

**NOTICE OF DELEGATION OF DECISION TO CABINET MEMBER BY STRONG LEADER**

Section 15(4) of the Local Government Act 2000, the senior executive member may discharge any of the functions that are the responsibility of the Cabinet or may arrange for them to be discharged by another member of the Cabinet or Officer. On 1<sup>st</sup> December 2010, the Council adopted the Strong Leader Model for Corporate Governance 2011 as required under Part 3 of The Local Government and Public Involvement in Health Act 2007 (The 2007 Act).

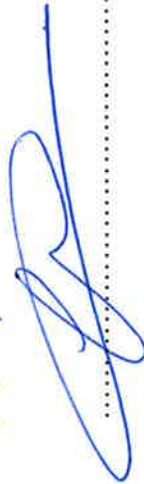
I, J-P Campion, as Strong Leader, delegate the decision for the approval of the Draft Project Plan and Timetable for the Production of the Community Infrastructure Levy Charging Schedule, as detailed in the Forward Plan to the Cabinet Member detailed below:

Cabinet Member for Place Shaping, Councillor Mrs Anne Hingley

Dated:

3/4/13

Signed:

  
.....

Leader of the Council

**NOTICE OF DECISION OF CABINET MEMBER**

Pursuant Section 15(4) of the Local Government Act 2000, as amended by section 63 of the Local Government and Public Involvement in Health Act 2007, the senior executive member may discharge any of the functions that are the responsibility of the Cabinet or may arrange for them to be discharged by another member of the Cabinet or Officer. On 1<sup>st</sup> December 2010, the Council adopted the Strong Leader Model for Corporate Governance 2011 as required under Part 3 of The Local Government and Public Involvement in Health Act 2007 (The 2007 Act).

In accordance with the authority delegated to by the Leader, I have made the following decision:

Subject	Decision	Reason for decision	Date for Decision to be taken
Draft Project Plan and Timetable for Production of Community Infrastructure Levy (CIL) Charging Schedule	The Draft Project Plan and Timetable be approved as a basis for progressing a district wide Community Infrastructure Levy Charging Schedule.	To enable the District Council to progress towards consultation on a Preliminary Draft Community Infrastructure Levy Charging Schedule in July 2013.  It is important that the District Council progresses with CIL in a timely fashion to ensure that collective contributions towards strategic infrastructure can continue to be secured.	26/03/13

**I confirm that the appropriate statutory officer consultation has taken place with regard to this decision.**

Dated: 3/4/13

Signed:  .....

Councillor: Mrs Anne Hingley.....  
Cabinet Member for Place Shaping

To: Cabinet Member for Place Shaping

From: Director of Economic Prosperity & Place

Date 26/03/13

**COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE – DRAFT  
PROJECT PLAN AND TIMETABLE**

**1. PURPOSE**

- 1.1 To provide details of evidence undertaken to inform the potential for the District to progress with a Community Infrastructure Levy (CIL) Charging Schedule. To seek approval of the Draft Project Plan and timetable for developing a CIL charging schedule.

**2. RECOMMENDATION**

- 2.1 The Draft Project Plan and Timetable attached at Appendix 1 to this report be approved as a basis for progressing a district wide Community Infrastructure Levy Charging Schedule.**

**3. BACKGROUND**

- 3.1 The CIL Regulations came into force in April 2010 and set out detailed provisions which enable Local Authorities to introduce a CIL. Amendments were introduced to the Regulations in 2011 and 2012. Draft Regulation 59A (Duty to Pass CIL to Local Councils) was introduced in February 2013. This specifies that where chargeable development takes place in an area for which there is a Parish Council, a proportion of the CIL will pass to that Council. Where there is no Parish Council, the charging authority will retain the funds to spend on behalf of the local community. The proportion will be 25% for those Parished areas where there is a Neighbourhood Development Plan (NDP) in place or where that development has been enabled via a Neighbourhood Development Order (NDO). Where there is no NDP or NDO in place the proportion of CIL receipts passed to the Parish Council will be 15%.
- 3.2 Charging authorities wishing to implement a levy must produce a Charging Schedule setting out the levy's rate in their area. The rate should be set at a level that does not put the overall development of their area at risk and must aim to strike what the charging authority believes to be an appropriate balance

between the desirability of funding infrastructure and the potential effects of the levy upon the economic viability of development across their area.

- 3.3 In setting the proposed levy rate charging authorities should also identify:
- The funding gap that the levy is intended to support, having taken account of the other sources of available funding (it is not expected to fill the whole gap).
  - A selection of indicative infrastructure projects or types of infrastructure that are likely to be funded by the levy (or the Regulation 123 List).
- 3.4 A report was presented to the LDF Panel meeting on 28<sup>th</sup> November 2012 which updated Members on viability evidence work undertaken by consultants, HDH Planning and Development, and introduced the concept of the Regulation 123 Infrastructure List. This highlighted the potential to progress a Preliminary Draft Charging Schedule to public consultation in spring 2013.
- 3.5 Members considered the Draft Project Plan and Timetable at the Overview and Scrutiny meeting held on 14<sup>th</sup> March. Their comments will be summarised via a verbal update at the Cabinet meeting.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 The development of CIL involves a number of stages of consultation requiring financial support which can initially be met from within the LDF budget. The appended Project Plan includes further information with regard to funding the administrative implications arising from CIL, from the receipts collected. Once a CIL Charging Schedule has been implemented up to 5% of the receipts may be used for administration processes.
- 4.2 CIL receipts collected from new developments will help to fund much needed infrastructure to support growth across the District.

#### **5. SECTION 151 OFFICER'S COMMENTS**

- 5.1 No comments received.

#### **6. LEGAL AND POLICY IMPLICATIONS**

- 6.1 The District Council must meet the CIL Regulation requirements listed above at Paragraph 3.1 when progressing a CIL Charging Schedule.

- 6.2 CIL charging rates should not jeopardise the overall deliverability of sites identified in the District's Site Allocations and Policies Local Plan.

## **7. CONCLUSION**

- 7.1 Viability Assessment work has demonstrated that on the whole development within the District would not be put at risk if a relatively low rate of CIL was levied on residential, large retail and hotel development. CIL provides a transparent means of ensuring that new development contributes to infrastructure requirements within the District. There are significant benefits to existing local residents who have greater transparency, involvement and understanding of how new developments will contribute to their community.
- 7.2 It is important that the District Council progresses with CIL in a timely fashion to ensure that collective contributions towards strategic infrastructure can continue to be secured. Officers consider that the Draft Project Plan sets out a challenging and realistic timeframe for progressing a CIL Charging Schedule that takes account of all relevant stages as required by the Regulations.

## **8. RISK MANAGEMENT**

- 8.1 In setting the CIL charges the District Council must ensure that the overall viability of development as identified within the Adopted Core Strategy, Site Allocations and Policies Local Plan and Kidderminster Central Area Plan is not put at undue risk. Steps have already been taken to test viability levels across the Worcestershire District authorities.
- 8.2 Due to the proposed timescales for progressing CIL it is considered that the risks would be minimal for limitations on pooling Section 106 towards infrastructure provision post April 2014.

## **9. EQUALITY IMPACT NEEDS ASSESSMENT**

- 9.1 The CIL Charging Schedule is being taken forward as part of the District's Local Development Framework, which has been subject to an EIA. There are no negative implications arising.

## **10. CONSULTEES**

- 10.1 Director of Resources.

**11. BACKGROUND PAPERS**

- 11.1 Community Infrastructure Levy Guidance – December 2012 (Department for Communities and Local Government).
- 11.2 Worcestershire CIL Viability Study (January 2013) HDH Planning and Development.
- 11.3 Wyre Forest District Infrastructure Delivery Plan (January 2013).

## APPENDIX 1 - Programme Management - Timetable for the Preparation of Community Infrastructure Levy Charging Schedule

	2013												2014											
	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
Wyre Forest Community Infrastructure Levy Charging Schedule																								

### Wyre Forest Community Infrastructure Levy Charging Schedule

- |   |  |
|---|--|
| 1 | Developing preliminary Draft Charging Schedule                       |
| 3 | Consultation on preliminary Draft Charging Schedule                  |
| 4 | Analysis of representations and develop Draft CIL Schedule           |
| 5 | Eight week pre-submission publication on Draft CIL Charging Schedule |
| 6 | Analysis of representations and submission for examination           |
| 7 | Examination in Public  |
| 8 | Receive Inspector's Report   |
| 8 | Adopt CIL Charging Schedule  |

## **Wyre Forest District Council**

### **Developing a CIL Charging Schedule: Project Plan**

#### **1. Introduction**

- 1.1 This project plan sets out the background, requirements and timescales for progressing a Community Infrastructure Levy (CIL) Charging Schedule for the Wyre Forest District. CIL is a levy that Local Authorities can charge on new developments. It is intended to supplement other infrastructure delivery funding. The CIL Charging Schedule will sit within the Local Development Framework, however it will not form part of the statutory development plan.
- 1.2 A Gant Chart which sets out the key stages and timetable for implementation of a CIL Charging Schedule is attached at Appendix 1.

#### **2. Legislative Background**

- 2.1 Section 206 of the Planning Act 2008 provides charging authorities with the power to charge the Community Infrastructure Levy. The charging authority's responsibility will be to:
  - Prepare and publish a document known as the "charging schedule" which will set out the rates of CIL which will apply in the authority's area.
  - Apply the levy revenue it receives to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area.
  - Report to the local community on the amount of levy revenue collected, spent and retained each year.
- 2.2 A charging authority must set out its proposed levy rate in a charging schedule (Section 211(1) of the Act). Charging schedules should be consistent with and support implementation of up-to-date Local Plans.
- 2.3 The Government issued new statutory guidance on 14<sup>th</sup> December 2012 under Section 221 of the Planning Act, which Charging Authorities must have regard to. This guidance should be complied with in terms of the setting and operation of the Levy. It sets out the evidence required and outlines the linkages between the relevant plan, CIL, S106 Obligations and spending of the CIL on infrastructure.

#### **3. The case for progressing CIL within the Wyre Forest District**

- 3.1 After April 2014, the CIL Regulations will mean Local Authorities won't be able to pool contributions from more than 5 developments. Therefore pooling the collection of payments



for strategic infrastructure such as parks and open spaces and education (as is currently possible under the Council's Adopted Planning Obligations SPD), would not be possible unless a CIL Charging Schedule was in place.

- 3.2 Initial work undertaken on Infrastructure Delivery has established that there is a substantial infrastructure funding gap that exists within the District. If a CIL Charging Schedule was brought forward, payments collected would provide some contribution towards funding important strategic infrastructure.
- 3.3 Viability Assessment work undertaken by HDH Consultancy has demonstrated that on the whole development within the District would not be put at risk if a relatively low rate of CIL was levied on residential, large retail and hotel development.
- 3.4 It is considered that CIL provides a transparent means of ensuring that new development contributes to infrastructure requirements within the District. Developers are provided with more certainty as they would be aware of the charges to be levied ahead of submitting their planning applications.
- 3.5 There are also significant benefits to existing local residents who also have greater transparency, involvement and understanding of how new developments will contribute to their community.

#### **4. Viability Assessment**

- 4.1 In deciding the rate(s) of the levy for inclusion in its draft charging schedule, a key consideration is the balance between securing additional investment for infrastructure to support development and the potential economic effect of imposing the levy upon development across their area.
- 4.2 The Worcestershire District authorities, in conjunction with the County Council, commissioned consultants HDH Planning and Development to advise them in connection with the introduction of CIL, particularly in the context of viability testing. When a charging authority submits its draft charging schedule for Examination, it must provide evidence on economic viability and infrastructure planning. Regulation 14 requires that a charging authority, in setting levy rates, *"must aim to strike what appears to the charging authority to be an appropriate balance between the desirability of funding infrastructure from the levy and the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area."*
- 4.3 HDH's recommended strategy for setting CIL across Worcestershire is to set well within the band of viability and to develop a limited Regulation 123 (Infrastructure) list to reflect an uncertain market. This will allow developers to maintain control of the delivery of

infrastructure for large sites therefore giving more certainty of delivery. A limited Regulation 123 list will enable Councils to develop and implement a strategy of further site specific S106 payments. This approach will maximise the overall contribution of developers, but will allow the flexibility to negotiate on a site by site basis.

## **5 Infrastructure Planning**

- 5.1 Information on the charging authority area's infrastructure needs should be directly related to the infrastructure assessment that underpins the Local Plan as this will identify the quantum and type of infrastructure required to release local development and growth needs.
- 5.2 In determining the size of its total or aggregate infrastructure funding gap, the charging authority should consider known and expected infrastructure costs and other sources of possible funding available to meet those costs. The focus should be on providing evidence of an aggregate funding gap that demonstrates the need to levy the Community Infrastructure Levy.
- 5.3 The Charging authority should set out at examination a draft list of the projects or types of infrastructure that are to be funded in whole or in part by the levy. The charging authorities should also set out those known site-specific matters where section 106 contributions may continue to be sought.
- 5.4 The District Council has developed an Infrastructure Delivery Plan (IDP) for Wyre Forest to inform its Site Allocations and Policies Local Plan and Kidderminster Central Area Plan. The IDP has established the requirement for infrastructure to support the proposed new development and the costs of providing this. It also considers the amount of funding that may be available from other sources. This has established that there is a funding gap of £114.72 million and that the cost of providing the infrastructure is more than the identified funding.
- 5.5 The Infrastructure Delivery Plan will help to inform the Council's Regulation 123 Infrastructure List which will set out the type of infrastructure that will be funded through monies collected via the CIL Charging Schedule. The Regulation 123 list is to be included alongside the Preliminary Draft Charging Schedule at Stage 1 below.

## **6 Stages in developing the Charging Schedule**

### **1) Developing a Preliminary Draft Charging Schedule (March- May 2013)**

The District Council must consult on its proposed levy rates in a preliminary draft charging schedule. The CIL Regulations require statutory consultation to be

*Wyre Forest District Council*

*Community Infrastructure Levy Charging Schedule: Project Plan (March 2013)*

undertaken on the Preliminary Draft Charging Schedule in the first instance to ensure that Councils that wish to become CIL Charging Authorities have a case for raising CIL to fund infrastructure investment. It also helps to test and confirm that proposals to raise CIL charges are appropriate in terms of viability in the context of the local development market. The purpose of this stage is to identify any potential issues in the approach and to allow adjustment for consultation on the Draft Charging Schedule and EIP.

## **2) Consultation on Preliminary Draft Charging Schedule (June – July 2013)**

There is a requirement to consult specific bodies. Early engagement with local developers and landowners will be an important part of this process. Collaboration with Worcestershire County Council will be important in setting the levy rate and in agreeing the priorities for how the levy will be spent. Where possible, priorities for spending the levy should take into account the County Council's infrastructure spending priorities in the light of aggregate funding gap and other infrastructure funding sources.

Charging authorities are encouraged to consult for at least six weeks to ensure that local communities and delivery partners have sufficient opportunities to make their views known.

## **3) Analysis of representations and development of Draft CIL Charging Schedule (August – November 2013)**

The District Council will use the responses submitted on the Preliminary Charging Schedule to inform the production of its Draft CIL Charging Schedule. This will include further engagement with developers, landowners and local interest groups. The Draft Charging Schedule will need approval from full Council for its publication and subsequent submission for Independent Examination.

## **4) 8 week consultation on Draft CIL Charging Schedule (November – January 2014)**

The District Council will publish the draft schedule and the appropriate available evidence on infrastructure costs, other funding sources and economic viability prior to its submission for examination.

Any person may make representations on the draft charging schedule and that person must be heard before the examiner at the examination if they have requested to be heard.

## **5) Analysis of representations and Submission for Independent Examination (March 2014)**

The District Council will assess all representations received during the Publication stage and establish whether any would necessitate further modifications to the Charging Schedule prior to its submission for examination.

**6) Examination In Public (May 2014)**

The District Council must appoint an independent person (who has appropriate qualifications and experience), to examine the draft charging schedule. The cost of the independent examination is to be borne by the District Council as the charging authority.

**7) Examiner's Report (June 2014)**

Following the Independent Examination the Examiner will issue their report which will recommend approval, modification or rejection of the draft charging schedule.

**8) Adoption (July 2014)**

Subject to the receipt of a satisfactory Examiner's Report, the Charging Schedule should be formally approved by a resolution at Full Council. An appropriate commencement date must be inserted. The schedule will come into effect and the levy will become chargeable on development from that date.

**9) Reviewing and revising the charging schedule**

It is important that the charging schedule is kept under review to ensure it remains appropriate over time as market conditions change. Any revisions must follow the same process as that applied to the preparation, examination, approval and publication of the initial schedule.

## **7 Resource issues**

7.1 There are significant resource issues associated with the introduction of a CIL Charging Schedule for the District, broadly speaking these are associated with the three key stages in adopting and implementing a CIL:

- 1) Setting the CIL rates
- 2) Setting up the processes for collecting CIL
- 3) Developing robust governance procedure for the expenditure of CIL

7.2 The costs of developing and implementing CIL are to be met from the LDF budget and may be repaid from future CIL receipts. Once a CIL Charging Schedule has been implemented up to 5% of CIL receipts may be used for its administration processes associated with Stages 2 and 3 set out above. CIL Government Guidance states that this could cover functions such as set up costs, consultation on the levy charging schedule, preparing evidence on viability or the costs of the CIL examination. They also include ongoing functions such as establishing and running billing

and payment systems, enforcing the levy, the legal costs associated with payments in kind and monitoring and reporting on CIL activity.

## **8 Background Papers**

- Community Infrastructure Levy Guidance – December 2012 (Department for Communities and Local Government)
- Worcestershire CIL Viability Study (January 2013) HDH Planning and Development
- Wyre Forest District Infrastructure Delivery Plan (January 2013)

## **9 Appendices**

**Appendix 1** – Programme Management: Timetable for the Preparation of Community Infrastructure Levy Charging Schedule.

DRAFT