Shropshire Council	Committee and Date Cabinet 19th October 2011	Item Public

COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Responsible Officer Mike Hyatt
e-mail: Mike.hyatt@shropshire.gov.uk Tel: 01743 252003 Fax

1. Summary

The Community Infrastructure Levy provides local planning authorities with a new means of obtaining contributions from developers. The Levy rates are set by a Charging Authority in its Charging Schedule, following a statutory process of consultation and independent examination. Consultation was carried out in January 2011 on a Preliminary Draft Charging Schedule, followed by publication of a Draft Charging Schedule in March 2011 and submission for its independent examination in May 2011. The examiner's report, published 2nd September, concluded that the Charging Schedule satisfies all legislative requirements and recommended that it be approved (Appendix 1). Approval of a Charging Schedule (Appendix 2) in accordance with section 213 of the Planning Act 2008 must be by resolution of the full council of the charging authority.

2. Recommendations

That the examiner's report be noted that Council be recommended to approve the Charging Schedule at its meeting on 24th November, to become effective from 1st January 2012.

REPORT

3. Risk Assessment and Opportunities Appraisal

3.1 The Community Infrastructure Levy Regulations 2010 restrict, from 6 April 2014, the use section 106 planning obligations to obtain contributions from developers towards infrastructure, except for infrastructure that is not included on its Community Infrastructure Levy list. This provides a very strong incentive for local planning authorities to establish a CIL Charging Schedule and a Community Infrastructure Levy list within the next two years.

3.2 Shropshire has moved rapidly to produce a Charging Schedule in order to support the Core Strategy (which requires new development in Shropshire to be accompanied by adequate infrastructure), and as part of the Council's new operating model help embed greater responsiveness to community aspirations. The introduction of the Community Infrastructure Levy in Shropshire is part of a carefully co-ordinated approach, closely linked to the Place Plans and delivering the localism agenda. The links between the various elements are explained in Shropshire's LOCALised planning approach summarised in Appendix 3.

3.3 The Community Infrastructure Levy offers an opportunity to greatly increase developer contributions to infrastructure, with eventual contributions from 2016 onwards estimated at £4 million per annum available for “infrastructure to support the development of an area” as defined in the Planning 2008 Act and in forthcoming Regulations. The Localism Bill clarifies that “infrastructure” includes providing it initially and on an ongoing basis, in other words, both capital and revenue projects.

3.4 The levy rates are based on evidence of the viability of development. The examiner’s report states that, “The Council has sufficient evidence to support the schedule and can show that the levy is set at a level that will not put the overall development of their area at serious risk.” Levy rates for residential development are set at £40 per square metre in the towns and key centres and at £80 per square metre in the rural area. A typical 100 square metre (1,076 square foot) new build house would therefore contribute £4,000 in the 18 towns and key centres, and £8,000 in the rural area. The differing levy rates reflect assumptions about the price and availability of land in rural areas, and the opportunities presented by the Core Strategy and SAMDev Plan Documents for responding to the aspirations of rural communities.

3.5 Levy rates for affordable housing, commercial & industrial development and other uses are set at £0. The examiner scrutinised objections to the nil rate for these uses, and concluded that, “it is appropriate for the Council to take account of the fragility of the current situation in Shropshire and take a cautious approach to development risk in this sector.” She also noted that, “The Council considers the retail sector to be as fragile, if not more so, than the commercial sector. Any reduction in retail development would adversely impact upon the need to develop and diversify the Shropshire economy, as identified in the Core Strategy, and would undermine the overall development of the area.” For other types of non residential development the examiner agreed that, “The Council’s conclusions on these types of non residential development are informed by, and consistent with, the viability evidence.”

3.6 The examiner’s report (Appendix 1) notes the tension between maximising the opportunities for funding infrastructure in Shropshire, and not risking overall development of the area. She concludes that the balance struck is acceptable, having met the tests required, and recommends that the Charging Schedule be approved.

3.7 As with any planning matter, there is always a risk of legal challenge. The suggestion that Shropshire’s Charging Schedule was in breach of European Union rules on State Aid was heard by the Examiner. The Council sought legal advice on this matter and has been reassured that it is compliant with State Aid rules. Furthermore, the Government department responsible for CIL has stated that, “National CIL legislation and guidance was carefully designed to ensure that Charging Schedules that followed the statutory framework would be 'state aid compliant' and meet the requirements of European legislation.” Consequently it is considered highly unlikely that any legal challenge on State Aid grounds would succeed.

3.8 Shropshire is one of the two first local planning authorities to introduce the Community Infrastructure Levy and is therefore at the forefront of influencing how it is interpreted and applied nationally. This has undoubted benefits, but it also means that Shropshire is at the forefront of addressing new issues, including explaining the new process and dealing with the unforeseen challenges of any new system. This is partially mitigated by the close contact being maintained with the relevant government department, DCLG, and the Planning Advisory Service on the introduction of CIL.

3.9 There have been a number of rounds of consultation with the community, developers and other stakeholders on the Charging Schedule, the Developer Contributions SPD and the LDF Implementation Plan. These consultations have been previously reported to Cabinet. To ensure a smooth introduction of the Levy, and reduce the risk of public misunderstandings, a programme of information dissemination is underway aimed at persons submitting planning applications, developers and landowners, the public, and town and parish Councils. This includes tackling a number of misconceptions about the Levy: for example, explaining that it will not increase the cost of housing because house prices are determined by local property market values (ie. what people will pay) rather than by the cost of development.

3.10 The levy is ultimately paid by the landowner, as developers will cover the cost of the levy by reducing the price they bid for development sites. A shortage of development land would cause problems, as it would result in landowners being able to keep prices high, thereby undermining the viability of development. The Site Allocations and Management of Development (SAMDev) Plan Document will help ensure that land supply is maintained.

3.11 Although the Charging Schedule is a matter for the Charging Authority, the operation of the Community Infrastructure Levy is largely prescribed in Regulations. It can be safely assumed that the Human Rights and Equalities legislation were considered when the Regulations were drafted, and that application of the Regulations is compatible these requirements.

4. Financial Implications

4.1 The levy will apply to planning permissions granted after the date that the Charging Schedule is brought into effect, and will only be payable after development commences. Consequently a time lag is inevitable between the Charging Schedule coming into effect and CIL monies being received. Initially the majority of planning consents being implemented will pre-date the introduction of CIL in Shropshire. After the introduction of CIL there will be an increase year-on-year on the proportion of developments built which are accompanied by CIL. Estimates are for CIL income to be negligible in 2011/12, rising to £785,000 in 2012/13, £1.6 million in 2013/14, £2.5 million in 2014/15, £3.4 million in 2015/16 and continuing at around £4.3 million per annum thereafter. Over the 14 financial years to March 2026 it is estimated that the levy rates in the attached Charging Schedule will cumulatively bring in over £50 million of developer contributions towards infrastructure in Shropshire.

4.2 The CIL Regulations allow charging authorities to use up to 5% of the levy annually to cover the costs of its administration, to ensure that the CIL is self-financing and this is in hand.

5. Background and Additional Information

5.1 After deduction of administrative costs, 10% of net levy funds are proposed to be spent on strategic infrastructure, with the remaining 90% of net levy funds to be spent in the settlement in which the development occurred. The use of levy funds will be reported to communities annually, through annual consultation on the Place Plans. The Place Plans will also be the mechanism by which communities will be able to determine the priorities for the use of levy funds in the year ahead, using the process set out in the Code of Practice for Developer Contributions, reported to Cabinet in July.

5.2 The geographic ringfencing of CIL will help to communicate and deliver the Council's localism agenda and new way of working and will help communities to realise some of the benefits of the development they have. The effects of this may also be further enhanced depending on future consideration of how the New Homes Bonus will be applied and should provide a useful test bed for the future introduction of community based budgeting in Shropshire.

5.3 The levy will not apply to householder development. A process of explaining the levy to stakeholders and the public is underway, with resources available on the Council's website.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) Report to Cabinet 13th July 2011 on the LDF Implementation Plan (including the CIL Regulation 123 list of infrastructure to be funded through the CIL) Report to Cabinet 13th July on Developer Contributions SPD & CIL Instalment Policy Report to Council 12th May 2011 CIL Charging Schedule, Declaration Required under section 212 of the Planning Act 2008 Report to Cabinet 16th March 2011 on the Draft Charging Schedule Report to Cabinet 19th January 2011 on the Preliminary Draft Charging Schedule
Cabinet Member (Portfolio Holder) Mal Price, Portfolio Holder Economic Growth and Prosperity
Local Member All
Appendices 1. Report on the Examination of the Draft Shropshire CIL Charging Schedule 2. Shropshire CIL Charging Schedule 3. Shropshire's Localised planning approach