

**Report to:** **Strategic Planning Committee**

**Date of Meeting:** Tuesday 27 November 2018

**Public Document:** Yes

**Exemption:** None

**Review date for release** None



**Agenda item:** 11

**Subject:** **Government response to consultation on Developer contributions**

**Purpose of report:** To outline the Government response to the public consultation on supporting housing delivery through developer contributions, which took place from March – May 2018. The Government have provided a summary of consultation responses and presented their view on the way forward. The opportunity is also taken within the report to update Members on the revision of the Community Infrastructure Levy Charging Schedule in East Devon.

**Recommendation:** **Members are asked to note:**

- **the Government response to consultation on reforming developer contributions;**
- **the update on preparation of a revised East Devon Community Infrastructure Levy Charging Schedule**

**Reason for recommendation:** To keep Members informed on both Government proposals to reform developer contributions, and progress on revising East Devon's Community Infrastructure Levy Charging Schedule

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**Financial implications:** All financial discussion points are addressed in the body of the report

**Legal implications:** There are no legal implications other than as set out in the report

**Equalities impact:** Low Impact

Low Impact

**Risk:** Low Risk

Risk considerations are low as the report merely notes the Government response to consultation on reforming developer contributions, along with a progress update for revising East Devon's CIL Charging Schedule.

**Links to background information:**

- Supporting housing delivery through developer contributions – consultation, MHCLG, March 2018:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/691182/Developer\\_Contributions\\_Consultation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691182/Developer_Contributions_Consultation.pdf)

- Agenda for Strategic Planning Committee, 24 April 2018, item 8: <http://eastdevon.gov.uk/media/2445987/240418strategicplanningcombinedagenda.pdf>
- Minutes of Strategic Planning Committee, 24 April 2018, item 41: <http://eastdevon.gov.uk/media/2459407/240418-strategic-planning-committee-minutes.pdf>
- Government response to supporting housing delivery through developer contributions, MHCLG, October 2018: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/752183/Developer\\_Contributions\\_Government\\_Response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752183/Developer_Contributions_Government_Response.pdf)
- Minutes of the Meeting of the Council, 20 April 2016, item 78: <http://eastdevon.gov.uk/media/1684688/200416-council-mins.pdf>
- East Devon adopted CIL Charging Schedule: <http://eastdevon.gov.uk/media/1680258/adopted-charging-schedule.pdf>

**Link to Council Plan:** Encouraging communities to be outstanding; Developing an outstanding local economy; Delivering and promoting our outstanding environment; Continuously improving to be an outstanding council

## Report in full

### 1. Introduction

- 1.1 In March 2018, alongside consultation on the draft National Planning Policy Framework, the Government also issued a consultation seeking views on a series of reforms to the system of developer contributions. This consultation included proposals to simplify the process for setting the rate of Community Infrastructure Levy (CIL) in a charging schedule; lift the section 106 pooling restriction in certain circumstances; and remove the requirement for a 'regulation 123' list of infrastructure that can be funded by CIL, to be replaced by Infrastructure Funding Statements.
- 1.2 Members will recall that the April 2018 meeting of this committee endorsed a response to this Government consultation. The Government has now responded to the consultation through a summary of consultation responses, and has presented their view on the way forward.
- 1.3 The purpose of this report is to provide an outline of the Government response, focussing on key points of interest; and to also note progress on the revision of East Devon's Community Infrastructure Levy Charging Schedule (the document that sets the rate of CIL).

### 2. Government response to consultation on supporting housing delivery through developer contributions

- 2.1 There were 309 responses to the Government consultation on supporting housing delivery through developer contributions, around half of which were submitted by local authorities, with the remainder from private sector organisations, town and parish councils, and other interest groups. A summary of key points of interest in the Government response is set out below.

#### Ensuring that consultation is proportionate

- 2.2 The current requirement for preparing a charging schedule is for two rounds of consultation (on a 'preliminary draft' and a 'draft'). There was broad support for the

Government proposal's to streamline this requirement, and they now intend a more proportionate approach to consultation. There will continue to be an obligation to consult on draft charging schedules, but the current requirement for two separate rounds of consultation will be removed. This will make it quicker to prepare a charging schedule, and is something that this council supported in its response to the consultation.

### **Removing unnecessary barriers: the pooling restriction**

- 2.3 There is currently a limit on the pooling of section 106 contributions, which means that no more than five such contributions can be collected for the same infrastructure project or type of infrastructure (where entered into since 6 April 2010). The Government consultation proposed to lift this restriction in certain circumstances.<sup>1</sup>
- 2.4 There was broad support in the consultation for removing the pooling restriction, including from this council. There was particular support for lifting the restriction in all areas, and the Government now intends to do this. Given that the pooling restriction was a key to encouraging councils' to introduce CIL, the Government will put measures in place to incentivise the uptake and continued use of the Levy to collect contributions towards addressing the cumulative impact of development; although they have not said what these measures are.

### **Improving transparency and increasing accountability**

- 2.5 In order to improve transparency around the system of developer contributions, the Government is taking forward proposals to require reporting of contributions from CIL and s.106 planning obligations in an "Infrastructure Funding Statement". These statements will be prepared by local authorities, and are supported for providing greater clarity and transparency.
- 2.6 Alongside this, the Government are removing restrictions related to regulation 123, which prevent s.106 contributions being sought for infrastructure projects or types that are on the 'regulation 123 list'. It is intended that the Infrastructure Funding Statement will improve transparency and accountability by providing information on how developer contributions are being spent.
- 2.7 There is currently some uncertainty around using s.106 obligations to collect monitoring fees, and the Government intend to address this by making clear that local authorities can seek a fee from applicants towards monitoring planning obligations. The Government will consider how to ensure that these monitoring fees are set at an appropriate level.

### **Other proposals**

- 2.8 The Government response also identifies several other proposals for supporting housing delivery through developer contributions; for example to:
- Improve guidance on the level of detail needed to establish an evidence base for CIL charging schedules and plan-making
  - Consult on changes to the indexation of CIL rates, which will index CIL rates for residential development to the House Price Index, and non-residential development to the Consumer Price Index

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<sup>1</sup> Where the local authority is charging CIL; where it would not be feasible for the authority to adopt CIL in addition to securing the necessary developer contributions through s. 106; or where significant development is planned on several large strategic sites.

- Enable Combined Authorities to take forward a Strategic Infrastructure Tariff, and in the longer term allow joint planning committees to do the same (options for giving other groups the power to introduce a Tariff will also be reviewed)
- Amend guidance to encourage groups of local authorities to support the delivery of strategic infrastructure through pooling CIL receipts

2.9 Legislation will be required to implement the proposed changes, and the Government will consult on draft regulations later this year.

### **3. Update on the preparation of a revised East Devon Community Infrastructure Levy Charging Schedule**

- 3.1 The council adopted its current Community Infrastructure Levy Charging Schedule in April 2016, and began charging CIL on 1 September 2016. On adoption, the council committed to an early review of the charging schedule.
- 3.2 One of the key reasons for reviewing and then revising the charging schedule is to align with the emerging Cranbrook Plan. This will ensure a consistent approach to infrastructure delivery at Cranbrook (i.e. s.106 rather than CIL), and align the boundary of Cranbrook in the Cranbrook Plan with that of a revised CIL charging zone. The revised charging schedule can also take account of updated national policy and guidance, latest information on development costs and values in East Devon, and any lessons learnt from applying the current charging schedule.
- 3.3 The council has appointed consultants to prepare viability evidence that will inform the revised East Devon CIL Charging Schedule. They have been working on the evidence of costs of development and viability work alongside their work on the Cranbrook Plan and should be in a position to present their findings early next year so that a revised charging schedule can be taken forward alongside the Cranbrook Plan. As previously highlighted, the Government intend to require only one consultation stage in preparing a charging schedule, rather than two as currently. This change will need amendments to regulations, so there are risks with progressing the Charging Schedule ahead of this – we will need to ensure that the first stage of consultation is consistent with existing regulations, mindful that likely changes could mean this is the only round of formal public consultation. Alternatively, if final regulations are not published in time, a further round of public consultation will be necessary.
- 3.4 The council will also progress the revised charging schedule on the assumption that the pooling restriction will be lifted. Again, this will require amended regulations to confirm the Government's proposal.
- 3.5 It is considered that when the Government has published draft CIL regulations for consultation later this year, it should provide sufficient certainty for the council to progress its revision of the Charging Schedule. Therefore, a provisional timescale is to hold public consultation on a revised Charging Schedule in the spring 2019, with a view to submitting the Charging Schedule for Examination alongside the Cranbrook Plan in the summer (2019). This timescale will require the final amended CIL regulations to be published by the spring.