on a greenfield or brownfield site and what the projected economic conditions would be.
- 2.15 Similar methodologies have been used to assess the land values of the potential development both commercial and employment schemes.

Preparation of an Infrastructure Delivery Plan (IDP)

- 2.16 External consultants, AECOM, were appointed to prepare a revised and

updated Infrastructure Delivery Plan (IDP). This details the transport and utility infrastructure requirements identified as being important to the delivery of future growth, particularly in relation to housing growth.

- 2.17 The report does not focus in any detail on the other forms of infrastructure such as community or green space. This will be undertaken by through Local Plan policies and planning applications.
- 2.18 The report makes recommendations on the likely funding mechanisms for each project identified; this includes the potential for monies to be provided via any future implementation of the CIL. Appendix 2 list projects identified by the consultants that could be given consideration as priorities should be given due consideration in the future if the Council did subsequently resolve to prepare a CIL charge for the District.

The Findings of the Economic Viability Assessment

- 2.19 The Economic Viability Assessment looked at the implications of a potential CIL charge on residential, commercial and employment schemes. These implications were tested under a series of scenarios.

Residential Development

- 2.20 GVA's analysis considered the levels of CIL which could be chargeable for residential development under current and pre-recession market consideration. The assessment findings suggest that charging CIL is primarily viable in high value areas only, regardless of whether such proposals are located on Greenfield or brownfield sites. It does suggest that the degree of CIL which could be charged would vary, with development on greenfield sites yielding potential £320 per sqm of development, and on brownfield sites, this yield could rise to £410 per sqm of development.
- 2.21 The viability of imposing a CIL charge on development in medium or low value areas is considerably challenged. The assessment suggests that within this financial climate the imposition of a CIL charge on development could render proposals unviable, challenging the opportunities to meet the district's development needs.
- 2.22 Should economic conditions improve, then a CIL charge may be viable not only in high value areas (yielding up to a potential £500 per sqm on small development sites) but also becoming marginally viable to charge within medium value areas also, particularly on development proposals located on greenfield sites.
- 2.23 However, irrespective of the prevailing financial conditions it has been concluded that CIL charging would not be viable for development proposals located within low value areas.

Commercial and Employment Development

- 2.24 GVA's analysis suggests that under the current market conditions CIL is only viable on convenience retail (supermarket / foodstores) at a maximum yield rate of £400 per sqm for greenfield sites and £280 per sqm for brownfield sites. Such yields could be charged irrespective of the economic climate, this reflects the fact that convenience retail has remained a relatively strong and stable market sector during troubled economic times.
- 2.25 The Viability Assessment suggest that irrespective of the market / economic condition the imposition of a CIL charge for office, industrial and other retail uses would be unviable.

Sensitivity Analysis

- 2.26 Guidance is quite clear in that CIL should not be set at the margins of viability which prevents development from coming forward and placing un-necessary burden on proposals.
- 2.27 In terms of residential sensitivities this can include the imposition of other requirements (such as the Code for Sustainable Homes), further reductions in sales values and increasing overheads. Only limited sensitivity testing can be undertaken for commercial / employment development given that CIL is only viable on convenience retail.
- 2.28 The sensitivity analysis which has been undertaken as part of the Viability Assessment suggests that greater impositions on development, such as requirements for better standards of design and in particular the provision of affordable housing would have significant impacts on CIL, challenging the viability of residential development even further particularly should the economy decline further.
- 2.29 Similar consequences are seen when applying sensitivity tests to commercial retail, with CIL rates falling dramatically when further requirements are attached to development proposals. Appendix 1 provides the potential CIL Rates.

Findings of the Infrastructure Delivery Plan (IDP)

- 2.30 The analysis undertaken in the IDP identified a large number of potential requirements of physical infrastructure (Transport and Utilities). These schemes have varying levels of importance and the focus of the IDP has been to look particularly with the delivery of residential sites at Whinney Carr, Bailrigg Lane and Grab Lane. In relation to the delivery of these sites in relation to infrastructure provision the IDP has two key findings.
- 2.31 Firstly, no large scale development of the Whinney Carr and Bailrigg Lane sites can occur without significant facilitating work to the A6 corridor between Lancaster City Centre and Galgate. This is an already congested link and some junction improvements to improve the traffic capacity are required to facilitate any further development proposals. It is recognised that proposals to construct a road bridge over the West Coast Mainline, linking the A6 and A588 (Ashton Road) through the Whinney Carr site will be important to serve the Whinney Carr site itself but also in terms of increasing capacity on the A6 required to facilitate the Bailrigg site.
- 2.32 Secondly, none of the three residential development sites identified can be constructed unless improvements are made in the water and waste water networks within the District. United Utilities have recommended that upgrades are made on the current systems due to the cumulative impacts, particularly in the East Lancaster area. It is envisaged that this cost should be distributed amongst developers since such improvements could potentially benefit from an upgrade in provision.
- 2.33 The IDP sets out a significant number of schemes relating to highways and utilities which would be beneficial and, in some cases, essential to the delivery of future growth within the District. It has been estimated by the IDP that the total cost of implementing all the schemes identified would cost a sum approaching £500,000,000.
- 2.34 The IDP seeks to prioritise this large list of potential schemes into projects which will be essential for the delivery of future growth through the forthcoming local plan period. This list of priority schemes is set out within Appendix 2 of this report

Conclusion

- 2.35 The timing of this Viability Assessment coincides with a significant downturn in the national and local housing market. As the Council continues to prepare the emerging Local Plan for Lancaster District a balance must be made over the need to encourage levels of future growth which meet the development needs of the district whilst ensuring that the necessary infrastructure and affordable housing is delivered.
- 2.36 It is therefore recommended that at this point in time no further action is taken in terms of progressing a Community Infrastructure Levy for the District due to following reasons:
- In residential terms there is limited application in the District at this present time. CIL can only be effectively applied in high value areas which are located in the rural north of the District and Lune Valley. None are areas of which expect significant growth in residential development in the future through the emerging Local Plan. Therefore, should CIL be implemented at this present time the collection of monies for infrastructure projects will be minimal at best.
 - In employment and retail terms there is again minimal application of CIL at this present time with only convenience retailing retaining the viability for a CIL charge to be levied. Should CIL be introduced for this type of development only limited opportunities would exist for its application and it in such cases financial requirements from such development would be better serviced through Section 106 agreements.
 - The consequences of introducing CIL at this time may have a negative impact on the delivery of other Council initiatives and objectives, in particular the delivery of affordable housing from new development, either on-site or financial contributions to off-site provision.
 - Looking wider, the consequences of introducing CIL at this time may have significant implications on the viability of development across the District. Imposing a charge on development may well constrain development, particularly in areas in the most need of regeneration and redevelopment. In such events the imposition of a CIL charge would be against National Planning Policy which suggests that local authorities should not seek to over-burden development from coming forward.
- 2.37 Whilst it is recommended that at present CIL is not introduced the Council should however continue to monitor the prospects for CIL in the future.
- 2.38 The Planning Obligations Officer has prepared a briefing note outlining the mechanisms and procedures that will be applied to managing Section 106 Contributions in the event of a CIL charge being introduced, or conversely, not being introduced. This note is attached to Appendix 3 of this report.

3.0 Details of Consultation

- 3.1 The outcomes of the CIL Study have been reported to PPCLG. A well attended Developer/Stakeholder Meeting was also held during the preparation of the Study.

4.0 Options and Options Analysis (including risk assessment)

	Option 1: Undertake the steps necessary to introduce a CIL Charge on Development in the District	Option 2: Do not advance with the introduction of a CIL Levy for Lancaster District at present but retain the option to introduce a Levy in the future should economic conditions prove more favourable
Advantages	Introducing a CIL Charge would allow monies to be collected from limited residential and retail developments and be used to support the delivery of infrastructure in the district.	Not introducing a CIL Charge provides clarity to landowners and developers that they do not need to factor in the cost of making a CIL contribution would when proposing development in the district. Thus, Lancaster district may well be seen as a good place to advance development proposals. If economic circumstances improve to the extent that more development could support a contribution then the Council can re-visit the prospect of introducing a Levy in the future.
Disadvantages	There are presently only limited parts of the district where the CIL Levy could be introduced without impacting on viability.	The district could miss out on the prospect of raising cash sums to contribute to funding infrastructure projects.
Risks	Introducing a CIL charge may create a complex charging schedule which achieves relatively little income but may disincentivise developers from investing in the district.	The CIL Regulations alter the ways in which Section 106 Contributions are managed, even in districts which have not introduced CIL; the Council needs to ensure that it works within the regulations so that potential contributions from Section 106 Agreements continue to be collected and effectively managed.

5.0 Officer Preferred Option (and comments)

- 5.1 Option 2: It is felt that the evidence of the CIL Viability Study directs that now is not an appropriate time to introduce a CIL Levy on development in the district. The council can however retain the option to re-consider this decision should local economic circumstances become more favourable.

APPENDIX 1: POTENTIAL CIL RATES

APPENDIX 2: PRIORITY SCHEMES TO BE ADDRESSED FROM THE IDP

APPENDIX 3: BRIEFING PAPER: Establishing arrangements for managing a Community Infrastructure Levy (CIL) and the Implications for the future management of Section 106 Planning Obligations with or without a CIL

RELATIONSHIP TO POLICY FRAMEWORK

The council has four priorities of 2012-15; actions of the Health and Wellbeing priority include planning for sufficient, good quality housing across the district and the delivery of social and affordable housing. It is well understood that the delivery of much needed new housing in the district has been running well below target since the economic down turn in 2008. The Council should be cautious not to add a further distinctive to the development of market housing through the introduction of a CIL Levy if this action would undermine development viability.

CONCLUSION OF IMPACT ASSESSMENT

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, HR, Sustainability and Rural Proofing)

The creation of a CIL charge to provide funding for strategic infrastructure could have significant benefits toward delivery of improved diversity, community safety and rural infrastructure. Should the recommended approach be taken then loss of such a funding stream will reduce the opportunity for financial contributions via CIL.

LEGAL IMPLICATIONS

There are no legal implications from adopting CIL; there is no statutory requirement to do so. Should the Council choose to progress CIL it may face legal challenges, particularly from the development industry who may suggest that in imposing such a charge the Council are overburdening development and the approach is not in accordance with National Planning Policy within the NPPF.

FINANCIAL IMPLICATIONS

The Community Infrastructure Levy (CIL) provides the Council with an opportunity to set a charge for new development which would assist in the delivery of strategic infrastructure in the district. A decision to not progress CIL will restrict the opportunities to generate income from this source.

However, should a CIL charge be put in place, particularly in this economically challenging time, there could be significant implications on future growth and the local economy.

Further information on the financial consequences of either progressing or not progressing a CIL charge is set out in Appendix 3 of this report. The direct financial impacts of introducing CIL relate to the need for additional processes; these processes would have to be undertaken by personnel in a number of services. Clearly additional further work would need to be undertaken if Cabinet chose to pursue Option 1.

OTHER RESOURCE IMPLICATIONS

Human Resources:

No implications for Human Resources in event of Option 2 being chosen; though additional further work would need to be undertaken if Cabinet chose to pursue Option 1.

Information Services:

No implications for Information Services

Property:

No implications for Property Services

Open Spaces:

CIL, if implemented, would provide opportunities for funding new open space provision or improvements to existing open spaces.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments

BACKGROUND PAPERS

Community Infrastructure Levy – Economic Viability Assessment (GVA – Sept 2012)

Lancaster Infrastructure Delivery Plan (AECOM - Sept 2012)

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APPENDIX 1: POTENTIAL CIL RATES

RECESSIONARY MARKET

Table 1 – CIL Rates (Greenfield Sites)

Value Area	Density	CIL Rates (£psqm)	
		Small Sites	Other
High	Low	£370	£250
High	Medium	£445	£315
High	High	£440	£320
Medium	Low	-	-
Medium	Medium	-	-
Medium	High	-	-
Low	Low	-	-
Low	Medium	-	-
Low	High	-	-

Key Findings

- CIL is only viable in high value areas;
- CIL varies depending on the density and size of the site. Small sites are capable of supporting much higher CIL charges because at this threshold the affordable housing requirements change (requirement for 20% provision rather than 30%); and
- On sites which yield more than 5 houses CIL ranges between £250 per sqm and £320 per sqm subject to assumptions over density.

Table 2 – CIL Rates (Brownfield Sites)

Value Area	Density	CIL Rates (£psqm)	
		Small Sites	Other
High	Low	£410	£285
High	Medium	£395	£280
High	High	-	-
Medium	Low	-	-
Medium	Medium	-	-
Medium	High	-	-
Low	Low	-	-
Low	Medium	-	-
Low	High	-	-

Key Findings

- CIL is only viable on brownfield sites in value areas at low / medium densities;
- The maximum CIL for small sites ranges between £395 and £410 per sqm and for all other sites the rate falls to approximately £280 per sqm; and
- Charging CIL on High density development on brownfield sites is not considered as being viable.

PRE-RECESSIONARY MARKET / NORMALISED MARKET

Table 3 – CIL Rates (Greenfield Sites)

Value Area	Density	CIL Rates (£psqm)	
		Small Sites	Other
High	Low	£420	£285
High	Medium	£495	£360
High	High	£500	£370

Medium	Low	-	-
Medium	Medium	£10	-
Medium	High	£45	-
Low	Low	-	-
Low	Medium	-	-
Low	High	-	-

Key Findings

- CIL remains viable on Greenfield sites in high value areas but the rates have significantly increased given improving economic conditions. For small sites the maximum CIL ranges between £420 and £500 per sqm subject to density assumptions. The maximum rate for other sites ranges between £285 and £370 per sqm;
- In some circumstances CIL will also become marginally viable on small sites within medium value areas but only at higher densities; and
- CIL remains unviable in low value areas even in more normalised market conditions.

Table 4 – CIL Rates (Brownfield Sites)

Value Area	Density	CIL Rates (£psqm)	
		Small Sites	Other
High	Low	£455	£325
High	Medium	£455	£335
High	High	-	-
Medium	Low	-	-
Medium	Medium	-	-
Medium	High	-	-
Low	Low	-	-
Low	Medium	-	-
Low	High	-	-

Key Findings

- CIL remains viable on brownfield sites in high value areas but only at low and medium densities. The maximum CIL under these scenarios increases to around £455 per sqm for small sites and ranges between £325 and £335 for all other sites.

APPENDIX 2: PRIORITY SCHEMES TO BE ADDRESSED FROM THE IDP

The below schemes have been identified by AECOM as priority schemes which could be assisted by funding through the Community Infrastructure Levy (CIL)

No.	Scheme Description	Expected Cost (£)	Lead Delivery Organisation	Current Status	Timescale	Level of Importance
1	Bridge over the West Coast Mainline: Construction of a road traffic bridge over the railway through the proposed Whinney Carr site. This will facilitate wider growth in the South Lancaster area by creating a link between the A6 and A588 (Ashton Road).	£5,500,000	Lancashire County Council / Network Rail	No Progress	Short	Critical
2	Heysham / M6 Link Road – Shared use paths, segregated paths, cycle lanes and bridleways: Provision of sustainable transport links as part of the Heysham / M6 link scheme.	£2,000,000	Lancashire County Council	Pending the completion of the Heysham / M6 Link	Short	Essential
3	Bus Stops on Whinney Carr Link Road: Following construction of Whinney Carr link road by developer, the provision of bus stops along the length of the link road to allow public transport serve new development and provide an alternative public transport route to the A6.	£50,000	Lancashire County Council	No Progress	Short	Essential
4	Enhanced public transport services on Scotforth Road: Creation of additional quality bus partnership schemes on the A6 Scotforth Road to provide more frequent services between Lancaster and the University. Quality enhancements include new bus fleets, enhanced passenger information and improved stop facilities.	£600,000	Lancashire County Council	No progress	Short	Essential
5	New River Lune Bridge: Provision of a new bridge over the River Lune north of Lancaster to ease traffic congestion on the existing two bridges. A new bridge could prioritise certain forms of transport only such as public transport (buses).	£8,000,000	Lancaster City Council / Lancashire County Council	No progress	Medium	Essential
6	Lancaster City Cycle Hub in the City Centre or Lancaster Station: creation of a large cycle parking and cycle hire hub in central Lancaster or the railway station.	£300,000	Lancashire County Council	No progress	Medium	Necessary
7	Galgate Pedestrian Link: creation of a pedestrian only link avoiding the busy A6 between Galgate and the University.	Unknown	Lancashire County Council	No progress	Medium	Necessary
8	Footways – A6 to Bailrigg via Lancaster Science Park: Provision of footways into the Bailrigg Lane site directly to the A6 via Lancaster Science Park.	£102,000	Lancashire County Council	No progress	Medium	Necessary
9	Bus Stops on Bailrigg Lane and site access road: Following the construction of the Bailrigg access road, the provision of bus stops along the length of the link to allow public transport to serve the development directly from the A6.	£40,000	Lancashire County Council	No progress	Short	Necessary
10	Junction Improvements Wyresdale Road / Coulston Road: Upgrade and enhancement of existing roundabout junction, potentially the use of traffic signalling to increase capacity.	£50,000	Lancashire County Council	No progress	Short	Necessary
11	Junction improvements / signalisation of Coulston Road / Bowerham Road: Upgrade and enhancement of existing roundabout junction, potentially to traffic signals in order to increase capacity and facilitate the development of the Grab Lane site.	£50,000	Lancashire County Council	No progress	Short	Necessary
12	Signal Junction at Wyresdale Road / Moor Gate / East Road: Upgrade and enhancement of existing roundabout junction, potentially to traffic signals and facilitate the development of the Grab Lane	£100,000	Lancashire County Council	No progress	Short	Necessary

	site.					
13	Junction improvements Wyresdale Road / Little Fell Lane: Capacity increases at junction of Wyresdale and Little Fell Lane to increase access from the east to Grab Lane	£50,000	Lancashire County Council	No progress	Short	Necessary
14	Junction Improvements / signalisation of A6 / A588 Pointer Junction: Improvements to existing large roundabout junction, possibly to include a redesign and signalisation, to increase capacity at the southern end of the city centre gyratory. This will help to improve access in both directions to and from the city centre and will help to facilitate development at all three greenfield development sites. If the junction is upgraded to signals it should be linked into the City's UTC network thus improving central control.	£50,000	Lancashire County Council	No progress	Short	Necessary
15	Cycling route Bailrigg to University of Lancaster: Provision of a new cycle route linking the Bailrigg development site with the University of Lancaster and providing sustainable access alternative from the University direction that avoids the busy A6 route.	£200,000	Lancashire County Council	No Progress	Short	Necessary
16	Pointer Roundabout Pedestrian and Cycle Facilities: Enhancement of pedestrian and cycle facilities at the Pointer Roundabout junction including the provision of Toucan crossing points and, if signalised advanced stop lines and cycle lanes for bicycles.	£60,000	Lancashire County Council	Unknown	Short	Necessary
17	Main Gyratory and Dalton Square Enhancements: In combination with the Heysham M6 link road, northbound and southbound general traffic routes in Lancaster reduced to single lane, with resultant spare capacity given over to bus lanes. Reduction of dominance of traffic at Dalton Square by creating paved squares at the corner junctions and improving pedestrian permeability.	£1,000,000	Lancaster City Council / Lancashire County Council	RMS under development. Reliant on the M6 / Heysham Link	Medium	Necessary
18	Lancaster University Park and Ride: Creation of a Park and Ride site adjacent to Lancaster University to capture traffic travelling inbound towards Lancaster and from the South (Jnct 33)	£2,400,000	Lancaster City Council / Lancashire County Council	No Progress	Medium	Necessary
19	Pointer Roundabout / A6, Lancaster – on road lane markings and off road shared paths: Further improvements for the Pointer junction including the creation of off-road foot and cycleways to further enhance the permeability of the junction for pedestrians and cyclists.	£50,000	Lancashire County Council	Unknown	Medium	Necessary
20	Remaining gyratory modifications: Completion of gyratory modifications to reduce the dominance of the private car within Lancaster City Centre and to link the gyratory with other project including potential BRT and new Lune Bridge, and a bus contraflow on Kings2way to help cater for Junction 34 Park and Ride enhancements to be delivered as part of the Heysham M6 link road proposals.	£200,000	Lancaster City Council / Lancashire County Council	RMS under development. Reliant on the M6 / Heysham Link	Long	Necessary

APPENDIX 3: Establishing arrangements for managing a Community Infrastructure Levy (CIL) and the Implications for the future management of Section 106 Planning Obligations with or without a CIL

Briefing Note

Purpose of Briefing Note

To provide an explanation as to the practical arrangements required for introducing a Community Infrastructure Levy (CIL) and the implications of the CIL Regulations 2010 (as amended) for the future use of Planning Obligations.

1) PREPARATION FOR THE INTRODUCTION OF A COMMUNITY INFRASTRUCTURE LEVY

Introduction

If Lancaster City Council was to proceed to adopt a CIL, after taking account of representations from stakeholders and the advice of consultants GVA, the authority would need to plan thoroughly for its introduction and commencement. This would require a corporate approach with clearly established procedures and proportionate resources dedicated to its governance, management and administration. Training, both of staff and Members will be necessary.

Guidance for the introduction of a CIL has been prepared and published by the London Borough of Redbridge, one of 8 original 'frontrunner' authorities that the government invited to prepare for the introduction of a CIL. The guide is endorsed and jointly published by the Borough, the Planning Advisory Service and the Local Government Association.

Throughout the guide, key pointers are provided, designed to steer Councils safely through the process and more particularly, avoid decisions that might complicate its introduction or compromise its planned-for benefits. The following advice and recommendations draw significantly on the working model provided in the guide.

Key points to note are:

- CIL takes time to plan for and introduce.
- CIL does not wholly replace S106 Agreements.
- For most Councils CIL should bring in more revenue than S106.
- The CIL charge should be kept as simple as possible. Creating differential payments either geographically or through differing charge rates will complicate the administrative process.
- There is a political dimension to the process: Members need to be involved.
- There are significant implications upon Council resources in the transitional period before formal adoption and introduction of a CIL.
- Setting up a cross service CIL Implementation Working Group is recommended.
- The process is relatively simple but will involve several service areas, e.g. Planning, Finance and Legal. Nominated personnel should be identified to undertake identified steps in the CIL charge and collection process.

CIL V S106: The continuing dichotomy

As part of any decision to adopt a local CIL charge a Council should determine what residual role it expects S106 agreements to continue to play and should set out when it would expect to seek a s106 agreement either instead of or additional to making a CIL charge against the development.

Currently S106 will continue to apply to the securing or funding of Affordable Housing as well as for the mitigation of the direct impacts of development that cannot otherwise be secured by condition. Whilst the Council might wish to rely solely on government guidance as set out in the 2010 CIL Regulations and associated advice it could also make the dichotomy between CIL and s106 absolutely clear through the publication of a Supplementary Planning Document (SPD). Not to do so might compromise the continued use of S106 in appropriate circumstances. Such a document would also aid the avoidance of double charging.

Business Planning and Governance

Best practice recommends the setting up of a cross-service CIL Implementation Group. This should be inaugurated significantly before the adoption of a CIL charge. Its members should ideally be made up of senior staff with direct oversight or responsibility for the principal elements of the CIL charging process.

Administration

CIL operates through the issuing and exchange of formal notices. For most developments there are four such notices. They are the Liability Notice that the Council issues along with the planning permission Decision Notice; the Assumption of Liability Notice that the person(s) who will pay the CIL provides the Council with; a Commencement Notice that the owner/developer provides the Council giving the date that development will commence and lastly, the Demand Notice (the bill) that the Council issues to those person(s) who have provided the Assumption of Liability Notice.

In addition there are developments that do not require planning permission which are nevertheless liable to a CIL charge, e.g. permitted development over 100sq m (after April 2013). In such instances the landowner serves a Notice of Chargeable Development on the Council. Whether that would ultimately apply in Lancaster depends on the types of development to be charged CIL.

It is vital that floor space data is supplied with every CIL eligible application. If this is not already done the requirement should be introduced in anticipation of the adoption of a CIL charge. Assigning responsibility for each step of the process and agreeing with Service Heads, those persons who will assume responsibility for undertaking the administrative tasks is vital for determining and making clear who does what. A typical arrangement might be as follows:

Most of the basic work that determines whether a development is CIL liable may be undertaken by Development Management Administrators. There are three stages to this:

1) Receipt and validation of applications: The Validation Officer in Development Management should be made responsible for inputting floor area data in collaboration with the Case Officer who should check the inputted data. This will determine whether a particular development is liable to a CIL charge. A 5 stage checking process will determine whether a CIL charge applies.

2) Calculating CIL and Issuing a Liability Notice. This should take account of any

changes that are made to the application prior to its determination that alters the floor area of an approved development. A decision would need to be taken as to whether calculation of the CIL charge is a professional or an administrative responsibility. N.B. It is the responsibility of the person(s) who are liable for the CIL charge to serve the Assumption of Liability Notice on the Council. This tells the Council who to serve the Demand Notice on. This can include the applicant; anyone who has assumed liability to pay the CIL and each person known to be an owner of the land.

3) Commencement and Demand Notices. The default position (except where separately agreed) is that CIL becomes payable on commencement of development. The applicant/developer is liable for serving a Commencement Notice on the Council. This triggers the Council's issue of a Demand Notice. The CIL Implementation Group will need to determine which service of the Council is made responsible for the issuing of the Demand Notice. This is also recorded as a Local Land Charge.

4) Two types of relief from CIL are mandated by the CIL Regulations. They relate to Social Housing and Charities. Applications for charitable relief would also be considered within the planning process. One model for determining a division of departmental responsibilities might be:

Planning

Issues Liability Notices against CIL liable developments, issues Demand Notices, decides applications for relief from the charge, defends appeals and publishes an annual report based on financial records.

Finance

Receipts payments and pursues non-payment, incorporates CIL into the capital programme, when necessary transfers collected CIL monies to other infrastructure providers to fund infrastructure not provided directly by the City Council and records how CIL is used to fund infrastructure

Legal

Records liability as a local land charge and becomes involved as required to enforce payments.

The above split in responsibilities reflects those that currently apply to the S106 system.

The volume, and (to a certain degree) complexity of work that CIL involves depends largely on the decisions made in respect of the eventual Charging Schedule. Similarly, viability evidence may preclude setting a charge for certain types of development. These decisions will impact on the scale of administration required. Nevertheless the division in responsibilities across the Council are likely to remain the same irrespective of the scale of the operation.

There is clearly a need to establish and embed the administrative process before a Charging Schedule is adopted and becomes operational.

Priority actions in the event of a decision to introduce a CIL charge

- 1) Establish a CIL Implementation Group to determine cross service administration both in the lead up to adopting CIL and to facilitate the bedding in of the governance and administrative processes thereafter.
- 2) Don't rush to implement a charge before getting the necessary systems in place.

- 3) Corporate and political support need to be secured.
- 4) Training both of staff and Members is vital.

2) THE IMPLICATIONS OF THE CIL REGULATIONS 2010 (AS AMENED) FOR THE FUTURE USE OF PLANNING OBLIGATIONS

Introduction & Context

Section 106 (S106) of the Town and Country Planning Act 1990 allows a local planning authority (LPA) to enter into a legally-binding agreement or planning obligation with a landowner in association with the granting of planning permission. The obligation is termed a Section 106 Agreement which is a bilateral agreement between the landowner/developer and the LPA. Alternatively a Unilateral Undertaking (UU) can be offered up to the LPA which, whilst not a party to the undertaking can nevertheless enforce its provisions.

These agreements are a legal means of addressing matters that are necessary to make a development acceptable in planning terms, but which are not capable of being addressed by use of conditions. They have been increasingly used to support the provision of services and infrastructure, such as highways, recreational facilities, education, health and affordable housing.

The 2010 Community Infrastructure Levy Regulations, which came into force on 6 April 2010, introduced a new form of funding for general infrastructure which is capable of being levied on all new development designed for human occupation which creates new or additional floor space. Both the previous government, which introduced the primary legislation and regulations to enable the introduction of the levy) and the current Coalition government, (which decided to retain it in a slightly modified form), have both determined that the levy is a fairer way of securing meaningful levels of funding for new infrastructure than was the case under the pre-2010 regime of planning obligations. Nevertheless, planning obligations continue to survive though their application has been reduced and restricted, primarily in an attempt to promote and encourage the adoption of CIL by local planning authorities.

For those authorities for whom the introduction of a CIL is not viable in the current economic cycle, these restrictions warrant closer examination. Only by acquiring a thorough understanding of the imposed limitations on the use of planning obligations can the Council better determine how best to maximise their benefits until such time as CIL becomes a viable proposition.

The 2010 CIL Regulations and their impact on Planning Obligations

The 2010 CIL Regulations have had three significant impacts on S106 planning obligations:

- Introducing three statutory tests for their use (Regulation 122)
- Ensuring there is no overlap (leading to potential double charging) in the use of CIL and S106 obligations (Regulation 123)
- Limiting the use of 'pooled' contributions obtained through planning obligations (Regulation 123)

It is important to note that, whilst the introduction of a CIL charge is entirely discretionary for each and every Council the scaling back of the use of S106 planning obligations is not. The CIL regulations direct the circumstances in which obligations

can be employed by imposing three statutory tests.

The Statutory Tests

Irrespective of whether a CIL charge is adopted locally, when a planning obligation is sought in respect of development that by definition would be susceptible to being charged CIL it must meet the following three tests:

- Be necessary to make the development acceptable in planning terms
- Be directly related to the development (and by definition it's site specific impacts)
- Be fairly and reasonably related in scale and impact to the development

For other non-CIL susceptible development (e.g. golf courses, wind turbines and quarries), the three statutory tests do not apply and since the cancellation of Circular 05/05: Planning Obligations have been subject to the provisions of the National Planning Policy Framework (NPPF) which came into force in March 2012.

It should also be noted that, where an authority proposes to adopt a CIL charge it is required to publish a Regulation 123 list that identifies the types or items of infrastructure that it intends should be capable of funding from collected CIL funds. If a CIL charging authority does not publish a R123 List all infrastructure is deemed to be covered by the CIL regulations which restricts the scope of S106 planning obligations to non-infrastructure items.

N.B. These impacts bite regardless of any decision upon the adoption of a CIL charge. However there is a further impact that significantly impacts on the ability of the LPA to pool planning contributions to fund any significant piece of infrastructure, the scale and cost of which could not reasonably be met by a single development.

Limits on the use of 'pooled' S106 contributions

After 6 April 2014 (or the date that an authority adopts a CIL – whichever comes first), the use of pooled contributions secured by S106 planning obligations will be subject to a further restriction. From that date authorities will only be able to accept a maximum of 5 separate contributions for pooling towards infrastructure projects or types of infrastructure that could otherwise be funded by CIL. Moreover, authorities are required to include in that figure of 5 any contributions secured for that purpose since 6th April 2010. However, this restriction does not prevent an authority that does not adopt CIL before April 2014 from continuing to secure contributions, (however many), prior to that date for a particular project or type of infrastructure. Thereafter if it has secured 5 or more separate contributions between 6th April 2010 and 6th April 2014 it cannot add further to the stock of obligations or contributions contained therein for that particular purpose after that date.

No such restrictions currently apply to financial contributions secured for the delivery of affordable housing or for the future maintenance of landscaped amenity spaces and play equipment (known as commuted sums).

Irrespective of any decision on the adoption of a CIL charge it would be beneficial to clarify the role of S106 agreements a) as of now going forward through to 6th April 2014, and b) thereafter. It would be necessary to determine whether to rely upon a published and consulted upon Policy Position Statement or prepare a Supplementary Planning Document, (which would require more rigorous consultation) as a non-statutory document under the Local Development Plan