

DEVELOPMENT POLICY COMMITTEE
18th January 2018

AGENDA ITEM 7

Subject	LOCAL PLAN VIABILITY STUDY INCLUDING CIL REVIEW
Report by	DIRECTOR OF SUSTAINABLE COMMUNITIES

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Purpose

The purpose of this report is to update the Committee on the findings of the Local Plan Viability Study Including Community Infrastructure Levy (CIL) review, which forms part of the evidence base work to support the emerging new Local Plan preparation and a commitment to review CIL within the current Local Development Framework.

Recommendation(s)

1. That the Committee notes the conclusions of the Viability Study and CIL Review, attached at Appendix 1, and approves it to be placed in the Council's Local Plan Evidence base;
2. That the Committee agrees to commence a formal review of the CIL Charging Schedule in 2020, unless new Regulations or evidence necessitates an earlier review.

Corporate Implications

Legal:	Compliance with Government requirements for the preparation of statutory Development Plan documents, CIL Regulations and CIL Guidance.
Financial:	The preparation of a Local Plan is a major area of work, extending over a three year period, and involves significant financial resources for Evidence Base preparation, Public Consultation, Sustainability

	Appraisal work, legal fees and Examination by the Planning Inspectorate. Current work is being met from the approved Budget for 2017/18.
Personnel:	None
Risk Management:	Potential risk of Government intervention if the City Council does not progress a new Local Plan.
Equalities and Diversity:	An Equalities and Diversity Impact Assessment has been undertaken for the Council's emerging new Local Plan.
Health and Safety:	None
IT:	None
Other:	None

Consultees	CCC – Sustainable Communities Directorate
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<p>Policies and Strategies</p> <p>The report takes into account the following policies and strategies of the Council:</p> <p><u>Local Development Framework (LDF) Documents</u></p> <p>Core Strategy and Development Control Policies - Adopted DPD Focused Review of Core Strategy and Development Control Policies – Adopted DPD Chelmsford Town Centre Area Action Plan - Adopted DPD North Chelmsford Area Action Plan – Adopted DPD Site Allocations Development Plan Document – Adopted DPD Planning Obligations SPD – Adopted SPD Statement of Community Involvement – Adopted and Draft Documents Local Development Scheme – Adopted Document Community Infrastructure Levy Charging Schedule – Adopted Document Community Infrastructure Levy Instalments Policy – Adopted Document</p> <p>The Chelmsford Local Development Framework takes into account all published strategies of the City Council, together with the Sustainable Community Strategy published by The Chelmsford Partnership.</p>

<p>Corporate Plan Priorities</p> <p>The report relates to the following priorities in the Corporate Plan</p> <table> <tr> <td>Attracting investment and delivering infrastructure</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>Facilitating suitable housing for local needs</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>Providing high quality public spaces</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>Promoting a more sustainable environment</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>Promoting healthier and more active lives</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>Enhancing participation in cultural activities</td> <td><input checked="" type="checkbox"/></td> </tr> </table>	Attracting investment and delivering infrastructure	<input checked="" type="checkbox"/>	Facilitating suitable housing for local needs	<input checked="" type="checkbox"/>	Providing high quality public spaces	<input checked="" type="checkbox"/>	Promoting a more sustainable environment	<input checked="" type="checkbox"/>	Promoting healthier and more active lives	<input checked="" type="checkbox"/>	Enhancing participation in cultural activities	<input checked="" type="checkbox"/>
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1. Introduction

- 1.1 The Council has commissioned a Local Plan Viability Study which includes a CIL Review to assess the deliverability of potential development sites included in the emerging new Local Plan. The Viability Study has been commissioned to build on the Council's existing viability work and contains new work to determine whether the delivery of the emerging new Local Plan overall is threatened by the overall policy requirements set out in it.
- 1.2 The CIL Review element provides evidence as to whether the current CIL rate will affect the viability of current and future development sites.

2 Context

- 2.1 The analysis and advice set out in the Viability Study is based on the Preferred Options and Draft Local Plan Pre-Submission consultation documents and reference in this report to the 'emerging new Local Plan' reflects both documents.
- 2.2 Viability testing is an important part of the Development Plan making process. The requirement to assess viability forms part of the National Planning Policy Framework, part of the Housing and Employment Land Availability Assessment process and is a requirement of the Community Infrastructure Regulations.
- 2.3 The Viability Study also re-considers CIL in the context of the policies in the emerging new Local Plan and the anticipated site allocations. An infrastructure funding gap needs to be established for a CIL to be put in place. This was demonstrated in 2013 as part of the Examination of the Council's CIL Charging Schedule.
- 2.4 The need for infrastructure and other sources of funding are reviewed in the Infrastructure Delivery Plan (IDP) which continues to show a significant infrastructure funding gap. The actual financial rate of CIL is set having regard to one factor which is viability. The IDP is considered as part of the evidence base of the Draft Local Plan – Pre-submission. This is covered in a separate item on this Committee's meeting agenda.
- 2.4 When the current CIL Charging Schedule was approved in 2013 it stated that unless economic or development delivery conditions change significantly in the intervening period, it will not be necessary to consider a review of the Charging Schedule until 2016.
- 2.5 The Council did consider this issue in 2016 at a meeting of this Committee on 3 November 2016. At that time it was decided not to formally commence a review until the Government published its recommendation on the future of CIL. As part of the Autumn Budget Statement in November 2017, the Government reaffirmed its intention to retain CIL, but would consult further on proposed changes to it. This is expected in 2018.

3. Viability Testing

- 3.1 Viability testing is an important part of the Development Plan making process. The National Planning Policy Framework (NPPF) introduced a requirement to assess the viability of the delivery of the Local Plan and the impact on development of policies contained within it.
- 3.2 Paragraph 173 of the NPPF states that “...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.”
- 3.3 Paragraph 175 of the NPPF states that “In order to be appropriate, the cumulative impact of these standards and policies should not put implementation of the plan at serious risk, and should facilitate development throughout the economic cycle.”
- 3.4 It is not a requirement that every site should be able to bear all of the local authority’s requirements but rather a typical site in the local authority area should be able to bear whatever target or requirement is set and the Council should be able to show, with a reasonable degree of confidence, that the Development Plan is deliverable.
- 3.5 When assessing the economic viability of CIL it is necessary to have regard to the CIL Regulations and CIL Guidance, which is contained within national Planning Practice Guidance (PPG).
- 3.6 The CIL regulations came into effect in April 2010 and have been subject to subsequent amendments. CIL regulation 14 (as amended) sets out the core principle for setting CIL rates and states that a charging authority must strike an appropriate balance between the desirability of funding from CIL, the actual and expected estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding, and the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.
- 3.7 CIL Guidance states that on preparing the evidence base on economic viability charging authorities must demonstrate that their rates are informed by appropriate available evidence, the sampling should reflect a selection of different types of sites included in the relevant plan, and should be consistent with the viability assessment undertaken as part of plan-making. It also states that the exercise should focus on the strategic sites on which the relevant Plan relies and those sites where the impact of the levy on economic viability is likely to be the most significant.
- 3.8 When a Charging Schedule is approved, CIL is mandatory on all developments (with a few exceptions) that fall within the categories and areas where the Levy applies, unlike other policy requirements to provide affordable housing or to build to an environmental standard, over which there can be negotiations. This means CIL must not prejudice the viability of most sites.

4. Methodology

- 4.1 The Viability Study, attached at Appendix 1 of this report, considers the development viability of site types that are most likely to come forward over the new plan-period building on the Council's existing viability evidence base.
- 4.2 In addition to modelling a range of representative sites, five specific 'strategic sites' have been modelled. These sites, if included in the new Local Plan, are of such a scale that their deliverability will need to be addressed separately.
- 4.3 The Viability Study uses a Residual Value methodology to assess the impact of meeting all the Council's policy requirements, including CIL at the current rate, and different levels of developer contributions, on a range of development typologies. The Residual Value is the combined value of the complete development (Gross Development Value) less the cost of creating the asset, including a target profit margin. The Residual Value is the limit of what a developer could offer for a site whilst achieving a satisfactory profit. The Residual Value has been compared to the Existing Use Value (EUV) for each site in the Viability Study. If the Residual Value exceeds the EUV by a satisfactory margin, a scheme is judged to be viable.
- 4.4 The results of the appraisals are set out in a simple traffic light system whereby Green represents viable schemes (that is the Residual Value exceeds the Viability Threshold Value which includes an appropriate uplift to provide a competitive return for the landowner), Amber represents marginally viable development (that is the Residual Value exceeds the EUV but not the Viability Threshold value), and Red represents non-viable development (that is the Residual Value does not exceed the EUV).
- 4.5 The balance in the Viability Study is around the land value and whether or not land will come forward for development. The more policy requirements and developer contributions a planning authority asks for the less the developer can afford to pay for the land. The purpose of the Viability Study is to quantify the costs of the Council's various policies on development and to assess the effect of these and CIL and then make a judgement as to whether or not land prices are squeezed to such an extent that, in the NPPF context, the Development Plan is put at 'serious risk', or in the context of the CIL guidance, whether development is 'threatened' to such an extent that the Plan is not delivered.
- 4.6 The starting point for the Viability Study has been to draw on the existing viability evidence, in particular the CIL evidence base, which was subject to detailed scrutiny at the CIL Examination in 2013. The consultant considers that this is a consistent and sound starting point.
- 4.7 The Viability Study then applies up-to-date assumptions to establish whether or not a CIL contribution can continue to be made. The Viability Study calculates the amount of profit over and above the normal profit made by the developers having purchased the land, developed the site and sold the units. This is referred to as 'Additional Profit' in the report.

- 4.8 The PPG and CIL Guidance require stakeholder engagement, particularly with members of the development industry. In August 2017, an informal consultation event was held. Residential and non-residential developers, Registered Providers, landowners, and planning professionals were invited. The main assumptions in the Viability Study were presented in a workshop environment where engagement was encouraged. Following the event, copies of the presentation and an early iteration of the Viability Study was circulated to all those invited and the attendees were asked to make any further representations.
- 4.9 In addition to modelling a range of representative sites, five specific sites have been modelled. These sites, if included in the new Local Plan, are of such a scale that their deliverability will need to be addressed separately.

5 Residential Appraisal

- 5.1 Using evidence of local housing prices and non-residential values, local development costs and assumptions about the availability of development finance, developer's profits and the general characteristics of development in the Chelmsford City Council area, the Viability Study assesses the amount by which land values may be depressed by the cumulative impact of the policies in the emerging new Local Plan and whether that is sufficient to deter landowners from making their land available for development.
- 5.2 The base appraisals in the Viability Study incorporate a series of assumptions, including 35% affordable housing on all sites of 11 units or larger, CIL as per the current Charging Schedule and Instalments Policy, and a range of developer contributions (section 106 contributions) from £2,000 per unit for the smaller sites up to £10,000 per unit for strategic sites.
- 5.3 The Viability Study includes several sets of appraisals. Development appraisals are sensitive to changes in price so appraisals have been run with various changes in the cost of construction and an increase and decrease in prices.
- 5.4 The results of the appraisals do not, themselves, determine policy. The results of the Viability Study are one of many factors that the Council needs to consider.
- 5.5 In the vast majority of cases, the Residual Value exceeds the Viability Threshold indicating that that most development likely to come forward under the emerging new Local Plan is likely to be viable (Green), being able to bear the full affordable housing policies, a range of developer contributions and CIL at the adopted rate. The only exception where viability is more marginal is on the medium sized brownfield sites in the 'South Woodham Ferrers and South West Area'. These sites represent a very small proportion of the overall potential development sites that will come forward in the future.
- 5.6 As modelled, the potential strategic sites can bear the affordable housing requirements and £10,000 per unit in developer (Section 106) contributions and CIL as adopted.

- 5.7 As part of the August 2017 consultation with stakeholders, the costs of infrastructure / mitigation for the strategic sites were based on a high-level estimate of £10,000 per unit. This allowance excludes the cost of providing a range of site costs such as roads, drainage, services within the site, parking, footpaths, landscaping and other external costs, for which a scale of allowances was incorporated separately, including 20% of build costs for the larger greenfield multi-outlet/multi-phase schemes.
- 5.8 Work is ongoing with the County Council and other partners to assess the section 106 requests for each strategic site within the Infrastructure Delivery Plan (IDP). As part of the master planning work on the strategic sites within the emerging new Local Plan, further detailed work will emerge on infrastructure costs. To take account of this process and provide flexibility the Viability Study tests infrastructure costs/mitigation for the strategic sites ranging between £0 - £40,000 per unit. It will be necessary to keep these under review as the plan-making process continues.

6 Non-residential Appraisals

- 6.1 The Viability Study includes a set of financial appraisals for non-residential development types. The appraisals assess the value of a site after considering the costs of development, including CIL at the current rate, the likely income from sales and/or rents and an appropriate developer's profit.
- 6.2 As with the residential appraisals, a Residual Valuation approach is followed and for the proposed development to be described as viable, it is necessary for the Residual Value to exceed the Viability Threshold.
- 6.3 The results show that office development is viable in the City Centre and business park situations (commonly greenfield development) but is unviable on brownfield land.
- 6.4 Industrial and distribution development are shown as being unviable. The Viability Study notes that some industrial and distribution development is coming forward but this tends to be from existing businesses for operational reasons rather than to make a return through property development.
- 6.5 The Viability Study also reviews the viability of hotels. These are shown to be unviable on greenfield and brownfield land.
- 6.6 Retail development is shown as viable on greenfield and brownfield sites in all but the secondary locations.

7 Local Plan Viability

- 7.1 The Viability Study tests affordable housing contributions from 30% to 40% and developer contributions from £0 - £40,000 per unit. All other policy requirements, including CIL at the current rates, are assumed to apply.

- 7.2 Overall most sites represented by the modelling are shown as viable on the base appraisals (see para 5.2 above). In the higher value area of 'Chelmsford and the remainder' most of the 'non-strategic sites' (strategic sites are identified in the Viability Study) generate a Residual Value well in excess of the Viability Threshold.
- 7.3 In the comparatively lower value area of 'South Woodham Ferrers and the South West', all sites generate a value over the Existing Use Value (EUV) and most of sites generate a Residual Value over the Viability Threshold.
- 7.4 On the strategic sites, the Residual Values of all sites are over the Viability Threshold however when work assessing the strategic infrastructure and mitigation requirements of these sites is complete, it will be necessary to revisit this analysis. The Council continues to liaise with the County Council, landowners and site promoters secure the complete strategic infrastructure costs associated with these sites.
- 7.5 The analysis incorporates CIL in the appraisals at the current rate and shows development is viable when subject to the modelled developer contributions, CIL and other policies in the emerging new Local Plan. Under the current Instalment Policy, the whole of the CIL payment is due within 720 days of start on site. The Viability Study recommends the current CIL Instalment Policy is revisited in relation to the strategic sites identified in the Viability Study, to allow payments through the life of these development projects, so as not to put the delivery of these sites at risk.
- 7.6 The Viability Study tests four price change scenarios, minus 10% and 5% and plus 10% and 5%. The associated analysis demonstrates that a relatively small increase in build costs will adversely impact on viability, although this unlikely to be sufficient to impact on the deliverability of the emerging new Local Plan.
- 7.7 As well as mainstream housing, the Viability Study considers the sheltered and extra-care (also known as Independent Living in Essex) sectors separately. Sheltered housing is shown as viable with affordable housing and the current rate of CIL on greenfield and brownfield sites. Extra-care housing is shown as viable with affordable housing and CIL on greenfield sites.
- 7.8 Retail development is the only non-residential use that is viable in all but secondary, more peripheral locations. The emerging new Local Plan directs retail development towards the city/town centres.
- 7.9 Whilst other non-residential uses are not viable, they are not rendered unviable by the cumulative impact of the Council's emerging policies, but rather by the general market conditions.

8 CIL Review

- 8.1 Part of the scope of the Viability Study was also to reconsider CIL in the context of policies in the emerging new Local Plan and other planning documents, particularly considering the anticipated site allocations.
- 8.2 The Viability Study has been prepared in line with the current CIL Guidance and CIL Regulations. In November 2015, the Government launched a CIL Review. This was a complete review of the Levy, the results of which were published with the Housing White Paper in February 2017. A range of recommendations were made, which are to be subject to further consultation.
- 8.3 In setting CIL, there are three main elements that need to be brought together:
 - a) Evidence of the infrastructure requirements (IDP)
 - b) Viability evidence (the Viability Study)
 - c) The input of stakeholders (IDP and the Viability Study)
- 8.4 CIL Regulation 13 gives the flexibility to charge variable rates by zone and development type. The advice in the Viability Study is based on the assumption that the strategic sites infrastructure and mitigation costs will be £10,000 per dwelling. Should the final costs be significantly different to this amount it may be necessary to revisit this advice.
- 8.5 An important principle of CIL is that the Levy is set on the assumption that all other policy requirements such as affordable housing are paid first. CIL should not therefore be set at the upper limit of viability.
- 8.6 The Viability Study demonstrates that most sites have capacity to bear significantly more than the current rate of £150 per sqm (indexed from the base of £125 per sqm) although the current Instalment Policy would need to be revisited in relation to the Strategic Sites, as explained in paragraph 7.5 above.
- 8.7 To further inform the CIL rate setting process, the Viability Study tests the rate of CIL as a proportion of the Residual Value of different sites. The Viability Study recommends that it would be prudent to set CIL at a rate that does not result in a fall in land prices of more than 25%. The analysis in the report shows that a maximum rate of £200 per sqm could be achieved as it would result in a smaller fall in land values than 25%. However, as previously stated it is not prudent to set the CIL rate at the absolute top of the viability range.
- 8.8 Another test of the potential impact of CIL is on Gross Development Values (GDV). It is recommended that CIL should be less than 5% of GDV. The analysis in the Viability Study shows that CIL at its current rate would be less than 4% of the GDV. At the higher rate of £200 per sqm it would be at, and in some cases exceed, 5% of GDV on some site types.
- 8.9 As well as mainstream housing, the Viability Study considered the retirement sectors separately. The results show that sheltered housing and extra-care housing has a capacity to bear CIL.

- 8.10 For non-residential development, the results varied. Office development is shown as viable on greenfield and brownfield sites with a potential capacity to bear up to £50 sqm in CIL.
- 8.11 For retail development the current indexed rates of CIL of £180 sqm and £105 sqm for convenience and other retail uses respectively are shown to be viable.
- 8.12 A zero rate is recommended for hotel development on the basis that future development is expected to come forward on brownfield sites and the modelling shows this is unlikely to be viable.
- 8.13 In the Autumn Budget statement, the Government re-iterated its commitment to launch a consultation with detailed proposals on revising CIL. Given further changes are expected, it is not proposed to conduct a formal review of CIL at this stage and as indicated in the Local Development Scheme (LDS).
- 8.14 Given the Viability Study demonstrates CIL is viable at the current rate in the context of the policies and proposed site allocations in the new emerging local plan, it is proposed to defer conducting a formal review of the CIL Charging Schedule to align with the expiry of the current plan period - 2021. This means formally commencing the review and consultation in 2020.
- 8.15 In the meantime, the Council will review the CIL Instalments Policy prior to submission of the new local plan in accordance with the recommendation in the Viability Study relating to Strategic Sites.

9 Conclusions

- 9.1 The Viability Report demonstrates that the new policy requirements of the emerging new Local Plan when taken as a whole and combined with the current rate of CIL would not make the vast majority of planned new development unviable.
- 9.2 Although, there could be potential to increase the residential CIL rate, that would exceed in some cases the standard indicators of viability. The Viability Study does show that there could be the potential to charge a small rate for office development in the future. However, it is unlikely that there will be significant speculative office development proposed in Chelmsford in the next 3-4 years.
- 9.3 Therefore, as the future detailed shape and form of CIL is still subject to consultation by the Government, and the latest evidence shows that the current CIL rate is still viable, it is recommended that a formal review of the CIL Charging Schedule commences in 2020.

10 Next Steps

- 10.1 The Council will keep under review any changes to CIL Regulations and CIL Guidance. Pending the outcome of the consultation on the Draft Local Plan Pre Submission Document and work to finalise the IDP, further refinements to the Viability Study may be necessary.

Appendices

Appendix 1 – Viability Study and CIL Review

Background Papers

- Chelmsford Local Plan Preferred Options Document 2017
- Chelmsford Local Plan Preferred Options Feedback Report 2017
- Chelmsford Local Development Scheme October 2017
- Agenda Item 7 Development Policy Committee, 3 November 2016
- National Planning Policy Framework 2012
- National Planning Practice Guidance
- CIL Regulations
- CIL Guidance within Planning Practice Guidance
- The Housing White Paper 2017
- Autumn Budget Statement November 2017
- CIL Evidence Base