

## WIRRAL COUNCIL

### CABINET

15 JANUARY 2015

<b>SUBJECT:</b>	<b><i>COMMUNITY INFRASTRUCTURE LEVY – PROGRESS UPDATE</i></b>
<b>WARD/S AFFECTED:</b>	<b><i>ALL</i></b>
<b>REPORT OF:</b>	<b><i>STRATEGIC DIRECTOR FOR REGENERATION AND THE ENVIRONMENT</i></b>
<b>RESPONSIBLE PORTFOLIO HOLDER:</b>	<b><i>COUNCILLOR PAT HACKETT – ECONOMY</i></b>
<b>KEY DECISION?</b>	<b>YES</b>

### 1.0 EXECUTIVE SUMMARY

- 1.1 This report sets out progress on the development of an evidence base to support the potential for securing developer contributions through the introduction of a Community Infrastructure Levy (CIL) charge on new developments in Wirral.
- 1.2 Initial findings emerging from baseline economic viability testing indicate that there may be a potential opportunity to introduce a CIL levy, without undermining development viability, in some areas of the Borough and for some types of development, including housing and retail development.
- 1.3 National policy expects CIL charges to be worked up and tested alongside the Local Plan for the Borough. This report, therefore, seeks Cabinet endorsement for continuing work to secure the evidence necessary to support the introduction of a CIL charge and the development of a draft schedule of the charges which could be applied. Once this work is complete, a further report will be presented for final approval by Members.

### 2.0 BACKGROUND AND KEY ISSUES

- 2.1 Cabinet last considered the potential for securing developer contributions through a Community Infrastructure Levy (CIL) in December 2011 and resolved that an evidence base including an assessment of the impact on the viability of future development should be prepared (Cabinet, 8 December 2011, Minute 225 refers).
- 2.2 Keppie Massie, an independent consultancy experienced in preparing economic viability assessments and CIL charging schedules for local authorities, have now been appointed, following a competitive Request for Quotation process, to prepare an economic viability assessment to determine whether the introduction of a CIL would be appropriate in Wirral (Cabinet 27 September 2012, Minute 92 refers). The findings of their initial assessment, after considering the financial impact of the Council's existing policies, are attached to this report.
- 2.3 The power to charge a locally set CIL was introduced through the Planning Act 2008 as a way for councils to require developers to contribute funding towards the additional infrastructure needed as a result of future change and growth. A number of changes have since been made to the original legislation and regulations, to further

assist in the practical operation of these powers. The application of CIL powers is still, however, not mandatory and is entirely at the discretion of the local authority.

- 2.4 CIL is a non-negotiable charge that can be levied on new development that will provide a minimum of at least 100 square metres net additional floorspace or which will provide at least a single individual dwelling. Rates are calculated on a per square metre basis and can vary based on location, size and type of use, based on evidence of the viability of development within each locality.
- 2.5 CIL is intended to replace the use of Section 106 agreements to collect pooled financial contributions for wider than local improvements that would previously have been negotiated on a site by site basis with individual developers. From April 2015, Section 106 agreements will no longer be able to be used to collect these off-site resources. In future, Section 106 will only be able to secure other forms of direct on-site-specific mitigation, including affordable housing.
- 2.6 In order to set a CIL charge, a number of key requirements must be satisfied:
- there should be an up-to-date Local Plan;
  - the infrastructure to be funded by CIL must be demonstrated to be necessary to support the growth set out in the Local Plan;
  - a funding gap must be proved to exist, after considering all other potential funding sources; and
  - an appropriate balance must be struck between meeting all or part of the infrastructure gap by CIL and the potential impact of CIL upon the economic viability of development across the area.
- 2.7 Most importantly, the Council must be able to demonstrate at an independent examination, undertaken by a Planning Inspector appointed by the Secretary of State that imposing a CIL charge would not make development of the area economically unviable.
- 2.8 It is important to note, that a CIL charge, if introduced, must not be expected to pay for the entire infrastructure required to support growth and should only be considered as part of a wider package of funding, which highlights the continued importance of securing funding from all potential sources.

### **3.0 EVIDENCE BASE REQUIREMENTS**

- 3.1 The evidence base requirements that would need to be satisfied to introduce a CIL charge in Wirral are set out below:

#### **An Up-to-Date Local Plan**

- 3.2 The Council's Core Strategy Local Plan is now at an advanced stage in preparation. A revised Proposed Submission Draft Core Strategy is expected to be presented to the Council for approval for publication and public examination in July 2015. The Core Strategy will set out the spatial vision, strategic objectives and future policies for land use in the Borough and will set out the quantity, type and location of future growth that is envisaged to take place to 2030.

- 3.3 Proposed Submission Draft Policy CS44 – Phasing and Infrastructure, states that development will not be allowed where existing or proposed infrastructure would not be capable of supporting the proposed development; and Policy CS45 – Developer Contributions, will require developers to make reasonable provision for contributions to mitigate the impact of development. Where a CIL charging schedule has been adopted, Policy CS45 indicates that CIL contributions will be sought for:
- district-wide highway network management and sustainable travel initiatives;
  - the enhancement of district-level recreation facilities, open spaces and green infrastructure, including parks, sports facilities, countryside recreation sites and Local Nature Reserves;
  - district-level flood alleviation, coast protection and drainage capacity improvements;
  - network infrastructure for low carbon energy and heat distribution;
  - town, district and local centre and public realm improvements;
  - area wide mitigation required to comply with European nature conservation requirements; and
  - any necessary cross boundary infrastructure, if a need is identified within the plan period.
- 3.4 It is particularly important that the infrastructure required to be funded through CIL can be demonstrated to be directly related to the additional needs arising from the strategy for growth identified in the Core Strategy. Compliance with any statutory requirements, such as Habitats Regulations mitigation, would need to be prioritised for spending CIL income.

### **Infrastructure Requirements and Funding Gaps**

- 3.5 An Infrastructure Delivery Plan (IDP) is necessary to assess the quality and capacity of existing infrastructure and its ability to meet the spatial objectives and growth anticipated in the Core Strategy Local Plan. The IDP should demonstrate that the strategy is deliverable and identify, for at least the first five years, what infrastructure is required, who is going to fund and provide it, and how it relates to the anticipated rate and phasing of development.
- 3.6 A draft IDP for Wirral was published in December 2012, to accompany the Proposed Submission Draft Core Strategy approved by Council on 15 October 2012 (Minute 60 refers) and can be viewed at <http://www.wirral.gov.uk/downloads/5645>
- 3.7 The draft IDP showed a significant gap in funding for the infrastructure that would be necessary to deliver the level of growth set out in the Core Strategy Local Plan. Of the 160 items identified, 17 schemes had a total funding gap estimated to be in excess of £240 million, including £200 million for the proposed electrification of the Borderlands Bidston to Wrexham railway line. A further 106 items had not, however, yet had a cost identified for them.
- 3.8 While some of the projects and schemes identified in 2012 have since been completed, it is essential that the IDP remains as up-to-date and accurate as possible and it is imperative that all of the infrastructure items that are likely to be required have costs identified for them.

## **Viability Assessment**

- 3.9 Keppie Massie have already begun to assess the ability of future development to meet the objectives of the Core Strategy Local Plan and to yield contributions to meet infrastructure requirements through CIL.
- 3.10 A stakeholder meeting was held on 27 June 2013 to provide an opportunity for local residential and commercial developers to comment on the methodology and to inform the evidence base. The study adopts a standard methodology and follows guidance accepted across the development industry, by using the residual method of valuation. The method assesses scheme values against the costs of development to calculate the maximum amount that may be available for the payment of a CIL charge and tests the findings against a number of different scenarios, for different types and locations of development.
- 3.11 The study has now reached the baseline reporting stage and the Interim Baseline Report, attached as an Appendix to this Cabinet Report, outlines the background, methodology, assumptions and forms of development that have been tested, together with the results of the baseline viability testing.
- 3.12 A second report will follow later in the year, which will test the additional impact of the final policy requirements proposed in the Core Strategy Local Plan, including an allowance for CIL, to determine if the overall amount of development proposed in the Local Plan will still be deliverable and, if viable, to recommend a draft schedule of CIL charges for Wirral.

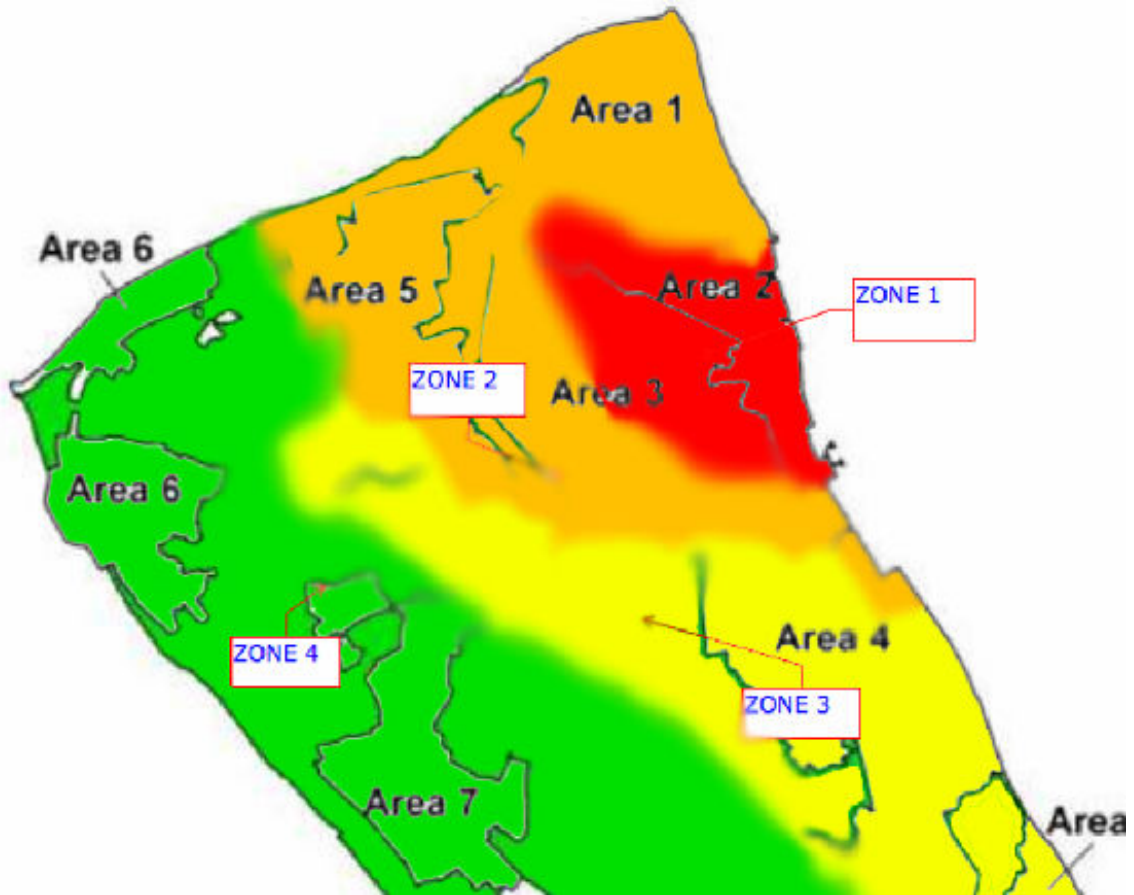
## **Baseline Findings**

- 3.13 The baseline stage has, for example, included detailed research into residential property values in Wirral. Figure 3.1 overleaf, illustrates the typical average sales values currently being obtained across the Borough, grouped into geographical zones overlaid on a map of the settlement areas used in the Core Strategy Local Plan.
- 3.14 Values generally tend to be lowest in and around the Commercial Core and in central Birkenhead (Zone 1) but are notably higher across in the western and more rural areas of the borough (Zone 4), while Wallasey, the mid-Wirral settlements and the more suburban parts of southern Birkenhead, Bebington, Bromborough and Eastham (Zones 2 and 3), lie somewhere in between.
- 3.15 Viability testing for residential development has, therefore, been based on each of these four different zones of value. Table 3.1 identifies the broad location and sales value adopted for the appraisals.

**Table 3.1: Summary of Residential Sales Values by Zone**

<b>Zone</b>	<b>Location</b>	<b>Sales value/m<sup>2</sup></b>
1	Birkenhead/Commercial Core	£1,615
2	Wallasey, Leasowe, Moreton, Upton, Bidston, Prenton, Rock Ferry	£1,776
3	Oxton, Bromborough, Greasby, Bebington, Eastham, Rural East Wirral	£2,045
4	Hoylake, West Kirby, Irby, Thingwall, Heswall, Rural West Wirral	£2,260

**Figure 3.1: Typical Average Residential Sales Values in Wirral**



- 3.16 A similar assessment of commercial property types has also been carried out. While differences in terms of the value of town centre/out of centre retail and office accommodation were observed, there only appeared to be relatively minor differences in values across different locations for industrial accommodation.
- 3.17 The baseline viability testing found that the majority of future residential development was likely to continue to be viable. Office and industrial development was found to be generally unviable without funding assistance in all locations. Retail schemes are also still mainly viable, with the exception of some local centres but leisure and other miscellaneous schemes are generally unviable, with the exception of cinemas and garden centres.
- 3.18 Tables 3.2 and 3.3 summarise the range of potential financial surpluses likely to be generated, per square metre of development, for the various residential and commercial development scenarios tested. The schemes take account of existing national and local policy requirements but at this stage exclude the future need for affordable housing, which is still to be identified through a separate Strategic Housing Market Assessment, which is currently being prepared by Nathaniel Lichfield and Partners.
- 3.19 An allowance for Section 106 contributions has not been included in this general calculation of viability, as Section 106 agreements currently tend to be restricted to addressing site-specific issues and are themselves subject to additional site-specific

viability testing. However, based on an analysis of actual past agreements, it is estimated that Section 106 payments would only have a very limited additional effect on development surpluses, with a modest reduction of between £3-8 per square metre of new development.

**Table 3.2: Summary of Viability Testing Residential Surplus (£/sqm) at 30 dph**

Residential	Zone 1	Zone 2	Zone 3	Zone 4
Houses (PDL)	Minus £115 to £75	Minus £130 to £148	£84 to £256	£207 to £373
Houses (GF)	£0 to £186	£128 to £312	£341 to £523	£464 to £640
Apartments	Minus £66 to Minus £21	£24 to £87	£187 to £262	£293 to £412

Note: PDL = previously developed land GF = previously undeveloped (greenfield) land

**Table 3.3: Summary of Viability Testing Non-Residential Surplus (£/sqm)**

Type of development	Town Centre	Out of centre
Industrial	Minus £516 to Minus £204	
Office	Minus £768 to Minus £553	Minus £660 to Minus £395
Convenience retail	£798	£562 to £792
Non-food retail	Minus £398 to £960	£397 to £410

### Interim Conclusions

- 3.20 The Interim Report concludes that certain types of development could therefore be expected to be able to make an additional contribution to infrastructure provision.
- 3.21 There is, for example, from the figures above, potential to introduce a CIL charge for residential development at least in Zones 3 and 4; and for retail development across the majority of the Borough. This would, however, need to be confirmed through further testing of the final policy requirements to be included in the Core Strategy Local Plan. This will be a key area of future choice for the Council, as any additional policy burdens imposed by the Core Strategy that will increase the costs of development, are likely to directly reduce the amounts that could be potentially raised from any CIL.

## **4.0 FUTURE POTENTIAL**

- 4.1 Until the final viability study report is received it will not be possible to speculate on what the final potential CIL charging rates for Wirral could be; however, the evidence from the baseline report suggests that the introduction of a CIL charge is unlikely to put overall levels of development at risk in many parts of the Borough.
- 4.2 To get a sense of the scale of the potential, it may be helpful to consider the amount of potentially chargeable development which has taken place in Wirral over the last 5 years.
- 4.3 Table 4.1 shows that 1,679 new-build dwellings and 23 retail schemes were completed in Wirral between 2009 and 2014. Based on 'average' house type sizes, almost 50,000 square metres of residential floorspace has been developed in Zones 3

and 4 since 2009, while nearly 18,500 square metres of retail floorspace has been developed across the Borough over the same period.

**Table 4.1: Amount of Completed Development in Wirral 2009 – 2014**

	2009/10	2010/11	2011/12	2012/13	2013/14	Total
<b>Class A1 Retail – Whole Borough</b>	2,012 (3)	1,236 (3)	12,205 (7)	2,528 (5)	471 (5)	18,452 (23)
<b>Housing – Zone 1</b>	1,870 (22)	1,849 (23)	2,773 (31)	6,424 (81)	5,739 (74)	18,656 (231)
<b>Housing – Zone 2</b>	14,948 (199)	12,528 (174)	6,629 (83)	16,765 (217)	16,918 (213)	67,788 (886)
<b>Housing – Zone 3</b>	4,662 (59)	5,876 (57)	10,628 (135)	11,260 (124)	8,162 (89)	40,588 (464)
<b>Housing – Zone 4</b>	425 (4)	506 (4)	604 (5)	3,930 (41)	3,235 (44)	8,701 (98)
<b>Total – Housing Only</b>	21,905 (284)	20,760 (258)	20,634 (254)	38,379 (463)	34,055 (420)	135,733 (1,679)

Note: Numbers relate to square metres of new development provided, with figures in (brackets) the actual number of dwellings/retail units completed in each zone in each year.

- 4.4 The Council's existing retail capacity assessment indicates a limited ongoing capacity for new future retail development up to 2030 but Core Strategy policies would continue to encourage additional investment within existing centres in line with national policy.
- 4.5 The final number of new houses to be provided in Wirral over the period to 2030 is still to be determined, in response to the findings from the Strategic Housing Market Assessment being prepared by Nathaniel Lichfield and Partners.

#### Experience from Other Authorities

- 4.6 In Merseyside, following completion of their respective Community Infrastructure Levy Economic Viability Assessments, St Helens have paused further work due to concern with current economic conditions, while Knowsley have decided not to introduce a CIL in the short term in but to keep the decision under annual review. Liverpool and Sefton Councils have yet to publish any evidence to justify introducing CIL.
- 4.7 West Lancashire Council introduced a CIL charge in September 2014, with two charging zones: Zone B covering most, but not all of Skelmersdale and Up Holland; and Zone A covering the rest of the borough. There is a nil charge on all types of development in Zone B. In Zone A, charges of £85 per square metre of residential; £160 per square metre of convenience retail (Use Class A1); and £90 per square metre of food and drink development (Use Class A3/A4/A5); will be applied. In the evidence submitted to examination, it was estimated that the introduction of the CIL charge had the potential to generate up to £9.9 million towards an identified infrastructure funding gap of at least £16 million.
- 4.8 Cheshire West and Chester are currently considering the feasibility of introducing CIL but no timetable has been identified and no draft charging schedule has yet been produced.

- 4.9 Nationally, 45 local authorities have brought forward proposals to bring a CIL tariff into force. 12 have charging schedules approved, 23 have submitted a draft charging schedule for examination and 25 have published draft charging schedules for consultation (CLG, July 2014).
- 4.10 Table 4.2 shows the maximum residential CIL rates per square metre being currently being charged by local planning authorities currently operating a CIL charge, outside London.

**Table 4.2: Non-London Local Planning Authorities - Maximum Residential CIL Rates**

Teignbridge District Council	£200	West Lancashire District Council	£85
Dartford Borough Council	£200	Huntingdonshire District Council	£85
Purbeck District Council	£180	Trafford Council	£80
Waveney District Council	£150	Shropshire Council	£80
Poole Borough Council	£150	Newark and Sherwood District	£75
Wycombe District Council	£150	Broadland District Council	£75
Bedford Borough Council	£125	Norwich City Council	£75
Taunton Deane Borough Council	£125	South Norfolk	£75
Chelmsford Borough Council	£125	Bristol City Council	£70
Sevenoaks District Council	£125	Exeter City	£70
Elmbridge Borough Council	£125	Southampton City Council	£70
Epsom & Ewell Borough Council	£125	Preston City Council	£65
Winchester City Council	£120	South Ribble Council	£65
Fareham Borough Council	£105	Chorley Borough Council	£65
Portsmouth City Council	£105	Bassetlaw District Council	£55
Havant District Council	£100	Caerphilly County Borough Council	£40
Oxford City Council	£100	Plymouth City Council	£30
East Cambridgeshire	£90	Merthyr Tydfil	£25

Source: [www.savills.co.uk](http://www.savills.co.uk) (November 2014)

- 4.11 Applying this range of charges to the housing development recorded in Wirral in Zones 3 and 4, in Table 4.1, would have generated between £1,232,225 (@£25 per sqm) and £9,857,800 (@£200 per sqm) for new infrastructure investment.

## 5.0 NEXT STEPS

- 5.1 The first step will be to revisit the Infrastructure Development Plan (IDP) and update the infrastructure evidence base to identify the detailed infrastructure projects for Wirral and the scale of the funding gap. It is essential that this is completed as soon as possible, before further consultation takes place on the Core Strategy Local Plan.
- 5.2 It is recommended that this process includes the establishment of two new working groups: an internal 'Heads of Service' Project Board, chaired and directed by the Head of Regeneration and Planning, comprising representatives from services including: Highways; Parks and Countryside; Housing; Education; Asset Management; Public Health; and Social Services; and a wider stakeholder/consultation group made up of external infrastructure providers, including bodies such as: Merseytravel; the LEP; Highways Agency; Natural England; Environment Agency; United Utilities; National Grid; Scottish Power Energy Networks; NHS Wirral; and the emergency services, to ensure that the information to be contained within the IDP is kept up-to-date, is fully costed and accurately reflects the wider infrastructure needs of the Borough.



- 5.3 In parallel, the Local Plan and Community Infrastructure Economic Viability Study commission must be completed to test the viability of the Core Strategy policies.
- 5.4 This evidence will then be used to produce a draft schedule of CIL charging rates for Wirral, which will be the subject of a further report to Cabinet.
- 5.5 Following the development of an appropriate evidence base, the charge setting procedure is anticipated to be as follows:
- Public consultation on a preliminary draft charging schedule (guidance recommends at least 6 weeks)
  - Take account of representations (an adequate time period must be allowed)
  - Public consultation on a draft charging schedule (regulations indicate at least 4 weeks but the Council's current Statement of Community Involvement would require at least 6 weeks)
  - Charging schedule examination, to be undertaken by a Planning Inspector appointed by the Secretary of State (recent examples suggest this will take at least 4 months from the submission of the draft charging schedule)
  - Publication of examiner's report
  - Adoption and publication of the charging schedule by resolution of full Council (subject to the next available Cabinet and Council meetings)
  - Statutory period for judicial review (currently 3 months)
  - Date of application of CIL charges (to be determined when the charging schedule is adopted, but at least one day after the date of publication).
- 5.6 Although the examination of the charging schedule can be undertaken alongside the examination of the Core Strategy Local Plan, this is normally undertaken as a separate exercise, once the local plan has been adopted, to provide greater certainty over the amount of development and infrastructure that will be needed.

## **6.0 RELEVANT RISKS**

- 6.1 The relevant risks are mainly financial and procedural.
- 6.2 While the baseline evidence suggests that it may be viable to introduce a CIL charge in Wirral, there is a risk that the final detailed economic viability assessment may show that it would be unviable to charge CIL on any development, which could lead to abortive costs.
- 6.3 Additional policy burdens that may be imposed by the Core Strategy Local Plan, that will increase the costs of development, are likely to diminish the amounts that could be potentially raised from any CIL.
- 6.4 The National Planning Policy Framework, which will be taken into consideration by the Planning Inspector(s) appointed to examine the Core Strategy Local Plan and/or any future charging schedule, states that careful attention must be paid to viability and costs in plan-making and that the costs of any requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer (NPPF, paragraph 171).

- 6.5 It is imperative that the necessary staffing and financial resources are retained, to properly prepare the proposed charging schedule for examination and to introduce and manage the various back-office systems for implementing and monitoring the CIL collection and expenditure process, which may be difficult under the Council's current financial constraints.
- 6.6 It is inevitable that the proposed charging schedule will be challenged by developers and land owners, with implications for timescales and costs at examination, which could be mitigated by public consultation and by ensuring that CIL rates are set at a level that will continue to ensure a reasonable level of return for investment.
- 6.7 A failure to provide robust evidence of the need for relevant additional infrastructure and of an appropriate funding gap would prove fatal to the success of the proposed charging schedule at examination.
- 6.8 The risk that CIL rates may be set too high will be mitigated by the legal requirement to ensure that in setting rates, a charging authority must strike an appropriate balance between the desirability of funding infrastructure from CIL, and the potential effects of the imposition of CIL on the economic viability of development across the area (Regulation 14, Community Infrastructure Levy Regulations 2010 as amended).
- 6.9 The final impact of any CIL may also be determined by the response of neighbouring authorities, who may choose not to charge any levy and/or a lower levy for some or all types of development, which could make their areas more attractive to some types of investor, which could be mitigated by an agreed cross-boundary approach.
- 6.10 There is a risk that Registered Providers which have to build housing to higher specifications than private developers could be deterred from building in Wirral by the addition of a CIL charge, harming the Council's ability to meet local housing needs, reduce waiting lists and minimise the use of temporary accommodation; which in turn drives up costs for the Council. This could be mitigated by the Council resolving to apply discretionary social housing relief, which would remove any liability from Registered Providers.
- 6.11 The introduction of CIL could also potentially result in a fall in housing delivery, with impacts on annual housing targets and maintaining an adequate supply of deliverable housing sites, which could be mitigated by committing to an early review of CIL rates (e.g. after a year).

## **7.0 OTHER OPTIONS CONSIDERED**

- 7.1 The only options to consider relate to the decision on whether it will be appropriate to seek to charge a CIL tariff in Wirral, in terms of the potential impact on growth and investment in the local economy and relate to the decision on the level of the levy to be charged for different types of development.
- 7.2 The Council will also need to decide on the most appropriate balance of policy burdens to be imposed through the Core Strategy Local Plan.
- 7.3 The appraisal of these further options will be the subject of a further report to Cabinet, once the initial preparatory work approved under this report has been completed.

## **8.0 CONSULTATION**

- 8.1 Consultation on the Proposed Submission Draft Core Strategy Local Plan, which includes Policy CS45 – Developer Contributions and a Draft Infrastructure Delivery Plan (IDP), took place between December 2012 and February 2013, in line with the requirements of the Council's Statement of Community Involvement (December 2006).
- 8.2 The methodology for the Local Plan and Community Infrastructure Economic Viability Study was presented to a stakeholder workshop on 27 June 2013 and was then subject to public consultation in July 2013. Comments received on the methodology have been incorporated into the subsequent baseline viability testing.
- 8.3 There is no requirement for public consultation prior to the publication of a preliminary draft charging schedule. Securing agreement and sign-off from the development industry on the robustness of the assumptions and inputs used in the assessment of development viability will, however, be a key task in of the Core Strategy and CIL Viability Assessment, which will be published for public comment alongside the revised Proposed Submission Draft Core Strategy towards the middle of 2015.
- 8.4 Two stages of consultation, on a preliminary draft charging schedule and on a draft charging schedule, must be completed as a statutory requirement before the CIL examination takes place.

## **9.0 OUTSTANDING PREVIOUSLY APPROVED ACTIONS**

- 9.1 This report satisfies and takes forward the previous resolution to establish an evidence base to support the development of a draft charging schedule of infrastructure and costs in relation to the Core Strategy Local Plan (Cabinet, 8 December 2011, Minute 225 refers).

## **10.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

- 10.1 CIL could be used to support community projects that may be of interest to voluntary, community and faith groups, where a need has been identified.
- 10.2 Voluntary, community and faith groups have been included in consultation on the Proposed Submission Draft Core Strategy and draft Infrastructure Plan and will be consulted on the content of any CIL Charging Schedule.
- 10.3 The CIL regulations make a number of provisions for charging authorities to give relief from the levy for charities. Relief can be mandatory, where the development will be used for charitable purposes including the provision of charitable social housing. Or, discretionary, where the development will be held as an investment, from which the profits are to be applied for charitable purposes. Private Registered Providers of social housing (as defined in the Housing and Regeneration Act 2008 as amended) that are not charities can also be eligible for full relief from the levy.
- 10.4 Local authorities must allocate at least 15% of levy receipts to spend on priorities that should be agreed with the local community in areas where development is taking place. This can increase to a minimum of 25% in certain circumstances in areas

where a Neighbourhood Plan is in place, or where development has been granted permission by a Neighbourhood Development Order.

## **11.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

- 11.1 Keppie Massie were appointed on 13 March 2013 to undertake the Core Strategy Viability Study, following the publication of a Request for Quotation, for £19,890, from an original budget of £25,000, funded from the Council's Regeneration and Planning budget (Delegated Decision published on 20 June 2013).
- 11.2 Joint working and effective relationships with infrastructure providers and all Council services and departments will be essential to identify current deficits in provision and assess the impacts of growth on Wirral and its future infrastructure needs.
- 11.3 Experience has shown that councils that have been able to prepare and apply a levy most quickly are typically those that see it as a corporate project, involving services beyond the planning department, with senior sponsorship at an early stage.
- 11.4 No additional resources have yet been identified in the Council's budgets for the preparation, examination or operation of a Community Infrastructure Levy.
- 11.5 The Government's 'Localism Bill: Community Infrastructure Levy Impact Assessment' (CLG, January, 2011) estimated the set-up costs for individual authorities to comprise:
- Consulting on the Draft Charging Schedule: £10,000 – £20,000
  - Costs of the Examination in Public: £29,790 (2-day hearing)
  - Printing costs: £500 – £1,500
- 11.6 A CIL charge will require new systems for the collection, recording and distribution of monies sought from developers and will widen the current administrative processes associated with the assessment of CIL liabilities when planning applications are submitted and the collection and enforcement of payments when development commences. The Council will also be required to monitor and report at least annually on the collection and spending of any levy receipts.
- 11.7 The costs associated with these new systems will need to be assessed once a draft Charging Schedule has been prepared. The majority of expenditure will need to be incurred before any charge can be applied to development.
- 11.8 Robust governance arrangements will need to be put in place, which are likely to require at least one FTE post dedicated to the implementation of a CIL system. A charging authority can, however, use funds from the levy to recover the costs of administering the levy (up to 5% of total levy receipts), which can include set up costs as well as ongoing expenses.
- 11.9 The adoption of a CIL charge by the Council may mean a scaling back of Section 106 payments received for the types of community infrastructure to be supported by any future CIL, to prevent double-charging. For reference, the monies either paid or due from Section 106 agreements entered into over the last three years were £11,100 during 2011/12; £229,275 during 2012/13; and £53,500 during 2013/14.

## **12.0 LEGAL IMPLICATIONS**

- 12.1 The decision to consult on and publish a draft charging schedule, submit documents and information to the examiner, approve and publish a charging schedule or determine that a charging schedule is to cease to have effect, must be confirmed by a resolution of Full Council.
- 12.2 National Planning Policy Guidance expects that any CIL will be based on up-to-date and relevant evidence and should be consistent with that which was undertaken as part of preparing a sound relevant Local Plan.
- 12.3 Regulations require that authorities must strike a balance between funding infrastructure from the levy and the potential impact upon the economic viability of development across their area. The National Planning Policy Framework states that careful attention should be paid to viability and costs in plan-making and that the costs of any requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer (NPPF, paragraph 171).
- 12.4 Once established, Levy payments will be liable for payment as a standard non-negotiable charge on new development, although charging authorities can offer relief from paying the levy in exceptional circumstances where the authority has made this facility available and applicants can satisfactorily demonstrate that the costs of site-specific infrastructure would make a particular scheme unviable, if the full charge set by CIL was imposed.
- 12.5 The Council's ability to use Section 106 contributions will be limited to prevent 'double-charging' under both sets of requirements.
- 12.6 Extensive enforcement powers are available to ensure that collecting authorities have the means to penalise late payment and deter future non-compliance, including stop notices and other enforcement provisions, applied to development proposals liable for CIL.
- 12.7 Any revisions to the Charging Schedule, in whole or in part, must follow the same process as that applied to the preparation, examination, approval and publication of the initial schedule (subject to any revisions to the Planning and CIL Regulations).

## **13.0 EQUALITIES IMPLICATIONS**

- 13.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?
- (a) Yes and impact review is attached at <https://www.wirral.gov.uk/my-services/community-and-living/equality-diversity-cohesion/equality-impact-assessments/eias-april-2014/eias-regeneration-envir>
- 13.2 The undertaking of an economic viability assessment of the Core Strategy and the preparation of an infrastructure evidence base will not have any equalities implications but will provide an additional source of accessible up-to-date public information.

- 13.3 A further Equality Impact Assessment will be required to assess the likely impact of the CIL Charging Schedule on different people groups once a draft Charging Schedule has been prepared.

#### **14.0 CARBON REDUCTION AND ENVIRONMENTAL IMPLICATIONS**

- 14.1 CIL is unlikely to directly affect carbon reduction unless it is used to fund infrastructure, such as open space and tree planting, which will directly assist in the delivery of carbon reduction.

#### **15.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

- 15.1 Once adopted, a CIL Charging Schedule would form part of the statutory Development Plan for Wirral.
- 15.2 The preparation of a CIL Charging Schedule must be closely linked to the land-use proposals contained within the Council's adopted Local Plans.
- 15.3 The content of the adopted Local Plan its supporting evidence base will be capable of being a material consideration in the setting of CIL charges.
- 15.4 CIL is unlikely to directly affect community safety unless it is used to fund infrastructure projects, such as flood prevention or coast protection, which will directly assist community safety.

#### **16.0 RECOMMENDATIONS**

- 16.1 That Cabinet approves the findings of the interim baseline economic viability study, attached to this report, as the basis for the further development of a potential charging schedule for a Community Infrastructure Levy for Wirral.**
- 16.2 That Cabinet endorses the approach for preparing an updated Infrastructure Development Plan, with input from all Council Departments and Heads of Service and external infrastructure providers, as detailed in section 5 of this report.**
- 16.3 That a draft schedule of charges, revised Infrastructure Delivery Plan, report of implementation costs and an up-to-date assessment of the impact on the viability of future development is prepared, for Full Council approval, once the content of the Core Strategy Local Plan has been approved.**

#### **17.0 REASON/S FOR RECOMMENDATION/S**

- 17.1 To meet the national policy, procedural and legal requirements to introduce a Community Infrastructure Levy, to enable financial benefits from new development to be used to provide new infrastructure required by the wider community, in line with Part 11 of the Planning Act 2008 (as amended) and the Community Infrastructure Levy Regulations 2010 (as amended).

**REPORT AUTHOR: David Butler**  
*Principal Planning Officer Forward Planning*  
Telephone: 0151 691 8314  
Email: [davidbutler@wirral.gov.uk](mailto:davidbutler@wirral.gov.uk)

## **APPENDICES**

Local Plan & Community Infrastructure Levy Economic Viability Study Interim Baseline Report and Appendices

## **BACKGROUND PAPERS/REFERENCE MATERIAL**

Community Infrastructure Levy – Planning Act 2008 can be viewed at: <http://www.legislation.gov.uk/ukpga/2008/29> (Part 11 refers – subject to the amendments below)

The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 can be viewed at: <http://www.legislation.gov.uk/uksi/2009/1307/schedule/1/made> (Schedule 1, Paragraph 296 refers)

Charities Act 2011 can be viewed at: <http://www.legislation.gov.uk/ukpga/2011/25> (Schedule 7, Part 2 refers)

Localism Act 2011 can be viewed at: <http://www.legislation.gov.uk/ukpga/2011/20> (Part 6, Chapter 2 refers)

The Community Infrastructure Levy Regulations 2010 (SI No. 948) can be viewed at: <http://www.legislation.gov.uk/uksi/2010/948/contents/made> (subject to the amendments below)

The Community Infrastructure Levy (Amendment) Regulations 2011 (SI No. 987) can be viewed at: <http://www.legislation.gov.uk/uksi/2011/987/contents/made>

The Localism Act 2011 (Infrastructure Planning) (Consequential Amendments) Regulations 2012 (SI No. 635) can be viewed at: <http://www.legislation.gov.uk/uksi/2012/635/made>

The Community Infrastructure Levy (Amendment) Regulations 2012 (SI No. 2975) can be viewed at: <http://www.legislation.gov.uk/uksi/2012/2975/contents/made>

The Community Infrastructure Levy (Amendment) Regulations 2013 (SI No. 982) can be viewed at: <http://www.legislation.gov.uk/uksi/2013/982/contents/made>

The Community Infrastructure Levy (Amendment) Regulations 2014 (SI No. 385) can be viewed at: <http://www.legislation.gov.uk/uksi/2014/385/contents/made>

National Planning Policy Framework (March 2012) and Planning Practice Guidance can be viewed at <http://planningguidance.planningportal.gov.uk/>

‘Planning Practice Guidance – Community Infrastructure Levy Guidance’ can be viewed at: <http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/>

The Proposed Submission Draft Core Strategy Local Plan (December 2012) can be viewed at <http://www.wirral.gov.uk/downloads/5640>

The Proposed Submission Draft Infrastructure Plan (December 2012) can be viewed at <http://www.wirral.gov.uk/downloads/5645>

## **BRIEFING NOTES HISTORY**

<b>Briefing Note</b>	<b>Date</b>

## **SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
Cabinet – Local Development Framework for Wirral – Developer Contributions and The Community Infrastructure Levy (Minute 225)	8 December 2011
Cabinet – Local Development Framework for Wirral – Core Strategy – Publication of Proposed Submission Draft (Minute 92)	27 September 2012
Council – Local Development Framework for Wirral – Core Strategy – Publication of Proposed Submission Draft (Minute 60)	15 October 2012
Delegated Decision Report – Local Development Framework for Wirral – Report of Consultation on the Proposed Submission draft Core Strategy	20 June 2013