

## BABERGH DISTRICT COUNCIL and MIDSUFFOLK DISTRICT COUNCIL

<b>From: Head of Economy</b>	<b>Report Number: M51</b>
<b>To: Mid Suffolk – Executive Babergh - Strategy</b>	<b>Date of meeting: 9 July 2012 12 July 2012</b>

### THE COMMUNITY INFRASTRUCTURE LEVY (“CIL”)

#### 1. Purpose of Report

- 1.1 Members will be aware of the Community Infrastructure Levy that is being implemented across the country by local authorities. A report EN/28/11 was submitted to MSDC’s Environment and Policy Panel in July 2011, and this is attached as Appendix 1 for information purposes, and gives useful background information for both authorities.
- 1.2 This report brings members up-to-date on progress in developing Community Infrastructure Levies for the two Councils, and seeks confirmation of the Work Programme and Budget provisions necessary to enable their implementation.

#### 2. Recommendations

- 2.1 That the progress on the CILs programmes be noted.
- 2.2 That budgetary provision be made of £30k per authority to carry out the consultancy work for the viability exercise and subsequent hearing referred to in Paragraphs 8.9 to 8.13.

The Committee is able to resolve this matter.

#### 3. Financial Implications

- 3.1 If a CIL charge is not agreed and published by March 2014 the ability of the District Councils to raise money through development for infrastructure will be severely curtailed.
- 3.2 The estimated cost of the consultancy work for the viability exercise and the subsequent hearing is £30k per authority.

#### 4. Risk Management

- 4.1 This report is most closely linked with the Council’s Corporate / Significant Business Risk No. 3b (Shared Services), 5 (Partnerships), 6 (Performance and Cost Management) and 7 (Localism and Community Engagement). Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
Failure to Introduce a CIL in both authorities by April 2014	Significant	Critical	Agree funding as recommended by this report. Follow Project Plan. Continue to make adequate staffing resources available.

## 5. Consultations

5.1 None

## 6. Equality Analysis

6.1 The provision of adequate infrastructure in an area, accessible by all, is a vital element of any strategy towards Equality. Disadvantaged groups have a greater need and often benefit more from many such facilities that affect quality of life. The local control over the spending of CIL monies also means that local needs can be targeted.

## 7. Shared Service / Partnership Implications

7.1 The CIL project is being run jointly between the two authorities. In due course charges will have to be agreed by each authority. Depending upon the viability evidence, these may be the same, they may not.

7.2 MSDC/BDC are also working in partnership with the other Suffolk authorities to jointly commission the viability studies and share good practice.

## 8. Key Information

8.1 A Community Infrastructure Levy is a new method of raising monies for infrastructure provision. In short, once a scheme is properly introduced, a fixed charge is then levied upon certain new buildings under construction. To give an idea of the possible scope of a CIL, the preliminary view of Consultants is that it may be expected to raise c £35m in each authority over a 20 year period, i.e. c £1.8m per annum. This is based upon the housing growth scenarios set out in the respective Core Strategies, and assumes the commensurate build rates to achieve them, with a levy of £100 per square metre, averaging £9000 per dwelling. These are significant sums, but it must be remembered that whilst the District Council will be the charging and administering authority, the expectation is that CIL will be used on all infrastructure needs in an area, not just those that might traditionally be regarded as the responsibility of the District Council to provide.

- 8.2 Although it is possible to levy a CIL on all land uses (and all uses must be assessed for their potential to afford a Levy) so far most authorities are focussing on house-building. Thus CIL yields will be very closely tied to the performance of the housing market.
- 8.3 The general structure, purpose and operation of CIL is fully explained within the Mid Suffolk report EN/28/11 of last year, copied as appendix 1. Whilst some clarifications to procedures have been made, it is still not clear (a) what the “meaningful proportion” of CIL will be, to be made over to the Parish and Town Councils for spending on local projects, (though it is likely to be 5-10%) or (b) if CIL will be able to be spent on Affordable Housing.
- 8.4 Introducing a CIL presents a number of practical challenges to a local authority, viz:
- Having an adopted up-to-date Local Plan in position i.e. a Core Strategy as a minimum, so that the infrastructure needs of this Plan can be measured. Thus it will be necessary to make good progress on the Babergh Core Strategy and conclude the Mid Suffolk Core Strategy review.
  - Having an Infrastructure Delivery Plan (“IDP”) which sets out the costs of the relevant infrastructure, the monies to be expected towards these projects, and the resultant Infrastructure Funding Gap.
  - Having Viability Assessments to show what individual land uses can afford to pay.
  - Deciding on whether to level one rate of charge across the whole District or differential area-based charges.
  - Deciding what charges to apply to different land uses.
  - Preparing a resultant Draft Charging Schedule.
  - Publicising the proposed CIL charges, and Holding a Public Inquiry or (unlikely) dealing through written representations.
  - Introducing the Charge, and providing the relevant administrative systems to ensure monitoring and collection of CIL payments, and pursuit of non-payers.
  - The establishment of CIL Spending Plans, and protocols with other stakeholders e.g. SCC, AHAs
  - Making the necessary arrangements with Parish and Town Councils for the transfer of the “meaningful proportion” of CIL receipts to them for local usage.(the government will set this proportion, likely to be 5-10%)
- 8.5 The Suffolk position Although a handful of CILs have now been introduced across the country the six Suffolk Districts are all at the beginning of the exercise (BDC, MSDC, IBC, SCDC, FHDC & SEBC). Waveney DC is more advanced and has just published its Draft Charging Schedule. An Officer Support Group – the Suffolk CIL Officers Group (“SCILOG”) – has been established and is attended by all Districts and the County. It has met twice to discuss mutual co-operation through the process.

- 8.6 CIL funding (or, more likely, part-funding) of Infrastructure improvements will become a common feature of local government in years to come. It is expected that most authorities will wish to introduce a CIL, although the benefits to some may be limited by the low pressure for development they experience. The enabling legislation has an inbuilt desirable end-date for implementation of the CIL of 6th April, 2014, by limiting the use of S106 agreements after that date, and so the bulk of authorities are working to this deadline.
- 8.7 Progress to date. A joint officer Working Group has been established to oversee the implementation of CILs in both authorities. So far:
- Officer/Member seminars have been held at MSDC and BDC Offices with presentations made by a local specialist Consultant
  - SCILOG has been established and met twice
  - A Draft Project Plan has been produced – see appendix 2
  - Infrastructure providers have been contacted and asked to give estimated costs of their service's needs, in order to implement the proposed Local Plan development; results are awaited
  - Work has commenced on a draft contract to appoint Viability Consultants.
- 8.8 In making progress on introducing a CIL there is clearly scope for discussion of best practise with colleagues in other authorities, and this has been the most obvious role for SCILOG.
- 8.9 However, it has been concluded that there is also scope for the joint commissioning of specialist Viability Consultants. It would seem possible to jointly appoint a Consultant who would carry out as a first phase, a Suffolk based viability exercise. The second phase would be for the Consultant to work with individual authorities to prepare recommendations for a Charging Schedule, taking into account the Infrastructure needs of that District, any local variations in viability, and any preferred differences of approach. Each District will arrive at the second phase at a different time, there being many hurdles to clear, and many opportunities for delay for reasons often beyond the control of the authority – it is important that everybody is not forced to move at the speed of the “slowest” authority. So, when the time is right, individual authorities would then move on to Stage 2 with the Consultant. East Sussex authorities are following this approach.
- 8.10 It seems likely that there will be savings to be made by adopting this approach, though perhaps not as significant as originally thought. If authorities act independently, they will probably have to pay around £15k for a Viability Assessment (stages 1 and 2 - with the authority providing the infrastructure evidence). However, if 6 authorities were to join together the cost might be £70k in total, c.£12k each, so £3k saving each (20%). It is estimated that with the enquiry attendance and associated costs a total budgetary figure of £30k per authority would be advisable.
- 8.11 SCILOG have therefore concluded that they wished to follow this joint approach if at all possible. Babergh/Mid Suffolk would act as the Commissioning Authority

following the signing of a memorandum of understanding of the participating authorities, and the precise mechanism for handling phases 1 and 2 will be considered further as a contract is prepared.

- 8.12 The advantages in working together in this way are not just financial but (a) it will provide a conduit for the spread of best practise, in what is a new area of expertise and (b) it will facilitate a common approach to the other challenges of CIL listed above, not least the agreement of protocols on the spending of CIL monies with service providers.
- 8.13 The joint commissioning of consultants is therefore our first preference, and this is currently being pursued. If any fundamental problems arise, we would revert to a separate contract(s) for our own authorities.
- 8.14 The next report to Committees should be at the stage where a draft Charging Schedule can be proposed.

## 9. Appendices

Title	Location
(a) Appendix 1 – MSDC Report EN/28/11 to E&P Panel, 19 <sup>th</sup> July 2011, explaining origins, purpose and structure of the Community Infrastructure Levy.	Attached
(b) MSDC/BDC Project Plan for implementation of CIL – latest version.	Attached

## 10. Background Documents

- 10.1 None

Authorship:  
Mike Smith  
Senior Planning Policy Officer

Tel. 01473 822801 X6681  
Email: Michael.smith@babergh.gov.uk

## MID SUFFOLK DISTRICT COUNCIL

<b>From: Planning Policy, Organisational Development</b>	<b>Report Number: EN/28/11</b>
<b>To: Environment and Policy Panel</b>	<b>Date of meeting: 19 July 2011</b>

### THE COMMUNITY INFRASTRUCTURE LEVY

#### 1. Purpose of Report

- 1.1 To explain more about the emerging Community Infrastructure Levy (CIL) legislation and guidance.
- 1.2 To request Member support for the commencement of work on the preparation of the evidence base necessary to prepare for the introduction of the CIL.

#### 2. Recommendations to Executive

- 2.1 The Environment and Policy Panel recommend to the Executive
  - i. The Executive consider the need to adopt the Community Infrastructure Levy approach
  - ii. That further details be obtained about the cost of undertaking a viability study to show the potential value that may be achieved from the CIL.
  - iii. That the Management Board be authorised to use the New Homes Bonus to fund any additional resource required to ensure the early completion of the core strategies required to underpin the CIL.
    - Housing Strategy £100k
    - Recreation Strategy £75k
    - Health and wellbeing £75k
    - Viability Testing Mid Suffolk £50k
- 2.2 Members recommend to the Executive that the Council should take advantage of the Community Infrastructure Levy and commence the necessary work to allow its introduction.

#### 3. Financial Implications

- 3.1 The ability to gather S106 money from developers will remain but the rules that govern collection will be subjected to some fundamental changes. The new arrangements will require Section 106 agreements to apply to works carried out on the site or off-site works that facilitate the specific site, only. The collection of funding from a range of developments will be restricted under the new regulations, so that a maximum of five S106 agreements may contribute to a single provision or facility.

- 3.2 The decision to adopt the CIL approach is discretionary, but the potential losses to public services and facilities arising from the introduction of this maximum number of contributors suggests that CIL is the best way forward for an authority which wishes to amass funding for services that are spread out through or serving a broad geographic area.
- 3.3 If the Council wishes to proceed with this approach (and there are many advantages) the Council will need to invest resource and staff time into the preparation of strategies for the key areas where expenditure is anticipated. Free help is being made available through the CLG to help guide the process of CIL preparation.
- 3.4 The Council's key strategies (recreation, economic and housing, coordinated through a Community Strategy) are explained in the body of the report. These will provide the evidence necessary to support infrastructure requirements and will need to stand up to examination by external Inspectors at a dedicated Inquiry. Developers will examine the Council's arguments for funding in forensic detail. Therefore, cast iron arguments based on a sound knowledge base are a pre-requisite to the agreement of any Levy and must be supported by completed strategies that can compete with the spending plans from other agencies that will be involved in the process.
- 3.5 Failure to produce such information will mean that the bulk of the work becomes wasted and significant developer investment will be lost to the ratepayers of the district.

**4. Risk Management**

4.1 This report is most closely linked with the Council's Corporate / Significant Business Risk No. B6. Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
See 4.2 – 4.3	3 (scale 1 low - 4 high)	3 (scale 1 low - 4 high)	Please see Recommendation

- 4.2 Failure to complete the necessary strategies and financial plans will result in
  - Poor coordination with parish planning and the work of the communities under the emerging localism agenda
  - Lack of transparency for expenditure plans
  - Convoluted S106 discussions on Planning Applications
  - Continued competition between Authorities and partner Agencies for developer funding
  - Reduced funding availability from developers (Exact sum difficult to predict but anticipated as not less than £2m per annum).
- 4.3 Each of the above gives rise to additional work for the Council, either in terms of legal challenge to its policy production or the management of "failure demands" as people complain about missed opportunities or reduced funding.

## **5. Consultations**

5.1 None

## **6. Equality and Diversity Impact**

6.1 The preparation of planning policy and especially the gathering of the CIL, can have a profound effect on a number of specific groupings in our community. The ability to deliver funding to help the homeless, gypsy and travellers, vulnerable people including the elderly and the youth of the District make this area of work and consultation especially important. These groups are often disadvantaged by the lack of other mainstream funding. Methodologies set out below anticipate the encouragement of innovative means of engaging these elements of the community.

## **7. Shared Service / Partnership Implications**

7.1 Although Mid Suffolk would set a precedent for adopting the CIL this need not create a mutual requirement for adoption. However, a shared approach across the county would be wise with opportunities to identify areas where enhanced charges can be justified. This approach has been found beneficial elsewhere, as the opportunity to hold higher charging authorities to ransom over the level of their charge - by threatening reductions in development is a real possibility.

7.2 The earlier setting of CIL in Mid Suffolk would still allow Babergh to decide on its own timetable and charging level requirements in the future. Both authorities are working with a common cause group set up at county level.

## **8. Key Information**

8.1 Part 11 of the Planning Act 2008 provided for the introduction of the Community Infrastructure Levy (CIL). The detail of how the CIL will work is set out in the Community Infrastructure Regulations 2010, which came into force in April 2010. The Government announced amendments to the CIL regulations which were laid before Parliament in February 2011 and took effect on the 6th April 2011. CIL is intended to be used for general infrastructure contributions whilst S106 obligations will be for site-specific mitigation. The regulations have three important repercussions for S106 obligations:

- making the test for the use of S106 obligations statutory (R122)
- ensuring that there is no overlap in the use of CIL and S106 (R123)
- limiting the use of 'pooled' S106 obligations post April 2014 (R123)

8.2 Further changes, including the as yet undefined requirement for a 'meaningful proportion' of CIL revenues to be passed on to the local community, require primary legislation and must await the enactment of the Localism Bill. The Bill also makes provision to allow CIL monies to be spent on the ongoing costs of infrastructure as well as its initial provision.

8.3 The introduction of the CIL was the previous Government's response to continuing concerns about the use of S106 obligations - that they were not transparent, were ineffective in providing for major infrastructure and the needs arising from cumulative impact; had a disproportionate effect on major developments, and most

development did not pay. The set scale of charges and the legal obligation to pay the CIL are intended to bring much greater certainty and it will capture a much broader range of development.

- 8.4 The CIL is discretionary for the Local Planning Authority. However, scaling back the use of S106 obligations is not discretionary and will have significant implications for those LPAs electing not to adopt it. It will have a particular impact on the potential use of tariff payments secured through S106 obligations. These already have to meet the new statutory tests, and post 2014 will be restricted by the limitations on pooling.
- 8.5 The Community Infrastructure Levy charging authorities (charging authorities) in England will be district and metropolitan district councils, London borough councils, unitary authorities, national park authorities, The Broads Authority and the Mayor of London.
- 8.6 CIL is now the preferred method for collecting pooled contributions to fund infrastructure and the continuing use of S106 based tariffs will become problematic. Authorities with tariffs, or which are considering adopting tariffs, should be looking to move to CIL as a priority.
- 8.7 Previously S106 of the 1990 Town and Country Planning Act provided for the use of planning obligations, and Circular 05/05 set out the Government's policy for their usage, including the tests which obligations should meet to be acceptable. The original five tests were set out in Para B5 of annex B to Circular 05/05. The Circular made it clear that this was only an interim response to ongoing criticisms and concerns about the use of planning obligations, and that the Government intended to bring forward a more permanent solution including a planning gain supplement (the predecessor of the CIL) and scaling back of S106 obligations.
- 8.8 While the CIL remains discretionary, the scaling back of S106 does not, and LPAs need to be aware of the implications in their decision-making. However, S106 will continue to be the primary mechanism for securing affordable housing through the planning system (subject to any change brought about through amendments to the Localism Bill).
- 8.9 CIL differs fundamentally from S106 in that the funds collected are not tied to a specific development or the provision of specific infrastructure. Whereas infrastructure provision necessary to mitigate the impact of a particular development secured through S106 should be used only for that specific purpose and the developer (or any other party to the S106) can enforce the provision legally; CIL funds can be used flexibly by the LPA to fund any infrastructure as defined within the regulations. They should be seen as a contribution to assisting with the provision of overall infrastructure priorities, which may well change over time. There is no direct link between a development's requirements for infrastructure provision and the spending of the CIL the development generates.
- 8.10 Most buildings that people normally use will be liable to pay the levy, but buildings into which people do not normally go and buildings into which people go only intermittently (e.g. for the purpose of inspecting or maintaining fixed plant or machinery,) will not be liable to pay the levy. Any new build – that is a new building or an extension – is only liable for the levy if it has 100 square metres, or more, of gross internal floor space, or involves the creation of one dwelling, even when that is below 100 square metres. The trigger is commencement of development.

Types of Infrastructure that can be charged under CIL include —

- (a) roads and other transport facilities,
- (b) flood defences,
- (c) schools and other educational facilities,
- (d) medical facilities,
- (e) sporting and recreational facilities, and
- (f) open spaces.

8.11 R122(2) of the CIL regulations 2010 introduced into law three tests for planning obligations in respect of development that is capable of being charged CIL. This includes most buildings. Obligations should be:-

- necessary to make the development acceptable in planning terms
- directly related to the development
- fairly and reasonably related in scale and kind to the development

8.12 Structures which are not buildings, such as Golf Courses, wind turbines, and quarries, will not be liable to pay the levy and the statutory tests do not apply – any S106 for such development remains subject to the policy tests set out in Circular 05/05.

8.13 If an obligation does not meet all of these tests it cannot in law be taken into account in granting planning permission. While these tests are a consolidation of the 05/05 advice, they are now a legal requirement giving them much greater force. Whereas previously there was a view among LPAs and developers that if a S106 had been signed voluntarily (or if a unilateral undertaking had been freely offered) it would not be scrutinised too closely, the statutory status of the tests brings a much greater need to demonstrate that the terms are lawful.

8.14 The LPA should be able to provide evidence of the specific impact of the particular development, the proposals in place to mitigate that impact and the mechanisms for implementation.

8.15 The Council must produce a strategic overview of important areas of spend, but needs to be informed by local inputs. Once in operation the CIL will remove the link between a specific development and the local community in which it is located. Charging authorities will need to strike an appropriate balance between the desirability of funding infrastructure from the levy and the potential effects of the imposition of the levy upon the economic viability of development across their area. Charging authorities should prepare evidence about the effect of the levy on economic viability in their area to demonstrate to an independent examiner that their proposed rates, for the levy, strike an appropriate balance.

8.16 The Council need to know what its future infrastructure costs are and look at them against development projections – in addition the Council needs the strategic infrastructure requirements from its partner agencies e.g. major roads, slip roads, flood defences, and education.

8.17 Rates - Charging schedules may include differential rates, where they can be justified either on the basis of the economic viability of development in different parts of the authority's area or by reference to the economic viability of different types of development within their area. The ability to set differential rates gives charging authorities more flexibility to deal with the varying circumstances within

their area, for example where an authority's land values vary between an urban and a rural area.

- 8.18 Charging Schedules - Once an authority has a charging schedule in place the default position is that all chargeable developments will pay CIL. Viability testing would then show whether differential rates should be used for different areas of the city or different land uses.
- 8.19 However there may be certain sites where the on-site requirement for the provision of infrastructure (which for very large sites could include for example education, health and flood prevention works,) may be such that it would be more beneficial to use S106 obligations rather than CIL.
- 8.20 Limiting the Use of 'Pooled' S106 Contributions post April 2014 (or on local adoption of CIL) - After 6 April 2014 the use of pooled contributions collected through S106 obligations (tariffs) will be limited for all authorities. For those adopting the CIL before April 2014 the restrictions will come into place on its adoption. This is consistent with the principle that the vehicle for future collection of pooled contributions for infrastructure should be CIL.
- 8.21 The impact of this provision is that authorities will only be able to accept a maximum of five contributions towards infrastructure projects or types of infrastructure that could otherwise be funded from the CIL. If they have agreements in place for more than five S106 contributions after April 2010 for a project or type of infrastructure (such as a school extension or public realm improvements), from April 2014 or the date they adopt CIL if earlier, they will not be able to collect any more contributions for that purpose. (Always bearing in mind that any such contributions should first meet the three statutory tests). The five contributions include any from unimplemented consents.
- 8.22 For development which cannot be funded by CIL, including affordable housing, there are no pooling restrictions, and non-infrastructure items such as training for example are not subject to these provisions. All these items should still however meet the Circular 05/05 policy tests for planning obligations.
- 8.23 Amendments to the CIL Regulations operable from 6<sup>th</sup> April 2011
- Clarification that development affecting only the interior of a building is not subject to CIL;
  - Enabling Charging Authorities to charge by instalments;
  - Clarifying that the pooling provisions apply retrospectively to planning obligations made from 6<sup>th</sup> April 2010;
  - Removal of the minimum threshold of £50000 for payments in kind; and
  - Minor procedural and administrative streamlining.
- 8.24 Establish the charging schedule. This is expressed as pounds per square metre. Such payments are not subject to negotiation as is the case with Section 106 (s106) agreements. The draft charging schedule needs to be agreed. The schedule is in relation to the evidence on economic viability and infrastructure planning. There is an expectation that there is an up-to-date development plan, in this case the Core Strategy adopted in August 2008, and that the Council has identified the

total cost of infrastructure it desires to fund from CIL. Get the schedule agreed. It is submitted to an independent examiner, who conducts a light examination.

- 8.25 CIL Income. The collection of CIL income should begin from the Council's introduction of the scheme. A regime will need to establish invoices, collect the fees and chase delayed payments. Discussions are well advanced to work this up and will be reported to a future meeting.
- 8.26 Establish the Administration cost regime. Plans for expenditure need to be capable of open and transparent monitoring. Some costs of managing the scheme may be drawn down as a revenue stream; set at 5% of the income from CIL
- 8.27 The levy Charging Authority must produce an annual report for the financial year detailing the total receipts for the reported year, total expenditure and a summary of the items of infrastructure to which these receipts were applied.
- 8.28 The delivery of infrastructure will be dependant on the scale of housing accepted in an area and the land values available in that area. However, this is not about selling planning permissions to achieve infrastructure investment. It is about releasing development for those settlements that wish to support their own needs and ensuring that the most can be secured in the public interest from development value. The ability to bring in monies from all scales of development, and not just the bigger schemes, will be invaluable to an authority which has to cope with many small sites contributing to a cumulative total. Carbon reduction and climate change adaptation must be at the core of the approach and helping people to live more sustainable lifestyles may offset some of the negative impacts of the more dispersed patterns of development that may occur through the emerging localism agenda.
- 8.29 The ability to gather appropriate S106 monies or contributions for Community Infrastructure Levy will come down to either:

A clear explanation of community aims and aspirations (i.e. for the essential and the desirable.) This is essentially a list of things to do and will be delivered through S106 and supported by grant aid and funding from other sources.

OR

A clear statement from as many Parish Councils or neighbourhood / community groups that can be incorporated into a broader District wide list of things to do and which will then provide a firm basis for pricing the CIL

- 8.30 Whether the services or facilities needed for a better quality of life are to be delivered via Planning Obligations/S106 agreements or a more broadly based approach to the means of funding (like the Community Infrastructure Levy) - negotiations for the delivery of the infrastructure cannot be delivered on a whim or because something seems like a good idea at the time. Rather, negotiations with developers have to enjoy a firm basis, founded on reasoned justifications, relevant information and evidence of need. Sound plans prepared in consultation with an affected community will play an important part in setting the agenda for change. These relationships and a responsive approach are dealt with in the report above.

**9. Appendices**

Title	Location
(a) Extract from CLG Guidance on Community Infrastructure Levy Front Runners Project 2	Appendix A (attached)

Stephen Andrews  
Professional Lead Officer Planning Policy

01449 724842  
Stephen.andrews@midsuffolk.gov.uk

## Appendix A - Extract from CLG Guidance on Community Infrastructure Levy Front Runners Project 2

### Community Infrastructure Levy Front Runners Project 2

In December 2010, we invited all English local authorities to apply to become part of our Community Infrastructure Levy Front Runners project. The project was aimed at supporting local authorities to develop the best approach to implementing the Community Infrastructure Levy in their local area.

We received 28 applications for the eight places on the first phase of the project. Community Infrastructure Levy Front Runners 1 is now underway and has been very well received by participating authorities. In response to the high demand for the first phase of the project, we are now offering places for local authorities to take part in Community Infrastructure Levy Front Runners 2. All English local planning authorities are invited to consider applying to participate. We are looking for a pioneering group of authorities that are not only committed to introducing the levy in their local area, but are also keen to demonstrate what planning and in particular the Community Infrastructure Levy can achieve at the forefront of the Big Society.

We have asked the Planning Advisory Service to provide support to local authorities that are accepted onto Community Infrastructure Levy Front Runners 2. The Planning Advisory Service is developing a tailored package of support for the selected front runner authorities.

In return, we expect successful applicants to participate fully in the support programme. They will need to have resources in place as quickly as possible to move ahead with implementation. We also expect the Front Runners to share experiences and methodologies across the sector. This may include attending and talking at events, acting as a peer reviewer to another authority, or working with the Planning Advisory Service on putting together written case studies and other learning materials.

### **Eligibility criteria**

All local planning authorities across England are invited to consider applying to become a Front Runner. We are looking to support a range of different types of local authorities that meet the following criteria:

in particular, can demonstrate that they intend to submit their charging schedule for examination no later than Spring 2012

can demonstrate they have robust plans to involve their local communities and neighbourhoods in the development of the levy in their local area and

have secured the necessary buy-in from corporate, finance and planning functions within the council

As we are looking for authorities that can demonstrate what planning can achieve at the forefront of the Big Society, we will strongly favour applications from Big Society vanguard authorities, Neighbourhood Planning Front Runner authorities or local authorities that are embracing the Big Society and can demonstrate they are testing out Big Society approaches in their area.

Applications should clearly address each of the above criteria. Applicants should also include a short covering note (no longer than a side of A4) summarizing how their application meets the criteria. The deadline for applications is **3 June 2011**. Applications should be sent in PDF format to [frontrunners@communities.gsi.gov.uk](mailto:frontrunners@communities.gsi.gov.uk).

If you previously applied to become a Community Infrastructure Levy Front Runner your application will be automatically submitted for consideration. However, local authorities are strongly encouraged to submit an updated application that fits the amended selection criteria.

Please note the project is aimed at supporting local authorities, such as district councils, unitary authorities or London boroughs, who are able to become Community Infrastructure Levy charging authorities. Whilst we are able to consider applications from groups of local authorities that include county councils, we are not able to consider an application that does not include at least one local authority who can become a charging authority.

**Babergh DC and Mid Suffolk DC  
Community Infrastructure Levy – Project Plan April 2012**

*Based on: Planning Act 2008 and SI 2010 948 as amended by SI 2011 987*

Stage	Task	Estimated time
Stage 1.	<b>Infrastructure Study</b> to include consultation	
	Prepare scoping document to include growth scenarios Prepare infrastructure requirements table	1 <sup>st</sup> May 2012
	Critical friend to assess this work.	4 <sup>th</sup> May 2012
	Consultation with service providers - 6 weeks	21 <sup>st</sup> May 2012 – 27 June 2012
	Committee approval 9 <sup>th</sup> July 2012 (MSDC Executive committee) and 12 <sup>th</sup> July 2012 (BDC Strategy Committee)	
	Review responses	13 <sup>th</sup> July 2012
	Establish Infrastructure needs – Separate into site specific and CIL. Work out types of funding. Decide Types of Infrastructure to be funded by CIL	20 <sup>th</sup> July 2012
	Compile infrastructure evidence base assessment/report	27 <sup>th</sup> July 2012
Stage 2.	Prepare evidence base - <b>Viability Study</b> to include consultation, developer forums and committee approval- procurement of chartered surveyors (Waveney example)	
	Decide on viability approach – Countywide or Babergh and Mid Suffolk.	August 2012
	Procurement process for viability work.	
	Appoint <b>consultant</b> for viability work	September 2012
	Assess Land Values/Sales Values and other local information/circumstances	
	Assess funding gap	
	CIL rates	
	<b>Completion of draft Viability Report/Assessment</b>	October 2012
	Review: Land values, build costs, house values – data sources.	
	Thought needed on how we consult on report/findings. Early buy in vs time resources argument. Careful consideration needed. Options include consult on findings after each stage above, produce a 'Preliminary' Draft Charging Schedule or move to next stage without consultation.	
Stage 3.	Reg 12 - Prepare a preliminary draft charging schedule	3 months
Stage 4.	Appoint examiner	-
Stage 5.	Reg 15 - Consult on preliminary draft charging schedule	6 weeks
Stage 6.	Reg 16 (2) - Prepare and publish report on consultation – 'Statement of the representations procedure'	1 month

Stage 7.	Reg 19d - Assess responses and need for further modification	
Stage 8.	Reg 19 - Submit draft charging schedule for examination	6 weeks
Stage 9.	Examiner considers any representations made in accordance with reg 17	1 month
	<b>TIME DEPENDENT ON EXAMINERS SCHEDULE</b>	Unknown
Stage 10.	Reg 21 - Organise and hold the examination	2 weeks
Stage 11	Reg 23 - Awaiting examiners report	2 months
Stage 12	Reg 25 - Finalise and Introduce the charging schedule	1 month
Stage 13	Collect Levy	
Stage 14	Devise and Implement Spending Mechanism	
Stage 15	Reg 62 - Monitor implementation and publish annual report - Set up Procedural Arrangements	Annually
Stage 16	Review Charging Schedule	

**Stage 1. Prepare evidence base - Infrastructure Study  
&  
Stage 2. Prepare evidence base - Viability Study**

Evidence of the following key elements that affect development viability is required:

- Land values for different types of development,
- Changes in land values across the District (District valuation study) = CIL Charging Zones
- Sales values for different types of development (Development Appraisals),
- Costs for different types of development (including construction cost, professional fees, finance costs etc),
- - Affordable Housing Provision,
- - Site Specific Section 106 contributions,
- - for developers profit (<20%); and
- Consider reasonable amount to local communities(?).

Will need to cover:

- What is required, where and when
- Actual and expected costs of infrastructure
- Economic viability of development
- Other actual and expected sources of funding for infrastructure
- Administrative expenses in connection with CIL and the extent to which these will be funded from CIL

Infrastructure covered to include:

- (a) roads and other transport facilities,
- (b) flood defences,
- (c) schools and other educational facilities,
- (d) medical facilities,
- (e) sporting and recreational facilities, and
- (f) open spaces.

**Decide how to consult on this information and get community buy in along the way.**

### **Stage 3. Prepare a preliminary draft charging schedule**

To include:

- Name of the charging authority (the district council)
- Rates (set in £/m<sup>2</sup>), or other criteria, by reference to which the amount of CIL chargeable in respect of development in its area is to be determined, having regards to:
  - Actual and expected costs of infrastructure
  - Standard CIL rate or Variable CIL rate?!
  - Relief? – Offices, Residential Institutions, leisure and Community uses, and Hotels. Zero rated?!
  - Economic viability of development
  - Other actual and expected sources of funding for infrastructure
  - Administrative expenses in connection with CIL and the extent to which these will be funded from CIL
- An OS map identifying the location and boundaries of differential rates zoning (if applicable)
- An explanation of how the chargeable amount will be calculated

### **Stage 4. Appoint examiner**

Appointment of examiner (independent of the council and with appropriate qualifications and experience)

### **Stage 5. Consult on preliminary draft charging schedule**

Send copies to and consult with the consultation bodies:

- adjoining district councils
- adjoining county council
- responsible regional authority
- parish councils in the district

Notify and consult with:

- all local residents / businesses
- and other persons / bodies the district council considers appropriate

No timescales given in terms of a minimum period – suggest 6 weeks

### **Stage 6. Prepare and publish report on consultation – ‘Statement of the representations procedure’ before submitting draft charging schedule**

Before submitting a draft charging schedule for examination, the council must

- make copies of the draft schedule, evidence and statement of the representations procedure at the district council offices,
  - the statement of the representations procedure should specify the consultation period, address, the address of where representations must be made, and how (in writing / electronic), that the person may request the right to be heard by the examiner, and may request to be notified about the submission, examiners recommendation and approval of the charging schedule
- publish the same information on website (including notice of where copies are held) – if it isn't practicable to upload relevant evidence then this may be omitted
- send copies of the draft schedule, and statement of the representations procedure to the consultation bodies
- advertise the statement of the representations and notice of where copies are held

The consultation period shall be no less than 4 weeks

Need to be able to demonstrate how the consultation responses have been taken into account (before publishing the draft of the charging schedule for examination)

### **Stage 7 - Assess responses and need for further modification**

Following this the council will need to assess the main issues raised through the consultation on the draft charging schedule, and whether any further modifications are needed

### **Stage 8 - Submit draft charging schedule for examination**

Submit schedule together with:

- a declaration that the council has complied with the Planning Act 2008, has used appropriate available evidence to inform the draft charging schedule
- number and main issues raised through the consultation on the draft charging schedule
- copies of any representations made
- modifications made to the draft charging schedule as a result of the consultation (NB because this is not subject to further consultation, and person may request to be heard by the examiner in relation to these modifications, provided that they make such a request within 4 weeks of the submission)
- relevant evidence

Following submission, the council must:

- make copies of the draft schedule, the declaration, information on the number and main issues raised through the consultation on the draft charging schedule, and any modifications made to the draft charging schedule as a result of the consultation at the district council offices,
- publish the same information, plus copies of any representations and evidence if practicable to so publish, on Website (including notice of where copies are held)
- give notice to those person who requested that the draft has been submitted
- if the draft was modified, it must also send a copy of the modifications to each of the consultation bodies
- forward copies of any requests to be heard to the examiner on the modifications as soon as practical after the 4 week period

### **Stage 9 - Examiner considers any representations made in accordance with reg 17**

### **Stage 10 - Organise and hold the examination**

The council must publicise on its website and give notice by local advertisement the time and place at which the examination is to be held, and the name of the examiner. Any person that has requested to be notified or who has made a representation must also be notified, at least 4 weeks before the opening of the examination (or at least two weeks in the case of requests to be heard on a modification).

The examiner may refuse to allow representations to be heard if these are considered irrelevant, frivolous, vexatious or repetitious.

Two or more charging schedules may be examined jointly if the charging authorities agree. Examination may also be carried out jointly with the examination of a single DPD, if the SoS agrees.

### **Stage 11 - Awaiting examiners report**

## **Stage 12 - Finalise and introduce the charging schedule**

Examiners report received

Council publishes the examiner's recommendations and reasons and the agreed charging schedule, which also needs to include

- the date on which the charging schedule was approved
- the date on which the charging schedule takes effect
- a statement that it has been issued, approved and published in accordance with the CIL Regs and Planning Act 2008

Charging schedule takes effect – it must be:

- Published on the website
- Available for inspection at the council offices
- Its approval and availability be locally advertised
- Copies must be sent to each of the relevant consenting authorities if applicable

## **Stage 13. Collect Levy**

- Send out tax Liability Notices at time of grant of application and deal with any subsequent appeals.
- Monitor development , issue demand on implementation of planning permission
- Deal with claims for Charity and social housing relief, Exceptional Circumstances Relief, In-kind payments, prepare Instalments Policy
- Deal with enforcement and non-payment cases e.g. CIL Stop Notices, disputes over liability, insolvency, death before payment, court action

## **Stage 14. Devise and Implement CIL spending mechanism**

- Allocate “meaningful proportion” (guidance awaited) of levy to neighbourhoods, working with neighbourhoods to establish appropriate projects.
- Work with other stakeholders (e.g highways, education, police, and health authorities, ecological groups) to establish suitable Infrastructure projects, transfer funds to other providers, or project manage implementation.

## **Stage 15. Monitor implementation and publish annual report**

The council must prepare a report for any financial year in which it collects or holds money collected from CIL. The report must be published no later than 31 December following the year end, and must include:

- Total CIL receipts for the year
- Total CIL expenditure for the year
- Summary of what CIL has funded (including any admin or interest on borrowings)
- Amount of CIL held at the end of the year

## **Stage 16. Review CIL Charging Schedule**

- Review on regular basis (guidance awaited)