

BABERGH DISTRICT COUNCIL

From: Head of Economy	Report Number: P91
To: Strategy Committee	Date of meeting: 15 January 2015

COMMUNITY INFRASTRUCTURE LEVY (CIL)

1. Purpose of Report

- 1.1 Members are referred to the previous Strategy report Paper P67 on 28 October 2014 for background on the Community Infrastructure Levy (CIL).
- 1.2 To provide the Committee with an update on the CIL development programme and to consider the relevant implications of the recent Ministerial Statement dated 28 November 2014 (Appendix 1), dealing with affordable housing contributions and planning obligations for small scale developments.
- 1.3 To resolve a preferred approach for the CIL Draft Charging Schedule.
- 1.4 To note some of the main issues being raised from the recent CIL consultation undertaken between November – December 2014.

2. Recommendations

- 2.1 That (a) the work carried out to date on the Community Infrastructure Levy (CIL) development programme and (b) the Ministerial Statement (Appendix 1) be noted.
- 2.2 That Option 3 in paragraph 8.13 be adopted as the Council's preferred approach to amending and taking forward the CIL Draft Charging Schedule in light of the Ministerial Statement.
- 2.3 That the Head of Economy in consultation with the Chairman of the Strategy Committee be authorised to agree and make any minor changes to the CIL Draft Charging Schedule for Babergh, if necessary, prior to publication for public consultation.

3. Financial Implications

- 3.1 There are financial implications to consider for the Council in setting the final rate(s) to be tested for Examination, the costs of the Examination itself and thereafter, in the adoption and implementation of a CIL charging regime.
- 3.2 The CIL is intended to ensure that owners and developers of land make a contribution towards the delivery of infrastructure required. If a CIL is adopted, it is currently estimated that it could generate around £20m - £25m of funding for the Council to spend on infrastructure over the next 15 years (in accordance with the CIL Infrastructure list).

- 3.3 In accordance with the CIL Regulations, a proportion of CIL funding must be passed on directly to local communities where CIL liable development takes place.
- 3.4 If a CIL is adopted, the Council is able to use up to 5% of the receipts to cover the administrative expenses incurred in connection with CIL.

4. Risk Management

- 4.1 There are no risks arising from this consultation itself. However, resulting from the recent Ministerial Statement, (Appendix 1) for small housing sites (sites of 10 or less dwellings), it is now very challenging to require Section 106 (S106) planning obligations contributions from these sites. In addition, post April 2015, a significant tightening of S106 planning obligations is likely to seriously disadvantage the Council in collecting funds for infrastructure provision. An adopted CIL will help to address this. There is a risk that amending the CIL Draft Charging Schedule at this stage could bring additional challenge to the document, but Council officers consider that the evidence is robust to justify the options presented to Members in this report.
- 4.2 This report is most closely linked with the key risk, which is set out below, in relation to the forthcoming next stage of CIL consultation:

Risk Description	Likelihood	Impact	Mitigation Measures
Significant challenge to CIL Charging Schedule	Moderate	High	Ensure robust viability evidence to defend position at Examination Consideration of responses on Draft Charging Schedule prior to formal Submission for Examination

5. Consultations

- 5.1 Depending upon the preferred option chosen by the Committee, there may be a need for an additional statutory 4 week consultation on the CIL Draft Charging Schedule prior to final Submission to the Planning Inspectorate. If the recommended option (Option 3) is resolved by Members, then this will trigger a need for additional consultation to meet the requirements of the CIL Regulations.

6. Equality Analysis

- 6.1 The CIL Draft Charging Schedule rates are underpinned by evidence to support and justify any distinctions between location, scale and type of development.
- 6.2 The CIL engagement programme is providing the opportunity for all communities and individuals that may be impacted by the CIL Charging Schedule to understand the impact and implications of the proposed approach and provide comments.

7. Shared Service / Partnership Implications

- 7.1 In the context of the shared services arrangements between Babergh and Mid Suffolk Councils it is appropriate, where possible, to run a parallel and aligned approach to the CIL productions and consultation. However, it should be noted that Member decisions at this stage of CIL production may have differing implications for alignment of timescales between the two Councils.
- 7.2 In addition, the specific approach to relevant consultation responses, consideration of the revised CIL rates prior to Examination, and whether to adopt the CIL post Examination will be key decisions requiring separate determination for each sovereign Council.

8. Key Update - Community Infrastructure Levy

Ministerial Statement HCWS50 - 28 November 2014

- 8.1 On 28 November 2014, the Minister of State for Housing and Planning (Brandon Lewis) announced a House of Commons Written Statement (HCWS50) outlining “*Support for small scale developers, custom and self-builders*” (attached at Appendix 1). The key part of this statement in relation to the CIL project are the amendments to national affordable housing thresholds. The Government has introduced a material planning consideration, effective immediately, which states that “*for sites of 10-units or less, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought.*” This statement has been reflected in relevant updates to the National Planning Policy Guidance.
- 8.2 In effect, this overrides the affordable housing thresholds set out in the Local Plan where they are 10 or lower than 10 dwellings. In response, the Council has commissioned viability testing for small scale sites to evaluate the local implications of removing the affordable housing contributions and other tariff style contributions. The key information is attached in Appendix 2. In summary, the evidence shows that, in the local housing market, the maximum viability to charge for CIL contributions increases by around £100/sqm on sites of 10 or less dwellings – this is because the viability is directly affected by the level of affordable housing contributions which are often disproportionate to other costs.

CIL Draft Charging Schedule

- 8.3 Given that in the current CIL Draft Charging Schedule (Appendix 3) residential categories are distinguished based on the Local Plan affordable housing thresholds which were relevant at the time, it is prudent for the Council to be pro-active at this stage and reflect the changes from the Ministerial Statement above. To this extent, a relatively minor change to the CIL Draft Charging Schedules is to be made to remove the existing residential categories and replace with two residential categories for each of the respective high and low zone areas as per the example below:
- i) Residential development of 1-10 dwellings – Low zone
 - ii) Residential development of 11 or more dwellings – Low zone

- iii) Residential development of 1-10 dwellings – High zone
 - iv) Residential development of 11 or more dwellings – High zone
- 8.4 All other CIL Draft Charging Schedule categories such as the strategic sites, wholly or mainly convenience retail and all other uses are unaffected and remain appropriate.
- 8.5 Officers' initial opinion is that the minor changes above are not so substantive as to require additional CIL consultation in accordance with the Regulations. However, Members may re-consult anyway if they so choose.
- 8.6 The substantial change to development viability resulting from the Ministerial Statement (Appendix 1) outlined above, provides the Council with an important choice whether to amend CIL charge rates for small residential sites of 10 or less dwellings. There is a theoretical maximum of around £100/sqm additional value available for CIL charges in these schemes, but the CIL Guidance states that local authorities should avoid setting charges right up to the margins of viability in order to allow for market variations. Accordingly, Members are being asked to consider which of the following reasonable options they would prefer to be undertaken on the current CIL Draft Charging Schedule:

Option 1 – ‘do nothing’

- 8.7 As per the example table below, this would maintain a rate of £75/sqm for all developments in the low charging zones. The high charging zone would be liable for a £115/sqm charge.

BDC Development Type	Zone	Proposed CIL rate (per sqm)
Residential development (1-10 dwellings)	Low	£75
Residential development (11 or more dwellings)	Low	£75
Residential development (1-10 dwellings)	High	£115
Residential development (11 or more dwellings)	High	£115

- 8.8 Option 1 would not be likely to require another formal round of consultation prior to formal Submission of the CIL Draft Charging Schedule for Examination.
- 8.9 This option would not capture any additional viability value created by the Government changes to small site contributions and is not therefore recommended.

Option 2 – an additional £75/sqm CIL charge on sites of 1-10 dwellings

- 8.10 As per the example table below, this would increase CIL charges for sites of 1-10 dwellings in the low charging zone up to £150/sqm, and in the high charging zone up to £190/sqm. Sites of 11+ dwellings the charges would be £75/sqm in low charging zones and £115/sqm in high charging zones.

BDC Development Type	Zone	Proposed CIL rate (per sqm)
Residential development (1-10 dwellings)	Low	£150
Residential development (11 or more dwellings)	Low	£75
Residential development (1-10 dwellings)	High	£190
Residential development (11 or more dwellings)	High	£115

8.11 Option 2 would be a significant change to the original CIL Draft Charging Schedule, and the Council will need to re-consult upon these charges prior to consideration of formal Submission of the document. However, the current CIL development programme can accommodate this, and should be able to deliver a CIL Charging Schedule which can be considered for adoption by the Council in early Summer 2015, subject to the outcome of the Examination.

8.12 This option would capture a significant amount of additional viability value created by Government changes to small site contributions, but it is considered too close to the margins of viability and not in accordance with the CIL Guidance. It is therefore not recommended.

Option 3 [recommended approach] – an additional £50sqm CIL charge on sites of 1-10 dwellings

8.13 This would increase CIL charge for sites of 1-10 dwellings in the low charging zone up to £125/sqm, and in the high charging zone up to £165/sqm. Sites of 11+ dwellings the charges would be £75/sqm in low charging zones and £115/sqm in high charging zones.

BDC Development Type	Zone	Proposed CIL rate (per sqm)
Residential development (1-10 dwellings)	Low	£125
Residential development (11 or more dwellings)	Low	£75
Residential development (1-10 dwellings)	High	£165
Residential development (11 or more dwellings)	High	£115

- 8.14 Option 3 would be a significant change to the original CIL Draft Charging Schedule, and the Council will need to re-consult upon these charges prior to consideration of formal Submission of the document. However, the current CIL development programme can accommodate this, and should be able to deliver a CIL Charging Schedule which can be considered for adoption by the Council in early Summer 2015, subject to the outcome of the Examination.
- 8.15 This option would capture a significant amount of additional viability value created by Government changes to small site contributions, whilst maintaining a substantial buffer from the margins of viability. It is considered the optimal rate given the balance between the need to fund infrastructure provision and to avoid threatening the delivery of housing. It is therefore the recommended approach to amend the CIL Draft Charging Schedule residential charges in this manner.

Option 4 – an additional £25/sqm CIL charge on sites of 1-10 dwellings

- 8.16 This would increase CIL charge for sites of 1-10 dwellings in the low charging zone up to £100/sqm, and in the high charging zone up to £140/sqm. Sites of 11+ dwellings the charges would be £75/sqm in low charging zones and £115/sqm in high charging zones.

BDC Development Type	Zone	Proposed CIL rate (per sqm)
Residential development (1-10 dwellings)	Low	£100
Residential development (11 or more dwellings)	Low	£75
Residential development (1-10 dwellings)	High	£140
Residential development (11 or more dwellings)	High	£115

- 8.17 Option 4 would be a significant change to the original CIL Draft Charging Schedule, and the Council will need to re-consult upon these charges prior to consideration of formal Submission of the document. However, the current CIL development programme can accommodate this, and should be able to deliver a CIL Charging Schedule which can be considered for adoption by the Council in early Summer 2015, subject to the outcome of the Examination.
- 8.18 This option would capture a modest amount of additional viability value created by Government changes to small site contributions, but it is not considered an optimal figure based upon the evidence. It is therefore not recommended.

9. Appendices

Title	Location
1. Written Statement made by: The Minister of State for Housing and Planning (Brandon Lewis) on 28 Nov 2014.	Attached

Title	Location
2. Summary of reviewed local CIL viability work based upon amended affordable housing thresholds	Attached
3. CIL Draft Charging Schedule (Nov 2014)	http://www.babergh.gov.uk/assets/Uploads-BDC/Economy/Strategic-Planning-Policy/LDF/CIL-documents/Draft-Charging-Schedule-consultation/Babergh-CIL-Draft-Charging-Schedule-Nov-2014.pdf

10. Background Documents

None.

Authorship:

Name: Matt Deakin
 Job Title: Senior Policy Strategy Planner

Tel. 01473 825747
 Email: matt.deakin@babbergh.gov.uk

House of Commons: Written Statement (HCWS50)

Department for Communities and Local Government

Written Statement made by: **The Minister of State for Housing and Planning (Brandon Lewis)** on 28 Nov 2014.

Support for small scale developers, custom and self-builders

I would like to update hon. Members on the action that the Coalition Government has taken to free up the planning system and the further new measures we are now implementing to support small scale developers and help hard-working people get the home they want by reducing disproportionate burdens on developer contributions.

Section 106 obligations imposed on small scale developers, custom and self-builders

We consulted in March this year on a series of measures intended to tackle the disproportionate burden of developer contributions on small scale developers, custom and self-builders. These included introducing into national policy a threshold beneath which affordable housing contributions should not be sought. The suggested threshold was for developments of ten-units or less (and which have a maximum combined gross floor space of no more than 1,000 square metres).

We also proposed a similar policy for affordable housing contributions be applied to all residential extensions and annexes. Rural Exception Sites would be exempted from any threshold introduced following consultation. Our consultation asked whether the threshold should be extended to include the tariff style contributions that some authorities seek in order to provide general funding pots for infrastructure. We also consulted on restricting the application of affordable housing contributions to vacant buildings being brought back into use (other than for any increase in floor space). This latter proposal was to boost development on brownfield land and provide consistency with exemptions from the Community Infrastructure Levy.

We received over 300 consultation responses many of which contained detailed submissions and local data. After careful consideration of these responses, the Government is making the following changes to national policy with regard to Section 106 planning obligations:

- Due to the disproportionate burden of developer contributions on small scale developers, for sites of 10-units or less, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought. This will also apply to all residential annexes and extensions.
- For designated rural areas under Section 157 of the Housing Act 1985, which includes National Parks and Areas of Outstanding Natural Beauty, authorities may choose to implement a lower threshold of 5-units or less, beneath which affordable housing and tariff style contributions should not be sought. This will also apply to all residential annexes and extensions. Within these designated areas, if the 5-unit threshold is implemented then payment of affordable housing and tariff style contributions on developments of between 6 to 10 units should also be sought as a cash payment only and be commuted until after completion of units within the development.
- These changes in national planning policy will not apply to Rural Exception Sites which, subject to the local area demonstrating sufficient need, remain available to support the delivery of affordable homes for local people. However, affordable housing and tariff style contributions should not be sought in relation to residential annexes and extensions.

· A financial credit, equivalent to the existing gross floorspace of any vacant buildings brought back into any lawful use or demolished for re-development, should be deducted from the calculation of any affordable housing contributions sought from relevant development schemes. This will not however apply to vacant buildings which have been abandoned.

We will publish revised planning guidance to assist authorities in implementing these changes shortly.

By lowering the construction cost of small-scale new build housing and home improvements, these reforms will help increase housing supply. In particular, they will encourage development on smaller brownfield sites and help to diversify the house building sector by providing a much-needed boost to small and medium-sized developers, which have been disproportionately affected by the Labour Government's 2008 housing crash. The number of small-scale builders has fallen to less than 3,000 – down from over 6,000 in 1997.

We estimate that the policy will save, on average, £15,000 in Section 106 housing contributions per new dwelling in England – some councils are charging up to £145,000 on single dwellings. Further savings will be made from tariffs, which may add additional charges of more than £15,000 per dwelling, over and above any housing contributions. Taken together, these changes will deliver six-figure savings for small-scale developers in some parts of the country.

The Home Builders Federation confirmed that these changes will provide a boost to small and medium builders, stating:

“This exemption would offer small and medium-sized developers a shot in the arm. The time and expense of negotiating Section 106 affordable housing contributions on small sites, and the subsequent payments, can threaten the viability of small developments and act as another barrier to the entry and growth of smaller firms”

Similarly, the Federation of Master Builders said:

“The new ten unit threshold for affordable housing contributions is a sensible and proportionate approach to help alleviate the pressure on SME house builders who have been squeezed out of the housing market in recent years. This is important because without a viable SME house building sector we won't be able to build the number of new homes that are needed to address the housing crisis”

Promoting custom and self-build housing

These changes to Section 106 policy complement the Coalition Government's wider programme of reforms to get Britain Building, including measures to actively support the custom and self-build sector that will help people design and build their own home.

Specifically, we have exempted custom and self-builders from paying the Community Infrastructure Levy. The £30 million investment fund for Custom Build Homes has so far approved or is currently considering loan funding of £13 million. We have launched a new £150 million investment fund to help provide up to 10,000 serviced building plots. The first bidding round closed in September and applications received are currently being assessed by the Homes and Communities Agency.

In addition we continue to work in partnership with industry to provide better support and information to custom and self-builders and we are helping community-led custom projects by enabling them to apply for £65 million under the Affordable Housing Guarantee programme and £14 million of project support funding.

We are also providing £525 million through the Builders' Finance Fund (2015-16 to 2016-17) to provide development finance to unlock stalled small housing sites. A shortlist of 165 small housing schemes was announced on 8 September. We are also opening up the Builders Finance

Fund to support small building firms schemes, from 5 units in size upwards.

We also published a consultation on the Right to Build in October. The idea is simple: prospective custom builders will have a right to purchase a plot of land from their local Council to build their own home. To underpin the consultation we are working with a network of eleven Right to Build Vanguards to test how the Right can work in practice and we are supporting the hon. Member for South Norfolk's (Richard Bacon) *Self-Build and Custom Housebuilding Private Members' Bill* which has now passed its Second Reading in this House.

Getting empty and redundant land and property back into use

We have introduced a range of measures to help communities get empty and surplus land and property back into productive use.

We have reformed permitted development rights to cut through complexity, free up the planning system and encourage the conversion of existing buildings. The changes help support town centres, the rural economy and provide much-needed homes.

Changes to Community Infrastructure Levy rules now provide an increased incentive for brownfield development, through exempting empty buildings being brought back into use. To assist extensions and home improvements, we have also exempted them from Community Infrastructure Levy, stopped plans for a so-called 'conservatory tax', stopped any council tax revaluation which would have taxed home improvements, and introduced a new national council tax discount for family annexes.

Conclusion

We expect implementation of these measures to have a significant positive impact on housing numbers by unlocking small scale development and boosting the attractiveness of brownfield sites. This will provide real incentive for small builders and to people looking to build their own home. They will increase house building and help reduce the cost of such housing.

These latest policy changes illustrate how this Government continues to deliver the reform to our planning system which will enable more houses to be built, giving more power to local communities, helping people move on to and up the housing ladder.

Appendix 02 – Summary of reviewed local CIL viability work based upon amended affordable housing thresholds*

*Note: National approach now removes affordable housing contributions from small scale developments of 10 or less dwellings.

Babergh District Council

Low value areas (the blue zones)

Residential development type	Overage - theoretical maximum CIL charge (£sqm)	Recommended CIL charge (£sqm)
1 - House	£330	£125
5 - Houses	£303	£125
10 - Houses	£296	£125
11 - Houses	£190	£75
25 - Houses	£193	£75
3 - Flats	£6	£125
10 - Flats	£73	£125
11 - Flats	£240	£75
25 - Flats	£282	£75

High value areas (the red zones)

Residential development type	Overage - theoretical maximum CIL charge (£sqm)	Recommended CIL charge (£sqm)
1 - House	£354	£165
5 - Houses	£396	£165
10 - Houses	£386	£165
11 - Houses	£286	£115
25 - Houses	£290	£115
3 - Flats	£108	£165
10 - Flats	£55	£165
11 - Flats	£168	£115
25 - Flats	£153	£115