

# AGENDA ITEM 3(K)

## EXTRAORDINARY MEETING OF FULL COUNCIL

4<sup>th</sup> JULY 2017

### REPORT OF THE HEAD OF REGULATORY SERVICES

#### MELTON BOROUGH COMMUNITY INFRASTRUCTURE LEVY AND DRAFT CHARGING SCHEDULE

##### 1.0 PURPOSE OF REPORT

- 1.1 This purpose of this report is to present the findings of the Revised Local Plan and CIL Viability Study (May 2017) and the implications of the Independent Panel's CIL Review (February 2017) and seek authority to accept two documents as evidence to inform the formulation of the Local Plan, and to seek Council's agreement to pursue the establishment of a Community Infrastructure Levy (CIL) for the Borough, including authorisation of an initial consultation on the Preliminary Draft Charging Schedule.

##### 2.0 RECOMMENDATIONS

##### 2.1 It is recommended that Council :

- (i) **Authorise that consultation should be held in July and August 2017 on the Preliminary Draft Charging Schedule (see timetable at section 11 below and Preliminary Draft Charging Schedule at Appendix A attached);**
- (ii) **Agree that the Revised Local Plan & Community Infrastructure Levy Viability Study (May 2017) and Infrastructure Delivery Plan (March 2017) as adopted evidence for the formulation of the Local Plan and to inform other planning decisions, and that they are published alongside a proposed Addendum of Focussed Changes.**

##### 3.0 KEY ISSUES

- 3.1 The need for viability testing of Local Plans is established by the National Planning Policy Framework (NPPF) published in March 2012. The NPPF emphasises the importance of viability in the planning process and particularly in respect of development plan preparation. In order to ensure viability and deliverability of Local Plans, the NPPF states:

*"Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide*

*competitive returns to a willing land owner and willing developer to enable the development to be deliverable.” (Para 173).*

3.2 National Planning Policy Guidance provides the following guidance regarding the production of viability assessments in support of plan making:

- The cumulative cost of planning standards and obligations should be tested to ensure viability;
- Plan makers should not plan to the margin of viability but should allow for a buffer to respond to changing markets and to avoid the need for frequent plan updating.

3.3 Work to revise the Local Plan and CIL Viability Study has included:

- A review of draft policies, to ‘screen’ those policies that are likely to have a direct impact on development costs / viability.
- Viability modelling taking account of draft local plan policy requirements, assessment of scheme typologies, scenarios and sensitivities.
- More detailed viability testing of the Sustainable Neighbourhoods taking into account revised costings and values.

3.4 In order to support the planned growth, the Local Plan seeks to ensure that the appropriate infrastructure is delivered where and when it is needed. Preparing a Community Infrastructure Levy (CIL) offers Melton Borough Council the opportunity to put in place a tool for securing and collecting developer contributions for the infrastructure that is needed. This is especially pertinent since pooling restrictions on Section 106 contributions were introduced on 1 April 2015. These limit the number of projects which can contribute to a single item of infrastructure to no more than four, which would be insufficient to deliver some essential infrastructure.

3.5 In relation to CIL the NPPF states:

*“Community Infrastructure Levy charges should be worked up and tested alongside the Local Plan”. (Para 175 NPPF).*

3.6 The Local Plan and CIL Viability Study has therefore assessed the ‘headroom’ available for CIL for all development typologies of development as well as for the Sustainable Neighbourhoods.

3.7 The purpose of this report is to present the findings of the Revised Local Plan and CIL Viability Study (May 2017) and the implications of the Independent Panel’s CIL Review (February 2017), carried out on behalf of the Government. It also sets out the next steps required to adopt a CIL Charging Schedule and recommends that Full Council formally adopts the revised evidence, resolves to progress a Community Infrastructure Levy for Melton Borough, and agrees consultations on a Preliminary Draft Charging Schedule.

- 3.8 The Melton Local Plan sets out the future direction of growth for the Borough up to 2036. To enhance the prospect that the Local Plan is not only successful at Examination, but also successfully implemented once adopted it is necessary to demonstrate it is deliverable. In the context of this report, this is to ensure that the growth planned can occur and that restrictions placed on developments are not too onerous that they prevent development coming forward by making them unviable. To support this growth, additional infrastructure is required, to ensure new residents can live as sustainably as possible, with the highest quality life possible and reduced risk of social exclusion or ill health. The relevant infrastructure contained in the Local Plan includes the MMDR (Melton Mowbray Distributer Road), however there is a full raft of infrastructure required to deliver the growth promoted in the Local Plan, including education provision, utilities, transport, health, amenities and green infrastructure.
- 3.9 To ensure the above, two fundamental documents are required. The **Infrastructure Delivery Plan (IDP)** identifies the infrastructure funding gap based on the infrastructure needed to support the development proposals within the Local Plan. Without an evidenced funding gap, the Authority has no justification to adopt a CIL Charging Schedule. The IDP shows that there is a significant funding gap, which CIL can be used to mitigate.
- 3.10 The second key piece of evidence is the **Local Plan and CIL Viability Assessment**, which tests the viability of CIL. This test is essential, as CIL should not prevent development from coming forward by virtue of making it unviable. This work was completed by consultants on behalf of the Council. There had been a Leicestershire and Rutland CIL viability study completed in 2013, but a report specifically for Melton Borough and fully up to date is required. This study tested differing rates of CIL, to ensure an appropriate charge could be levied, whilst allowing for normally expected levels of developer profit and viability.
- 3.11 The IDP and Viability Study were published alongside the Pre-Submission Local Plan in October 2016 as part of the evidence base that underpins the Melton Local Plan. The update of both documents has been prepared in response to consultation comments on the Pre-Submission Local Plan and on-going dialogue with infrastructure providers. It is proposed that both documents are published alongside the proposed consultation on an Addendum of Focused Changes, provided that approach is adopted (see **item 3A of this agenda** for wider discussion of this approach).
- 3.12 For the purposes of CIL, Melton Borough Council is the “charging authority”. This means that the Council is responsible for setting any CIL rates, preparing the CIL Charging Schedule and collecting any monies raised. The Council can also prioritise the infrastructure that CIL income will be spent on. This infrastructure is included on a Regulation 123 list.
- 3.13 The CIL Charging Schedule will be based on the evidence highlighted above and sets out the rates that the Council intends to charge. Rates can vary by geographic area and/or by type of use and/or size of development. The

schedule is subject to two rounds of public and stakeholder consultation as well as an independent examination by a Planning Inspector or a relevantly qualified person, prior to its adoption and implementation.

### **3.14 Revised Local Plan And Cil Viability Study – May 2017**

3.14.1 In addition to responding to comments made to the Pre-submission Local Plan consultation and the results of on-going dialogue with infrastructure providers, the refresh took account of the following:

i) The Reference Group meeting held on 24th November 2016 which raised concerns that CIL could make smaller, low value developments unviable. As a result, further modelling work was carried out on archetypes of under 11 dwellings.

ii) Concerns expressed that the map of 'value areas' in the October 2016 study did not accurately reflect residential sales values, in particular for the Asfordby area. As a result, value areas were re-appraised to take account of residential sales over a 36 month period, as opposed to a 12 month period, and amended accordingly.

iii) HEDNA, the report 'Towards a Housing Requirement for Melton Borough' (**see item 3 B of this Agenda**) and the Housing White Paper. This new evidence supported modelling a different tenure mix, such that starter homes accounted for 4.4% of the overall mix, as opposed to 20% as in the October 2016 study had assumed. A summary of results from the evidence update are set out below.

### **3.15 Local Plan Policy Viability testing**

3.15.1 Overall the Local Plan has been assessed as being viable, subject to some important policy changes. These relate largely to affordable housing policy and some policy standards (**see item 3D of this Agenda**). The policy changes which are recommended are set out below:

i) **SS4 & SS5: Sustainable Neighbourhoods:** A requirement for 15% affordable housing is recommended, as opposed to the 37% in the Pre-Submission Draft. Provision for extra care housing and a local centre, not necessarily delivery of these. Contributions towards sports facilities should be subject to viability.

ii) **Policy C2: Housing Mix:** The requirement for retirement homes, sheltered homes and care homes to meet the technical standard for access of Building Regulations M4(2) should be modified, such that the standard is now encouraged, rather than required.

iii) **Policy C4: Affordable Housing:** The target of 37% should be replaced by differential rates reflecting the viability testing. For the rural value areas this would comprise maximum rates of 40%, 32% and 25%

for value areas 1 (southern rural), 2 (north-east rural covering the Vale of Belvoir) and 3 (north-west rural covering Asfordby, Old Dalby and Ab Kettleby). A rate of 5-10% for the urban area of Melton Mowbray and a rate of 15% for the Sustainable Neighbourhoods is considered achievable. The impacts on this policy are addressed in greater depth in

- iv) **Policy C9: Healthy Communities:** Contributions towards healthcare facilities should be subject to viability.

### 3.16 CIL Testing

3.16.1 The key results of the CIL testing demonstrate the following:

- i) CIL is viable in the rural areas for residential development. Rural Value Areas 1-4 are set out in Figure 5.1 of the Local Plan and CIL Viability Study. The viability assessments found that the north-west rural area (covering Asfordby, Old Dalby and Ab Kettleby) is less viable than was concluded in the October 2016 study and this now forms a new rural value area. Sales values were re-recorded over a 36 month period, as opposed to the 12 months in the October 2016 study, and lower sales values than in the Vale of Belvoir were identified.
- ii) The additional modelling for small schemes under 11 dwellings demonstrated that more headroom is available for CIL because these typologies are not required to deliver affordable housing under NPPG restrictions.
- iii) CIL is not viable for residential development in the Melton Urban Area or in the sustainable neighbourhoods.
- iv) CIL is viable for convenience stores, superstores (not discount) and takeaways, but no other types of commercial development, except shopping centres, which are unlikely to come forward in Melton.
- v) Overall, the study identifies that a little less CIL revenue is achievable than was the case in the October 2016 study. This is because the proportion of starter homes was reduced to 4.4% (from 20%) to reflect the evidence in HEDNA and the report Towards a Housing Requirement for Melton Borough (**see item 3D of this Agenda**). 'Transfer values' for starter homes are 80%, compared to 65% for intermediate and 42% for rented affordable housing, and therefore this change represents a reduction in revenue for house builders.
- vi) Tables 1 and 2 below set out the CIL charging scenarios. It can be seen that higher rates of affordable housing are commensurate with either no CIL headroom or a lower rate being achievable:

**Table 1: Achievable CIL for residential development**

Value Area	Small schemes 10 units or less		Schemes of 11 units or more											
	No affordable housing		40% Affordable housing		32.4% Affordable housing		25% Affordable housing		15% Affordable housing		10% Affordable housing		5% Affordable housing	
	Maximum Average CIL headroom	Maximum Average CIL headroom with 30% buffer	Maximum Average CIL headroom	Maximum Average CIL headroom with 30% buffer	Maximum Average CIL headroom	Maximum Average CIL headroom with 30% buffer	Maximum Average CIL headroom	Maximum Average CIL headroom with 30% buffer	Maximum Average CIL headroom	Maximum Average CIL headroom with 30% buffer	Maximum Average CIL headroom	Maximum Average CIL headroom with 30% buffer	Maximum Average CIL headroom	Maximum Average CIL headroom with 30% buffer
Value Area 1	339	238	122	85	207	145	264	185	341	239				
Value Area 2	231	162	-2	-2	85	60	145	101	224	157				
Value Area 3	141	99	-64	-44	-11	-8	34	24	107	75				
Value Area 4	69	48	-192	-134	-98	-69	-34	-24	47	33				
Melton Mowbray Urban Area	13	9	-285	-200	-182	-127	-109	-76	-19	-13	4	3	18	13

**Table 2: Achievable CIL for Commercial Development**

Commercial Viability Analysis								
Scheme	Site Size (hectares)	GIA Floor coverage (Sq m)	Benchmark Land Value per hectare (£)	Actual Benchmark Land Value (scaled to site area - £)	Residual Land Value (£)	Residual Land Value minus actual benchmark Land Value (£)	Maximum Available for CIL (£)	Maximum Available for CIL Less 30% Viability Buffer (£)
<b>Retail</b>								
<b>Town Centre</b>								
Shopping Centre	2.00	15000	£370,650	£741,300	£1,162,296	£420,996	£28	£20
Retail Warehousing	0.75	3000	£370,650	£277,988	£92,018	-£185,970	-£62	-£43
Superstore	2.00	53820	£370,650	£741,300	£2,331,665	£1,590,365	£30	£21
Discount Supermarket	0.60	1500	£370,650	£222,390	-£530,580	-£752,970	-£502	-£351
Convenience Store	0.16	400	£370,650	£59,304	£105,188	£45,884	£115	£80
Takeaways	0.01	45	£370,650	£3,707	£45,166	£41,460	£921	£645
Restaurants	0.06	400	£370,650	£22,239	-£183,385	-£205,624	-£514	-£360
<b>Office</b>								
Town centre	0.06	500	£247,100	£14,826	-£337,360	-£352,186	-£704	-£493
Out of town	0.25	2,000	£247,100	£61,775	-£1,665,658	-£1,727,433	-£864	-£605
<b>Industrial</b>								
Small industrial / warehouse	0.12	5,000	£864,885	£103,786	£12,511	-£91,275	-£18	-£13
Medium industrial / warehouse	0.46	20,000	£864,885	£397,847	£90,639	-£307,208	-£15	-£11
Large industrial / warehouse	1.16	50,000	£864,885	£1,003,267	£327,873	-£675,394	-£14	-£9
<b>Other commercial</b>								
Hotel	0.83	3,305	£1,235,500	£1,025,465	-£1,551,900	-£2,577,365	-£780	-£546
Cinema	0.63	2,500	£1,235,500	£778,365	-£1,441,046	-£2,219,411	-£888	-£621
Carehome Rural Areas	0.65	2,586	£18,500	£12,025	-£1,674,327	-£1,686,352	-£652	-£456
Carehome Melton Urban area	0.65	2,586	£494,000	£321,100	-£1,674,327	-£1,995,427	-£772	-£540

### 3.17 Preliminary Draft Charging Schedule

3.17.1 Table 3 below sets out what are considered to be the most appropriate charging rates for a Preliminary Draft Charging Schedule:

**Table 3: Proposed Preliminary Draft Charging Schedule Rates**

Residential – Schemes under 11	CIL rate £/m <sup>2</sup>
Rural Value Area 1 – Southern rural	235
Rural Value Area 2 – Vale of Belvoir	160
Rural Value Area 3 – North-western rural	100
Rural Value Area 4 – Eastern rural	45
Residential – Schemes 11+	
Rural Value Area 1 - Southern rural	85
Rural Value Area 2 - Vale of Belvoir	60
Rural Value Area 3 - North-western rural	25

<b>Commercial</b>	
Superstore	20
Convenience Store	80
Takeaways	640

3.17.2 In determining which rate of CIL to charge for residential development, it is recommended that rates which are commensurate with the maximum delivery of affordable housing should be adopted. Differential rates are set for each rural value area, and also for scheme size, reflecting the fact that schemes under 11 dwellings are more viable and can tolerate a higher charge.

#### 4.0 **POLICY AND CORPORATE IMPLICATIONS**

4.1 CIL is designed to sit alongside the NPPF and Local Plans, with the funding received used to deliver infrastructure needed to facilitate and support growth. Monies received through CIL should be used to deliver infrastructure associated with corporate priorities as they relate to the delivery of the Local Plan.

4.2 With regards to the two pieces of evidence, both are important regardless of the Council's final decision on the implementation of CIL. They are important in their own right;

- The IDP shows what infrastructure is needed to deliver the full Local Plan, and;
- the viability report shows that the Local Plan is viable, with or without CIL.

Furthermore, the viability study can be used in the discussion of Section 106 agreements, to ensure the Council can negotiate maximum value for new developments in terms of infrastructure and affordable housing. Therefore it is important that both studies are ratified as adopted evidence.

4.3 Affordable Housing remains a Corporate Priority which is reflected in the aims and objectives of the Plan. It is therefore considered that the level established for CIL that should reflect this priority by minimising the impact likely on the achievement of affordable housing. One of the key strategic priorities and objectives set out in Chapter 3 of the Local Plan is to "help provide a stock of housing accommodation that meets the needs of the community, including the need for affordable housing".

4.4 The Government published an independent panel's review of CIL in February 2017 alongside the Housing White Paper. The CIL Review recommends a new hybrid system of Local Infrastructure Tariff (LIT) alongside revised S106. A new set of regulations would be required to introduce LIT and a revised S106 system. The CIL Review recommends amendment to the CIL Regulations as an interim measure. It recommends that for those authorities who have already adopted a CIL Charging Schedule, transitional arrangements would allow CIL to continue to be collected up to 2020.

#### 5.0 **FINANCIAL AND OTHER RESOURCE IMPLICATIONS**

5.1 There are costs in both the evidence required to develop a charging schedule and the eventual implementation of CIL. CIL will require staff time to monitor and to ensure receipts and check exemption requests. It is likely that specialist software will also

be needed. However, it is possible to earmark 5% of CIL receipts to pay for both the preparatory work and its eventual implementation. The Reg. 123 list of projects which CIL funds also requires regular review and updating, thus again there is staff time required to ensure CIL is being operated efficiently and effectively.

- 5.2 The amount of CIL revenue which could be collected after adoption of a charging schedule is estimated to be in the region of £14 million. The Regulation 123 List identifies six items of infrastructure which could receive funding from CIL Revenue. These are set out below.

<b>Item</b>	<b>Cost £million</b>	<b>Gap Funding</b>
Melton Mowbray Eastern Distributer Rd (MMEDR)	75.5	75.5
Cemetery extension	2.5	2.5
Step-free access - Melton Mowbray railway station	2	0.5
Melton Sports and Leisure Village	8.3	8.3
Melton Mowbray Recycling & Household Waste Site and /or Waste Transfer Station*	6	6
Melton Country Park Sports Pavilion**	Currently unknown	Currently unknown

\*Capital cost estimate of £6million in the IDP (October 2016), however, the exact costing for a new site and/or Waste Transfer Station has not yet been confirmed by LCC Waste Disposal Authority.

\*\*This is a capital item which could receive funding from CIL and it is therefore included here and in the Regulation 123 List.

- 5.3 Due to the difference in house values across the Borough, CIL rates are split into 'value areas' across the Borough. The rationale behind this explained within the viability assessment. This should ensure maximum CIL receipts are received whilst mitigating risk of CIL effecting development viability including affordable housing delivery.
- 5.4 CIL receipts are collected by the Council, with some being paid directly to the local Parish Council in which the development sits (15-25% dependent on the Parish being subject to a 'made' Neighbourhood Plan). Up to 5% can be used to administer CIL, with the remainder being spent on items on the Council's Reg.123 list. This list is a 'live document' thus can be changed dependant on changing circumstances and finances.

## 6.0 LEGAL IMPLICATIONS/POWERS

- 6.1 Legal advice has been sought on whether, in light of the CIL Review (see para 4.3 above), the Council should continue with the CIL process and consult on a Preliminary Draft Charging Schedule. The opinion was that it should. CIL Regulations are in place and there is much uncertainty as to how the government will act on the review's recommendations. Its intentions are were programmed to be announced in the Autumn Budget, it is unclear following the snap election if this will still be the case.

## 7.0 COMMUNITY SAFETY

7.1 There are no implications arising from this report – though monies received by Parish Councils for example could be used for road safety measures, etc.

**8.0 EQUALITIES**

8.1 There are no equalities issues arising from this report.

**9.0 RISKS**

9.1

<b>L I K E L I H O O D</b>	<b>A</b>	<b>Very High</b>				
	<b>B</b>	<b>High</b>				
	<b>C</b>	<b>Significant</b>		1		
	<b>D</b>	<b>Low</b>			2	
	<b>E</b>	<b>Very Low</b>				
	<b>F</b>	<b>Almost Impossible</b>				
			<b>Negligible 1</b>	<b>Marginal 2</b>	<b>Critical 3</b>	<b>Catastrophic 4</b>
			<b>IMPACT</b>			

<b>Risk No</b>	<b>Risk Description</b>
1	The 'Reg 123' list attracts opposition
2	CIL charging levels become a deterrent to development and the fulfillment of the plan.

**10.0 CLIMATE CHANGE**

10.1 There are no implications arising from this report.

**11.0 CONSULTATION**

11.1 The next steps in preparing a CIL for Melton Borough are:

- a) To seek a resolution at Full Council to formally proceed with a Community Infrastructure Levy for Melton Borough, and to agree a Preliminary Draft Charging Schedule for consultation; and

b) To agree a timetable for the preparation of CIL Charging Schedule. In essence this will involve four key stages (see below) with the first round of public and stakeholder consultation taking place in summer 2017.

- Stages 1 & 2: Consultation – two rounds of public and stakeholder consultation - Preliminary Draft Charging Schedule & Draft Charging Schedule.
- Stage 3: Independent Examination – the Draft Charging Schedule and associated evidence base is examined by an inspector/examiner.
- Stage 4: Receipt of Examiner’s Report & Adoption – the examiner’s recommendations are considered and Charging Schedule adopted.

<b>Full Council Meeting</b>	4 July 2017
<b>Consultation on Preliminary Draft Charging Schedule – 6 weeks</b>	July - August 2017
<b>Refresh of Infrastructure and CIL viability evidence</b>	Aug-Sept 2017
<b>Submission of Local Plan to the Secretary of State</b>	October 2017
<b>Consultation on Draft Charging Schedule – 6 weeks</b>	Oct- Nov 2017
<b>Refresh of Infrastructure and CIL evidence</b>	Nov-Dec 2017
<b>Submission of CIL Charging Schedule to the Secretary of State</b>	Jan/Feb 2018
<b>Examination of CIL Charging Schedule</b>	March/April 2018
<b>Local Plan Inspector’s Report</b>	May 2018
<b>CIL Inspector’s Report</b>	May 2018
<b>Adoption Local Plan</b>	June 2018
<b>Adoption of CIL Charging Schedule</b>	June 2018

## 12.0 WARDS AFFECTED

12.1 All wards could be affected by the benefits of CIL, however only the rural wards will be effected by its implementation and only Parish Councils will receive direct payment from the receipts of CIL.

Contact Officer: James Beverley  
 Date: 22<sup>nd</sup> June 2017  
 Appendices A: Draft CIL Charging Scedhule  
 B: Revised Local Plan & Community Infrastructure Levy Viability Study  
 C: Revised Infrastructure Delivery Plan  
 Background papers None