CABINET

Agenda Item: 6

Ward: District-wide

Portfolio: Planning and Growth

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Meeting Date: 12 September 2016

SUBJECT: COMMUNITY INFRASTRUCTURE LEVY

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Report Sign off	**Seen by:**	**Name**	**Date**
	Legal	Lesley Dolan	26.08.16
	Finance	Paul Deal	26.08.16
	Procurement	n/a	
	Group Manager	Ian Bowen	26.08.16
	Portfolio Holder	Nigel Woollcombe-Adams	26.08.16
	Ward Member(s)	n/a	

Summary:	This report updates Cabinet on the issues with the introduction of a Community Infrastructure Levy (CIL) in Mendip.
Recommendation:	(1) It is recommended to Cabinet agree that the Council commission for a consultant study to test viable levels of CIL in Mendip; and (2) A further report is made to Cabinet before any consultation on CIL charges detailing. estimates of potential revenue
Direct and/or indirect impact on service delivery to our customers and communities:	The introduction of CIL would increase funding for infrastructure projects across the district. CIL would also provide revenues to Parish Councils where development takes place in their area.
Legal Implications:	There are no direct legal implications from this report. The process for adopting a CIL levy is set out in planning legislation.
Financial Implications:	The report recommends commissioning of specialist consultants to undertake viability work subject to tendering. This would cost approx 15-25k depending on scope and funded from the Local Plan Budget
Value for Money:	Adoption of CIL will require up-front expenditure but could secure a broader medium to long term funding stream for local infrastructure. A phased approach is recommended given potential national reforms to CIL. A proportion of CIL revenue can be spent on set-up costs and ongoing collection

	The use of external consultants is recommended as they would be able to present evidence at the CIL examination.
Equalities Implications:	None
Risk Assessment and Adverse Impact on Corporate Actions:	None
Scrutiny Recommendation (if any)	25/4/16 That this report be noted and recommended to Cabinet for approval

Introduction

This report updates Cabinet on the issues associated with the introduction of a Community Infrastructure Levy (CIL) in Mendip. CIL is a statutory fixed charge levied on new development and partly replaces the use of s106 agreements to obtain financial contributions. The Council are not required to establish a CIL charging regime, but the report recommends initial viability testing as a first step. This was endorsed by Scrutiny Board in April. Since this time officers have been awaiting the outcome of a government review of CIL – but it is not clear when this will emerge. It is recommended that testing of potential charges and revenue is undertaken, so an assessment can be made once the scope of national changes to CIL are known.

Background

CIL is a charge-based method of collecting developer contributions, intended to partly replace the case-by-case negotiation of s106 contributions. In two tier areas the District Council is responsible for charging and collecting the Levy.

Under CIL developer contributions are based on a standard charge (per sq. m of new floorspace) for most types of development. The standard charge is calculated based on the viability of differing types of development. Examples of charges can be seen in Appendix B. The Council can choose to zero rate certain types of development or have a zonal approach where higher sales /development values would justify a higher level of charge.

Where CIL is adopted, s106 agreements are still necessary to secure affordable housing and other site specific planning benefits. A central principle is that the Council cannot spend CIL and s106 contributions for the same type of infrastructure. Therefore a specific list (the Reg 123 list) must be published as to the types of infrastructure benefiting from CIL. Types of infrastructure which CIL could fund are shown in Appendix C. Where CIL is not adopted, legal agreements can still be used to secure financial contributions – but these are now subject to a much tighter regime and critically can no longer be 'pooled' together.

Potentially CIL is a more equitable approach as most development, and not just major schemes, make a proportionate contribution to infrastructure costs. Landowners are liable for payment on commencement of development. Liability can be assumed by others (e.g. developers) and, where this is the case, payments can be agreed in instalments. Affordable housing is not subject to CIL and there are a range of other exemptions which are listed in Appendix D.

How is a CIL charge established?

The process of adopting CIL charging is set out in Planning Acts and regulations. Essentially, the Council consult on a draft schedule of charges based on local assessments of development viability. In addition, the Charging Authority must identify the total cost of infrastructure they wish to fund wholly or partly through CIL. The starting point for this list is the Council's Infrastructure Delivery Plan (IDP).

Proposed rates are tested at a public examination with charges agreed or amended by an independent inspector. The examination will focus on the evidence and objections on whether the rates ***"threaten the ability to develop viably the sites and scale of development identified in the Local Plan"***. On receipt of the Inspectors report, the Council can then make the administrative arrangements for collection and set a date when CIL charges will be levied.

Allocation of CIL receipts

Councils with an adopted CIL generally have a member/officer group delegated to make decisions on expenditure. This may be similar to the current s106 group. However CIL receipts can be pooled to fund projects with other charging authorities and can be combined with other sources of funding.

Receipts can also be used to recover the administrative costs of its introduction (up to 5% of the levy) including costs of viability evidence, consultation costs, running billing and payments systems, enforcement, legal costs, monitoring and reporting costs.

Of receipts collected 15% must be allocated to Parish Councils for development taking place in their area (up to a cap of £100 per existing Council Tax dwelling). If a Parish Council has a Neighbourhood Plan which has been made, 25% of receipts must be allocated to them with no cap on the amount. What Parish Councils spend this money on is at their discretion. They are not subject to the same restrictions of adhering to the Regulation 123 list. However Parish Councils have a statutory duty to report on what they have spent their CIL money on in an annual report. The Council has a statutory duty to report on its CIL by 31 December each year.

<u>What are the benefits and drawbacks?</u>

One of the benefits of introducing a CIL is that all arguments relating to viability are debated upfront at a public examination of the Charging Schedule. This provides certainty for: the Council which knows how much CIL it can expect from developments; the developer who has a clear understanding of what the costs will be up front; Parish Councils who know they will receive 15% of receipts or 25% if a Neighbourhood Plan is in place.

The whole process is potentially more transparent. There are a number of public consultations where the views of the community, stakeholders, and the development industry are taken into account. The work is rigorously examined by an independent Inspector and the public are able to see what monies the Council is receiving and how these are being spent.

The process of producing a Charging Schedule is a relatively lengthy process which would have associated costs of: officer time, consultations and public examination. In addition to this, due to the technical nature of the viability work involved, it is likely that specialist consultants would need to be engaged to provide supporting evidence.

Mendip District Council's current position

MDC does not currently tend to collect many types of developer contributions. The latest information (March 2016) on s.106 funds received and awaiting spend shows that of 20 individual contributions, 15 are for public open space, two are for regeneration projects, one for tourism projects and one is for highways/transportation. However, due to the pooling restrictions on s.106 monies MDC will be restricted in the future in its ability to collect further generic contributions for open space and education in particular. In this regard, Planning Inspectors are already scrutinising the justification for s106 contributions in detail.

What are other Local Authorities doing?

Nationwide, 28% of Local Authorities have a CIL implemented and 55% are in the process of producing one. 16% are not engaged in the CIL making process with 26 individual authorities not currently pursuing one. MDC is one four authorities in the south west without a CIL and without one in progress.

Within Somerset, Taunton Deane and Sedgemoor have a CIL implemented and South Somerset have just consulted on a revised Draft Charging Schedule. It is worth noting that these three authorities all have towns significantly larger than Frome, and are all planning for much greater levels of development than Mendip.

An examination of authorities with a similar profile to Mendip[1] (i.e. predominantly rural with market towns only - no large urban areas) showed that only seven have an adopted CIL. Appendix A details these authorities and what rates their charging schedules include. Of these, only South Lakeland has had a CIL adopted long enough to have reported on monies collected.

Considerations in deciding whether to progress CIL

At this stage, it is not possible to estimate the potential revenue from CIL as this will depend on the rates set, whether they should vary by location and whether types of development should be zero rated. Appendix A which shows charging rates for 'similar' authorities, illustrate these vary widely according to local market circumstances and in most cases vary by location. As an illustration, the map in Appendix B shows there is a considerable range in house prices across Mendip. In Mendip, the 2012 Affordable Housing & Development Contributions Viability Study, which informed the Local Plan

[1] Authorities classified as *'Mainly Rural' in the 2011 Rural Urban Classification of Local Authorities'*

Part I, estimated that a viable housing CIL may be around £40 sq. m. However, this was a broad brush assessment and is also now somewhat dated. The Council is already being challenged on the viability of sites in relation to affordable housing and therefore the implications of a statutory charge will need careful consideration

The government continue to support CIL as a mechanism for funding local infrastructure. There is the prospect of further change to the CIL system. An independent review of CIL and s.106 has reported to government and has made recommendations to simplify various areas. There is no timetable for when the government will publish proposals to change CIL. In addition, other planning reforms have removed CIL obligations as an incentive to encourage development e.g. self build schemes and brownfield development. The CIL exemption may also apply to starter homes.

CIL is a significant potential source of funding to explore at a time when support to infrastructure providers and from other sources is being reduced. However, given that little discretion exists to reduce or waive the levy on a case-by-case basis once a charging schedule is in force, there is the potential for CIL to act as a disincentive to development in some parts of the district. In order to fully understand whether CIL would be the best route for MDC therefore, an up-to-date and thorough assessment of development viability would be needed. Given that a range of development types need to be tested, this cannot be resourced in-house.

The timescale involved in getting to an adopted Charging Schedule is likely to be at least two years. Since CIL is payable on commencement, there is a further lag before CIL funds start to accumulate. If adopted, the benefits from CIL really will start to have an impact from 2020 onwards.

Financial Implications

The introduction of CIL has cost implications. These include, in the first instance, compiling evidence on viability levels and infrastructure costs to produce a draft charging schedule – This is likely to be in the order of 15-25k. There will also be expenditure associated appointing an independent examiner and promoting a charging schedule though examination (30-50k). Post adoption, the implementation of CIL may require a dedicated administrative resource and there may be other costs such as specialist software and tracking systems. Anecdotal evidence from nearby authorities suggests this could be as much as £70k. However CIL regulations allow 5% of all receipts to fund expenditure associated with CIL administration – effectively offsetting ongoing administration.

Given the need to present technical evidence on viability at examination, most LPA’s have commissioned viability and infrastructure studies from external consultants with experience in this area. The cost of a study to test CIL options and recommend a draft charging schedule could be met from the from Local Plan Reserve. The study could also assess the impact different rates would have on development and other strategies such as affordable housing delivery.

The findings and assessment can then be brought back to CMT, Scrutiny & Cabinet with a recommendation to consult on the charging schedule as the first step towards the introduction of a CIL or explore alternative options via s106.

Summary and Conclusions

The introduction of CIL is not a statutory requirement but has positive advantages given the increased restrictions on the use of s.106 agreements to provide benefits wider than the immediate development site. CIL does not replace s.106 which will continue to be needed to secure on-site provision, highways and affordable housing.

CIL can be considered an efficient mechanism to gain contributions on smaller sites where s.106 has not been sought in the past. The proportion passed directly to Parish Councils could also be seen as supporting local communities where development takes place. However, the option to implement CIL is not clear cut and appears to have been more attractive to LPAs with unitary status, larger settlements or ‘big-ticket’ items of infrastructure.

At this point, further evidence is required on the levels of CIL charge which would be viable for different types of development and to assess the costs of infrastructure in the IDP on which contributions could be spent. Given the prospect of further s.106 or CIL reforms it would also be prudent to take these into account before progressing CIL.

OPTIONS CONSIDERED

The Council has the option not to progress CIL and continue rely on s.106. However, even now, the pooling restrictions relating to s.106 contributions mean that the ability to collect contributions is already limited. In addition, the lack of transparency of the collection and use of s.106 monies has also been raised as an issue by Parish Councils and others through the Local Plan process. The Council could delay any work on CIL until the government review, however this would set back the date for implementing a charging schedule.

RECOMMENDATIONS

(3) It is recommended to Cabinet agree that the Council commission for a consultant study to test viable levels of CIL in Mendip.

(4) A further report is made to Cabinet before any consultation on CIL charges detailing estimates of potential revenue, operating costs and implications for wider corporate objectives.

REASONS FOR RECOMMENDATION

The recommendations reflect a phased approach to explore the potential of CIL which takes into account current uncertainties and the need for a clearer picture on the implications of introducing CIL

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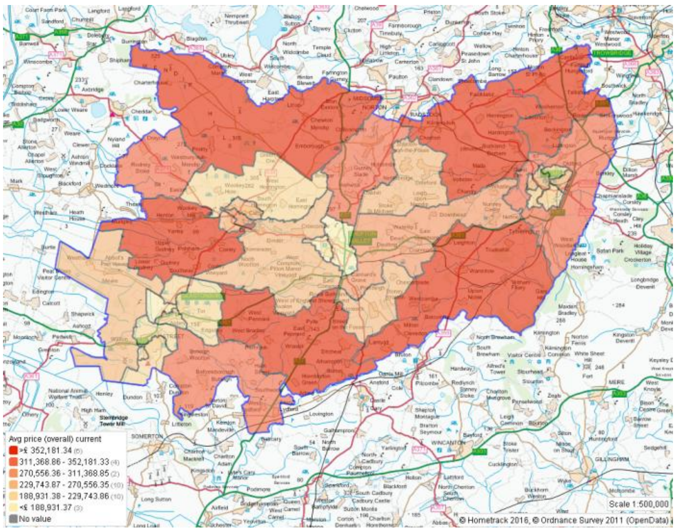
Appendix A: Progress on CIL by authorities similar to MDC

Local Authority	CIL Status	Residential charges per sq.m.	Retail/Commercial charges per sq.m.
Chichester	Adopted (Jan '16)	2 residential charging zones: **£200**, **£120**	Convenience retail: **£125**
		Student accommodation: **£30**	Comparison retail: **£20**
		Hotels: **£140**	
		Residential care homes: **£90**	
		Holiday accommodation: **£30**	
East Cambs	Adopted (Dec '12)	3 residential charging zones: **£90, £70, £40**	Retail (A1-A5): **£120**
Rutland	Adopted (Jan '16)	Residential: **£100**	Supermarkets: **£150**
			Retail warehouses: **£75**
			Distribution centres: **£10**
Hambelton	Adopted (Mar '15)	Residential (excluding apartments): **£55**	Retail warehouses: **£40**
			Supermarkets: **£90**
Ryedale	Adopted (Jan '16)	2 residential charging zones: **£85, £45**	Supermarkets: **£120**
			Retail warehouses: **£60**
Selby	Adopted (Dec '15)	3 residential charging zones: **£50, £35, £10**	Supermarkets: **£110**
			Retail warehouses: **£60**
South Lakeland	Adopted (May '15)	3 residential charging zones: **£50, £20, £0**	Supermarket and retail warehouses **£150**
		Sheltered and retirement housing **£50**	

Appendix B - House prices in Mendip (at 1st April 2016) Source: Hometrack.



Appendix C - Examples of Infrastructure funded by CIL

CIL can fund a wide range of infrastructure including:

- Transport/roads
- Schools
- Flood defences
- Hospitals
- Health & social care
- Play areas
- Parks & green spaces
- Cultural & sports
- Education
- District heating systems
- Police stations & other community safety

Appendix D – Developments exempted by CIL

A number of different types of development have been set out by the Government as being exempt from paying CIL:

- Development less than 100 sq.m. except for whole houses/flat
- Self build dwellings
- Social housing
- Charitable development
- Buildings into which people normally do not go
- Buildings into which people intermittently go for inspecting or fixing plant
- Structures which aren't buildings e.g. wind turbines, pylons
- Specified development which the Council has decided to "zero rate"
- Vacant buildings bought back into use
- Payments of less than £50
- The construction of mezzanine floors which are less than 200 sq.m.
- Brownfield land