

**RIBBLE VALLEY BOROUGH COUNCIL
REPORT TO PLANNING & DEVELOPMENT COMMITTEE**

Agenda Item No.

meeting date: THURSDAY, 12 APRIL 2018
title: COMMUNITY INFRASTRUCTURE LEVY
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1 PURPOSE

1.1 To receive information on the position in relation to Community Infrastructure Levy.

1.2 Relevance to the Council's ambitions and priorities:

- Community Objectives – The matters contained in this report relate to the community objective of having in place appropriate planning mechanisms to deliver sustainable development.
- Corporate Priorities – This Community Infrastructure Levy is a key part of the Government's planning framework.
- Other Considerations – The matters set out in this report contribute to the Council's role of being a well-managed authority.

2 INFORMATION

2.1 Members will be familiar with the concept of Community Infrastructure Levy (CIL) as a means of supporting the provision of additional infrastructure in association with new development. The Council has not implemented CIL at the present time but has committed in the adopted Core Strategy to keep under review the move towards a CIL approach in line with Government policy.

2.2 An issue for the Council in moving to CIL in the past has been the ability to align a CIL process to new development that was already the subject of planning permission and commitment and the timeframe and statutory process to implement the regulations of a Community Infrastructure Levy and to develop a charging schedule. In the absence of CIL infrastructure has continued to be provided in support of development by way of planning obligations (Section 106 Agreements) and also through separate highway agreements to secure necessary highway work where appropriate.

2.3 CIL is subject to its own regulatory process and a separate Examination which can be run in parallel to the Local Plan Review but will need to have the resource implications considered through the Council's budgetary process. The Council will need to consider its approach to CIL as part of the Local Plan Review and this will be the subject of a further report to this Committee in due course following discussion at the Development Plan Working Group. As an initial part of the process an information report has been prepared on the Council's behalf by Urban Vision to establish a baseline for moving the consideration of CIL forward and to assist Members' deliberations.

2.4 A copy of the position review is attached at Appendix 1 to this report.

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Ribble Valley Borough Council Community Infrastructure Levy Report

Final Report (20 March 2018)

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Introduction

1. Ribble Valley Borough Council commissioned Urban Vision to provide a report on how a Community Infrastructure Levy (CIL) might be developed as part of the proposed review of the Local Plan. This report consists of the following key aspects:
 - An update on the latest national policy background on CIL;
 - A brief consideration of the latest situation on infrastructure within Ribble Valley drawing on the Infrastructure Delivery Schedule (IDS) Urban Vision produced for the Housing and Economic Development Plan Document (HEDPD); and
 - Setting out how a CIL could be progressed alongside the proposed new Local Plan.
2. The assumption is that the current examination for the HEDPD will be concluded relatively swiftly thereby allowing the focus to move to the review of the Local Plan as a whole (i.e. the adopted Core Strategy and the anticipation of a swift adoption of the HEDPD). A key element of any new local plan will be the consideration of a Community Infrastructure Levy. Recent Government announcements in the budget (November 2017)¹ would appear to confirm that CIL will continue to operate albeit with some potential further changes including the relationship to section 106 (S106) obligations. Moreover, the Government has very recently issued for consultation² a document setting out potential reforms to the CIL and S106 processes. It is therefore timely to consider how CIL could be included as part of the proposed new Local Plan for Ribble Valley.
3. It is important to note that any adopted CIL charging schedule cannot be applied retrospectively to development that has received a planning permission. The only exception is where that permission lapses and a new planning permission is granted post the start date of an adopted CIL charging schedule.

National Policy Background

4. CIL was introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. It came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010. Guidance on the operation of CIL is

¹ Budget (November 2017) Link - <https://www.gov.uk/government/publications/autumn-budget-2017-documents/autumn-budget-2017>

² Ministry of Housing, Communities and Local Government (March 2018), Supporting housing delivery through developer contributions, Reforming developer contributions to affordable housing and infrastructure (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/686878/Developer_Contributions_Consultation.pdf)

available from the Government website: <https://www.gov.uk/guidance/community-infrastructure-levy>.

5. There have been a number of amendments made to the CIL regulations since 2010 primarily to address various issues identified as causing either confusion or leading to unintended consequences. Amendments have been issued as follows:
 - The Community Infrastructure Levy (Amendment) Regulations 2011³
 - The Community Infrastructure Levy (Amendment) Regulations 2012⁴
 - The Community Infrastructure Levy (Amendment) Regulations 2013⁵
 - Community Infrastructure Levy (Amendment) Regulations 2014⁶
 - Community Infrastructure Levy (Amendment) Regulations 2015⁷
6. The frequency of amendments to the CIL regulations highlights the potential complexity that comes with developing and operating a CIL. Moreover, the inextricable links between CIL and the continuation of S106 obligations has led to a considerable degree of confusion and lengthy debates between developers/landowners and local authorities. The latest consultation, launched on 5 March 2018, is heralded with a foreword which whilst specifically referring to S106, has resonance with the operation of CIL:

“It is vital that developers who are building these homes know what contributions they are expected to make towards affordable housing and essential infrastructure and that local authorities can hold them to account. It is right to consider whether a higher proportion of affordable housing can be delivered where there is a higher uplift in land value created by development.

However, it is clear that the current system of developer contributions is not working as well as it should. It is too complex and uncertain. This acts as a barrier to new entrants and allows developers to negotiate down the affordable housing and infrastructure they agreed to provide.

This is why we are reforming the National Planning Policy Framework and developer contributions, as announced at Autumn Budget 2017 and as set out in this consultation. The reforms set out in this document could provide a springboard for going further, and the Government will continue to explore options to create a clearer and more robust developer contribution system that really delivers for prospective homeowners and communities accommodating new development.”

³ <http://www.legislation.gov.uk/uksi/2011/987/contents/made>

⁴ <http://www.legislation.gov.uk/uksi/2012/2975/contents/made>

⁵ <http://www.legislation.gov.uk/uksi/2013/982/contents/made>

⁶ <http://www.legislation.gov.uk/ukdsi/2014/9780111108543/contents>

⁷ <http://www.legislation.gov.uk/uksi/2015/836/contents/made>

7. The consultation identifies that there are a number of issues that have arisen in the roll out and operation of CIL since 2010 including:
 - A patchy take up of CIL with a tendency for it to be introduced in areas where land values are higher and hence a greater opportunity to set a CIL charge that provides a meaningful return in terms of CIL revenue to be invested in infrastructure within a local authority area;
 - Where CIL has been introduced, difficulties in varying the CIL rate (beyond the indexation that is incorporated into the regulations) which would necessitate a review of CIL with the attendant consultation stages and updating of viability evidence;
 - A perception that there still remains a lack of transparency particularly in respect to what CIL revenue is spent on – CIL was set up in part to improve transparency with respect to infrastructure funding.

8. Alongside the issues raised with respect to CIL, the consultation also notes similar issues with respect to planning obligations. In addition, specific issues are identified with respect to planning obligations:
 - Delay to developments as a result of protracted negotiations in agreeing S106 agreements;
 - The opportunity for developers to renegotiate planning obligations with a perception from communities that this reduces transparency and trust in what infrastructure will be delivered, particularly in terms of affordable housing; and
 - Despite a rise in house prices since 2011/12, there appears to have been little change in the level of planning obligations per dwelling⁸.

9. The proposed reforms set out in the consultation seek to deliver the following objectives:
 - Reducing complexity and increasing certainty for local authorities and developers, which will give confidence to communities that infrastructure can be funded.
 - Supporting swifter development through focusing viability assessment on plan making rather than decision making (when planning applications are submitted). This speeds up the planning process by reducing scope for delays caused by renegotiation of developer contributions.
 - Increasing market responsiveness so that local authorities can better target increases in value, while reducing the risks for developers in an economic downturn.

⁸ Internal MHCLG analysis. Figures adjusted for inflation, and to reflect changes in distribution of planning permissions across regions between 2011/12 and 2016/17.

- Improving transparency for communities and developers over where contributions are spent and expecting all viability assessments to be publicly available subject to some very limited circumstances. This will increase accountability and confidence that sufficient infrastructure will be provided.
- Allowing local authorities to introduce a Strategic Infrastructure Tariff to help fund or mitigate strategic infrastructure, ensuring existing and new communities can benefit.

10. In terms of streamlining CIL processes, the consultation document identifies two key proposals. Firstly, it is proposed that the consultation requirements for setting and revising a CIL charging schedule are changed. The current system of two formal stages of consultation is proposed to be replaced with a requirement to publish a statement on how an authority has sought an appropriate level of engagement. This would be considered through the examination process, and would allow authorities to set schedules more quickly, and to expedite revising them in response to changes in circumstance. Secondly, there is an intention to align the requirements for evidence on infrastructure need and viability required to set a CIL with the evidence required for local plan making. This links to proposals that seek to ensure more explicit infrastructure requirements related to development identified (usually as allocations) are set out in local plans. This is intended to reduce the need for site by site negotiations through planning obligations apart from more complex strategic sites and any other circumstances that will have to be defined in the local plan.

11. A further amendment set out in the consultation is to lift the pooling restriction that currently operates with planning obligations. Currently, under Regulation 123 local authorities are prevented from using more than five section 106 planning obligations to fund a single infrastructure project. It is proposed that the pooling restriction will be removed in areas:

- that have adopted CIL;
- where authorities fall under a threshold based on the tenth percentile of average new build house prices, meaning CIL cannot feasibly be charged; and
- or where development is planned on several strategic sites – two possible options are suggested:
 - a) remove the pooling restriction in a limited number of authorities, and across the whole authority area, when a set percentage of homes, set out in a plan, are being delivered through a limited number of large strategic sites. For example, where a plan is reliant on ten sites or fewer to deliver 50% or more of their homes;
 - b) amend the restriction across England but only for large strategic sites (identified in plans) so that all planning obligations from a strategic

site count as one planning obligation. It may be necessary to define large strategic sites in legislation.

12. Further amendments to the operation of CIL include:

- Allow CIL charging schedules to be set based on the existing use of land. This will allow local authorities to better capture an amount which better represents the infrastructure needs and the value generated through planning permissions. Local authorities will continue to have the ability to set CIL at a low or zero rate to support regeneration;
- Changing the approach to indexation of CIL rates in adopted charging schedules; and
- Improving transparency with respect to information on what CIL will fund and how CIL revenues are being spent with the introduction of Infrastructure Funding Statements – these will replace the current Regulation 123 Lists that authorities have to produce as part of an adopted CIL.

Infrastructure Delivery in Ribble Valley

13. The Core Strategy, adopted in 2014, sets out the primary approach the Council has utilised to deal with infrastructure provision generated by development in the Borough. The Core Strategy states:

“It is anticipated that planning obligations will be used under the plan, as identified in the development strategy as a key delivery tool. It is considered more appropriate to look to the system of planning obligations to secure the necessary infrastructure that will be required to enable development to be accommodated. These will be used in order to deliver the services and improvements associated with new development. Planning applications will ensure that developers will contribute to these necessary improvements as part of the application process. However, within the plan period the Council anticipates moving to the application of a Community Infrastructure levy approach as the means by which necessary infrastructure can be delivered.”

14. Key Statement DMI 1 in the Core Strategy deals specifically with planning obligations and is reproduced below.

KEY STATEMENT DMI1: PLANNING OBLIGATIONS

Planning Obligations will be used as a mechanism to deliver development that contributes to the needs of local communities and sustainable development. Contributions can either be in kind or in the form of financial contribution with a clear audit trail of how any monies will be spent and in what time frame.

Obligations will be negotiated on a site-by-site basis. The council has resolved to seek contributions in the following order of priority:

Affordable Housing (also taking into consideration the detailed Affordable Housing Key Statement)

Improvements required for highway safety that cannot be covered by planning condition or S278 Agreement

Open Space

Education

Where there is a question of viability the council will require an open book approach to be taken when agreeing development costs, and developers will be required to meet the Council's costs for independent evaluation. The Council will develop, as appropriate, a Community Infrastructure Levy approach to infrastructure delivery.

15. The Council's approach, as set out in the Core Strategy, was governed by the need to apply a pragmatic solution that enabled the capture of necessary infrastructure costs in a timely manner. The most appropriate route was to pursue a policy that set out how planning obligations would be utilised rather than attempt to develop a CIL charging schedule. It is important to note that the production of a CIL charging schedule has to follow its own specific regulatory route including the need for two rounds of statutory consultation lasting six weeks on each occasion (identified as good practice by the CIL regulations). It was considered that there was a risk that infrastructure costs would not be sufficiently captured in the Borough due to the likely timescale required to deliver an adopted CIL charging schedule. Moreover, this approach is justified in the light of information noted in the current consultation on reforms to CIL. Experience from local authorities that have an adopted CIL charging schedule is that the process of developing and adopting a CIL charging schedule took between one to two years.

16. Urban Vision produced an Infrastructure Delivery Schedule (IDS) in 2017 to accompany the submission version of the Housing and Economic Development Local Plan (HEDPD). The IDS outlined the level of new or improved infrastructure required to deliver the growth proposed in the Local Plan, comprising the adopted

Core Strategy and emerging HEDPD. Ribble Valley Borough Council previously published a Local Infrastructure Plan (LIP) which provided details on the range of provision of various elements of infrastructure at that point in time (2012). The LIP provided supporting evidence for the examination of the Core Strategy.

17. The IDS provided updates to the following categories of infrastructure that featured in the LIP:

- Road Network;
- Public Transport;
- Education;
- Water Supply and Waste Water;
- Healthcare;
- Green Infrastructure; and
- Flood Risk

18. Whilst the IDS did not quantify the infrastructure requirements under each category it did provide an update on where investment is likely to occur. A summary of the key infrastructure matters is set out in Table 1 below.

Infrastructure Type	Requirements
Road Network	<p>East Lancashire Highways and Transport Masterplan (2014) identified two aspects of transport infrastructure where potential improvements will benefit communities in Ribble Valley – the A59 corridor and the rail line linking Clitheroe to Manchester Victoria. The Masterplan proposed a Ribble Valley Growth Corridor Study with the main purpose to identify where junctions needed to be improved or where other highway works were required to ensure that capacity, reliability and safety issues did not hinder economic growth. Time has moved with the development of Transport for the North and their publication of a draft 30 year investment plan (out for consultation until 17th April 2018).</p>
Public Transport	<p>East Lancashire Highways and Transport Masterplan provides information on improvements to the rail link between Clitheroe and Manchester Victoria including double tracking a number of short sections around Darwen to enable a half hourly service to operate; platform extensions to the four rail stations in Ribble Valley; and the development of a community rail partnership along the entire route from Manchester Victoria to Clitheroe. An East Lancashire Rail Connectivity Study was commissioned by LCC which concluded that improving service frequency and journey times would deliver the greatest level of benefit, with electrification of the routes between Preston and Leeds / Colne and Clitheroe / Blackburn and Bolton / Manchester together with associated rolling stock improvements and enhanced service frequencies making the most significant contribution. Bus services continue to be provided through a mix of commercial and county council subsidised services.</p>
Education	<p>Lancashire County Council’s Education team responded to the HEPD consultation and noted the information in the IDS on education matters. They provided further comment on future proposals for educational requirements in Ribble Valley as follows:</p> <p><i>“Currently scoping is being undertaken at local primary and secondary schools in the Ribble Valley planning area to identify the potential for expansion which could permit an increase in admission numbers. A statutory consultation process would have to be followed if a significant expansion is a possibility. Also we are investigating the possibility of increasing the admission number in a number of primary schools in the area to meet the demands of the housing developments in Langho and Whalley as previously mentioned</i></p>

	<p><i>in the IDP. It is expected that these additional places will be provided by 2019. Discussions are also underway with a local secondary school to investigate the possibility of expansion. Whilst the Strategy states that the preferred solution to the need for new school places is via the expansion of existing schools, this is not always possible. Therefore, it is essential that, where a housing development (or group of developments) is of sufficient scale to justify a need for a new school, the district works with LCC strategically to secure sites and contributions towards the provision of new schools, where appropriate.”</i></p>
Water Supply and Waste Water	<p>The comments from United Utilities within the previous Local Infrastructure Plan were based on the emerging Core Strategy housing proposals (4,000 dwellings). The subsequent uplift to 5,600 dwellings during the examination stage of the Core Strategy involved further discussions with United Utilities culminating in their written submission to the examination (May 2014) . United Utilities were supportive of the spatial strategy in the plan with its focus on development in Clitheroe, Longridge and Whalley. It was recognised that the detailed requirements for additional water infrastructure would only become clearer as site specific proposals were brought forward.</p>
Healthcare	<p>Ribble Valley is principally covered by the East Lancashire CCG . The exception is an area covering the western part of the borough including Longridge which falls within the Greater Preston CCG area, however only around 13,000 people resident within Ribble Valley are served by this CCG; and an area in the southern part of the borough where some 8,000 residents are served by the Blackburn CCG. The East Lancashire CCG published its five year strategic plan in 2015 covering the period up to 2018/19. The strategic plan sets out the challenges facing the area and identifies the approach that will be adopted to improving services across the area. It is notable that the CCG covers a very diverse area in terms of a mix of urban and rural environments and the challenges faced in Ribble Valley reflect the particular rural nature of the borough. The CCG has accounted for this in their operations through the establishment of five localities that mirror the five local authority areas covered by the CCG.</p>
Green Infrastructure	<p>Much of Ribble Valley is within the Forest of Bowland Area of Outstanding Natural Beauty (AONB). The main areas of population in the borough fall beyond the AONB’s boundaries. The Core Strategy identifies the importance of Green Infrastructure in Key Statement EN3 and provides further detail in Policy DMB4. The HEPD provides further detail on the approach to open space noting the role that open space and green infrastructure makes to quality and attractiveness of areas within the Borough.</p>

Flood Risk	A Level 1 Strategic Flood Risk Assessment was prepared to inform the Core Strategy in consultation with the Environment Agency and other relevant organisations. The SFRA considered borough-wide flood risks and general management of flood risk demonstrating that the intended development strategy could be delivered in a manner that minimised potential flood risks. The allocations included in the HEPD have been considered in terms of potential flood risk issues and no specific problems have been identified. Work is underway in the neighbouring area of Pendle with respect to flood management that will provide additional benefits to areas downstream in Ribble Valley.
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19. The IDS did provide a quantitative analysis of the current state of play (at July 2017) in terms of planning obligations within the Principal Settlements; and Tier 1 and Tier 2 Settlements. Table 2 below provides a summary of planning obligations secured against the key types of infrastructure.

Table 2 - Infrastructure Funding in Ribble Valley

	Transport	Education	Open Space	Other	Notes/phasing
Section 106 – Infrastructure Funding					
Principal Settlements	£4,939,380	£8,257,752	£351,433	£1,489,280	Phasing will be in line with the specific details set out in each s106 agreement
Tier 1 Settlements	£483,000	£4,995,455	£106,986	£56,160	
Tier 2 Settlements		£275,924	£23,520	£8,640	
TOTAL	£5,422,380	£13,529,131	£481,939	£1,554,080	

CIL and the new Ribble Valley Local Plan

20. The latest Local Development Scheme (LDS) for Ribble Valley was published in October 2017. The programme for the proposed new Local Plan covers the period February 2018 to July 2020.

21. An important consideration will be viability and the LDS notes the need for a viability study to accompany the emerging Local Plan. Given the current consultation on planning obligations and CIL, it is timely to assess the scope of any viability work that may be required by the Council. The viability work is inextricably linked with evidence that will be commissioned to assess the housing and employment requirements for the Borough and the associated infrastructure that will be necessary. The steer from the latest consultation is that it is anticipated that evidence commissioned for understanding the viability needs emanating from the local plan will also serve the purpose of assessing whether a CIL charging schedule can be introduced; and if so the level of charging rates that would be proposed.

Recommendation 1

It is recommended that the Council consider setting a brief for any viability study commission to account for a scope that encompasses information that would inform the preparation of a CIL charging schedule.

22. The proposed simplification of the CIL process – replacing two rounds of formal consultation with a statement on how an authority has sought an appropriate

level of engagement – affords an opportunity to align the development of a CIL charging schedule alongside the consultation arrangements for the emerging Local Plan. The precise details of what the “...statement on how an authority has sought an appropriate level of engagement” will consist of has not been set out as yet. It is possible that such a statement could be incorporated into the wider statement of consultation that is required as part of the Local Plan process.

Recommendation 2

The simplification of the CIL process has potential positive merits in developing CIL alongside the Local Plan particularly with respect to consultation arrangements. Whilst further details may be forthcoming on the precise nature of a “...statement on how an authority has sought an appropriate level of engagement”, it is recommended that the Council consider how any consultation arrangements can be aligned with proposals for consulting on the Local Plan as a whole.

23. The proposal in the consultation to improve transparency with the introduction of Infrastructure Funding Statements, replacing the current Regulation 123 Lists, represents an opportunity to more closely align work that will be required on assessing infrastructure requirements. The Council has identified the need for an updated Infrastructure Delivery Plan is Schedule (IDP/IDS) in the latest LDS. Again, clarity on the scope and content of the proposed Infrastructure Funding Statements may be forthcoming post the current consultation. It is however likely that there will be a high degree of common characteristics between what would be set out in an IDP/IDS and any future Infrastructure Funding Statement.

Recommendation 3

The Council should consider the opportunity to develop the IDP/IDS for the Local Plan to also meet the purpose of the proposed Infrastructure Funding Statement (IFS) subject to any further details on what will constitute the scope and content of the IFS.

24. The consultation identifies a further amendment proposing to lift the pooling restriction that currently operates with planning obligations. This will be for authorities that have an adopted CIL or where development is planned on several strategic sites. If the Council were to proceed with CIL, this proposal brings some potential benefits in the management of planning obligations where pooling has led to an increasingly complex approach to monitoring S106 agreements. Moreover, the Council has a significant strategic site at Standen within the current Local Plan that forms a key part of the delivery of housing within the Borough over the plan period to 2028.

Recommendation 4

The removal of the pooling approach to planning obligations would be beneficial to the Council in its delivery of development and the attendant necessary infrastructure. This adds a potential significant additional benefit in developing a CIL charging schedule. Notwithstanding that benefit, the proposals for strategic sites would also be a positive step in terms of the delivery of the Standen site, and any potential future strategic sites that may be identified in the emerging Local Plan.