

Cheltenham Borough Council
Council – 4 April 2016
Community Infrastructure Levy

Accountable member	Leader – Councillor Jordan
Accountable officer	Director of Planning – Tracey Crews
Ward(s) affected	All
Key/Significant Decision	Yes
Executive summary	<p>On 14 April 2015 Cabinet agreed a Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule (PDCS) for public consultation. This work was progressed in collaboration with Gloucester and Tewkesbury councils. Consultants Peter Brett Associates (PBA) were appointed to help consider whether a CIL should be taken forward.</p> <p>The report now before Council draws together all the relevant threads of information informing the revisions to the charging schedule, taking account of consultation responses to the PDCS and further detailed viability assessment.</p> <p>The purpose of this report is to gain agreement to undertake public consultation on the Cheltenham CIL Draft Charging Schedule (DCS) prior to independent examination. A CIL rate is proposed for development within the Borough for the following uses:</p> <ul style="list-style-type: none"> • Residential • Out of Town Retail • Retirement and Care Homes <p>Other development uses were assessed, but based on viability evidence recommended as a zero rate (£0). Separate CIL rates are proposed for the JCS strategic allocations and for development within Gloucester City and Tewkesbury Borough areas. Taking on board the evidence on viability a one size fits all approach is not appropriate for the JCS area as a whole. This report details the recommended CIL charge for Cheltenham, but the details for Gloucester and Tewkesbury are set out in the PBA report appended.</p>
Recommendations	<ol style="list-style-type: none"> 1. Council approves the publication of the Draft Charging Schedule for public consultation purposes; 2. Authorises the Director of Planning in consultation with the Leader of the Council to prepare the final publication documents as required, based on the detail of this report and information in Appendix 2;

3. **Authorises the Director of Planning to agree the date of publication on the Draft Charging Schedule with Gloucester and Tewkesbury Councils; and**
4. **Following the conclusion of the publication period, the responses received are compiled and submitted with the Draft Charging Schedule to the Planning Inspectorate for Examination.**

Financial implications

The CIL Cabinet Report dated 18th June 2013 flagged that the statutory process involving formal consultation and public examination would have a financial impact in terms of both set up and on-going costs. Budgetary provision at this stage was not specifically set aside by the partner councils.

The costs incurred in 2014/15 were £82,000. These costs were covered by the Joint Core Strategy Reserve and by the Homes and Communities Agency Large Site Infrastructure Fund. All cost incurred to date are shared by the JCS councils.

Costs incurred in 2015/16 resulted in £56,175 arising through further viability testing, detailed engagement via consultants with the development industry on specific infrastructure and CIL manager contract support. This was funded through resource of £75,000 agreed through relevant reports to Cabinet April 2015 in which each JCS partner authority agreed a contribution of £25,000.

In budgeting for 2016/17 a total of £105,000 has been allocated from the JCS programme budget to facilitate;

Consultation £5,000

CIL resource support £30,000

PBA further analysis including presentations £20,000

Examination £50,000

Further costs are anticipated for the implementation stage of CIL which may need specific additional funding from the partner councils. A further request will be made at a later date should this be necessary. On an ongoing basis there will be costs to administer the scheme. Options for delivery are currently being investigated and costed, giving consideration to the CIL Regulations, which provide for Charging Authorities to recover their administrative costs from CIL income, up to a total of 5%, including set up costs of CIL, fees involved in setting the charge and any training - defrayed against the first 3 years income.

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Legal implications

The formal procedure for the setting and adoption of CIL charges is set out in the Planning Act 2008 (as amended by the Localism Act 2011) and the Community Infrastructure Regulations 2010 (which are known collectively as “the drafting requirements”).

Under the drafting requirements, a Charging Authority (the local planning authority) which proposes to charge CIL must prepare a Draft Charging Schedule (DCS) and then formally publish the DCS together with the appropriate available evidence on infrastructure costs, other funding sources and economic viability for consultation for a minimum period of 4 weeks.

After the close of the consultation process, the Charging Authority must then submit the DCS for public examination before an independent person, who is usually a Planning Inspector. After the consultation period, a DCS may be amended to take account consultation responses but such amendments should not be substantive. Any such changes must then be set out by the Charging Authority in a “Statement of Modifications” and must take such steps as it considers necessary to inform consultees that such Statement has been made.

At the examination in public of the DCS, anyone who has asked to be heard during the consultation period or following any Statement of Modifications, must be heard in public. At the examination, the evidence base for the Charging Schedule is examined in public prior to the adoption of the CIL so it is critical that the Charging Authority’s evidence base is robust. The PBA report is the evidence in this case and meets this test.

For the examination, a Charging Authority should set out and present in evidence: -

- 1) A draft list of projects or types of infrastructure that are to be funded wholly or in part by the CIL (in order to provide evidence of a funding gap); and
- 2) Any known site specific matters for which s.106 contributions may continue to be sought.

Further matters to note in relation to the examination in public are: -

- a) Where a Charging Authority has chosen to work collaboratively with other charging authorities, they may opt for a joint examination.
- b) The Charging Authority must meet the costs of the examination.

Following the public examination, the Examiner produces a report of their recommendations to the Charging Authority in writing. The following options available to the Examiner are to approve the Charging Schedule; Reject it or approve it subject to modifications (but it must give reasons for the recommendations). Provided that the Charging Authority has complied with the requirements of the drafting requirements, the Examiner must recommend approval of the DCS.

The Charging Schedule must be formally approved by a resolution of the full council of the Charging Authority and within it, that resolution should include an appropriate commencement date following or on approval. The approved Charging Schedule must then be published setting out the date of its effect. **Contact officer: Tessa Yates, Solicitor, legal.services@tewkesbury.gov.uk , 01684 272690**

HR implications (including learning and organisational development)	No implications at this stage.
Key risks	If the Council was not to adopt and implement a CIL the Council would not be able to collect developer contributions towards infrastructure costs to its full potential given the limited use of Section 106 planning obligations from April 2015.
Corporate and community plan Implications	By delivering infrastructure needed to support new development and mitigate against the impact of new development CIL would contribute to supporting objectives of the corporate plan.
Environmental and climate change implications	
Property/Asset Implications	No implications.

1. Background

- 1.1 The Community Infrastructure Levy (CIL) was introduced by the Planning Act 2008 with further information set out in subsequent CIL Regulations (the Regulations). In overall terms, CIL is intended to be used for general infrastructure contributions whereas the current Section 106 (S106) process is for site specific mitigation. The introduction of CIL is a response to concerns about the use of S106 obligations: they are not transparent, are ineffective in providing for major infrastructure and the needs arising from cumulative development, they have a disproportionate impact on larger developments, and many developments make no financial contribution. The set charges and the legal obligation to pay a CIL where introduced are intended to bring much greater certainty and to capture a broader range of development to contribute.
- 1.2 The introduction of CIL in April 2010 remains discretionary for the Local Planning Authority. However, the scaling back the use of S106 obligations (in April 2015) is not discretionary and has significant impacts for those planning authorities deciding not to adopt CIL. Since April 2015, the Council cannot now pool S106 payments where there have already been five or more S106 contributions (since April 2010), toward any named project or named type of infrastructure that could otherwise be funded through CIL. In practice, this means that S106 will continue to apply to site specific mitigation measures and on-site elements (such as open space, affordable housing, play areas, highway access, etc.), but is restricted.
- 1.3 CIL differs fundamentally from S106 in that the funds collected are not tied to a specific development or the provision of specific infrastructure. Unlike infrastructure provided through S106 obligations, which must be necessary to mitigate the impact of a particular development and used only for that specific purpose, CIL funds can be used flexibly by the Local Planning Authority to fund any infrastructure as defined within the Regulations. They can be pooled freely (unlike S106) to fund infrastructure priorities and collectively between authorities in order to make larger strategic investments.
- 1.4 CIL allows local authorities in England and Wales to raise funds from development. Charges are levied on new development and are payable when development commences or as staged payments after the commencement of development. The charges are set by the Local Planning authority, which is called the 'Charging Authority'.
- 1.5 Charging authorities must spend the CIL income on infrastructure. It cannot be used to remedy existing deficiencies unless a new scheme will make this worse. CIL is used where there is a funding gap – i.e. where availability of funding is not available from mainstream sources. In addressing the funding gap it can be used to fully fund or provide a contribution to the infrastructure needed to facilitate growth and to deliver the development strategy. It is unlikely that CIL will, on its own, fully fund the entire necessary infrastructure within an area.
- 1.6 Charging authorities need to strike an appropriate balance between the need to capture funds for infrastructure and the potential effects of the CIL rates upon the economic viability and delivery of development, taken as a whole across its area. The economic evidence on the potential to capture land value forms the basis for deriving CIL charges. Viability is tested at a district wide level in setting CIL rates, compared to site by site negotiation under S106. It is expected that CIL will capture more of the land value uplift that results from development than S106 contributions are able to capture.
- 1.7 There is a defined process for preparing a CIL Charging Schedule which includes an Independent Examination to test the rates and robustness of the evidence. The process for preparation and approval of the Charging Schedule is set out in legislation (Planning Act 2008 part 11, the Community Infrastructure Levy Regulations 2010 and the Community Infrastructure Levy (Amendment) Regulations 2011). This involves evidence gathering, consultation and testing at a public examination. Once approved, the Charging Schedule does not form part of the development plan but does support it.

- 1.8** Negotiation for affordable housing falls outside of the CIL Regulations and will continue to be negotiated by S106 agreements. However, decisions made in regard to CIL charges have direct implications on the future negotiation of affordable housing. At the time of writing this report the Government has yet to determine whether the starter home initiative (as an alternative to other affordable housing products) will be formally introduced. If this proceeds it is likely that this will impact on viability. Officers are keeping a watching brief on the progress of starter homes and amendments may need to be incorporated in the lead up to an examination of CIL, if confirmed. This has been captured in the risk assessment of this report.
- 1.9** The Council has a choice whether to introduce CIL or not. However, as a result of the restriction on s106 contributions as set out in paragraph 1.2, the use of pooled S106 contributions for major infrastructure (such as major transport or leisure facilities) will be severely restricted and so it is considered necessary to introduce CIL to ensure that the funding gap is met
- 1.10** The CIL Regulations 2010 also introduced into law three tests for planning obligations that are capable of being charged CIL. S106 obligations must be:
- Necessary to make the development acceptable in planning terms.
 - Directly related to the development.
 - Fairly and reasonable related in scale and kind to the development.
- 1.11** Whilst these tests are a consolidation of the advice originally contained in Circular 05/05, they are now a legal requirement giving them much greater force. The statutory status of these tests now brings a much greater need to demonstrate that the terms of any S106 are lawful and such agreements are now subject to greater scrutiny in terms of their lawfulness.

2. Progress on Cheltenham CIL

- 2.1** During 2014 the Borough Council in collaboration with Gloucester City Council and Tewkesbury Borough Council (JCS Authorities) appointed Peter Brett Associates (PBA) to consider whether a CIL should be taken forward. On 14 April 2015 Cabinet agreed a Preliminary Draft Charging Schedule (PDCS) for consultation.
- 2.2** The PDCS was the subject of a six week period of public consultation from 29th May to 10th July 2015. A total of 34 representations were received during the consultation period and a further two responses were received after the consultation closed. The consultation was helpful as it raised a number of queries regarding the detail of the viability assessment, which were then subsequently checked and retested. As part of the preparation of the PDCS a workshop was held with consultants supporting the viability work and the development industry. This provided an opportunity for check and challenge.
- 2.3** Following the conclusion of the PDCS consultation exercise, the JCS Authorities continued to work with PBA to progress the preparation of the Draft Charging Schedule (DCS) and to undertake a review of JCS site viability and the relationship between CIL delivery and affordable housing provision. PBA's report of these viability issues was completed at the end of January and the findings of this report have been used to inform the preparation of the Cheltenham CIL DCS. A copy is available via link in background documents; all members were emailed a copy for review.
- 2.4** Officers were anticipating quicker progression on the analysis of CIL and the bringing forward of this report, however resources and time implications of the examination of the JCS led to prioritising of work streams. However, viability has been an ongoing discussion of the JCS examination and issues arising have been consistently fed back to consultants and helped inform the evidence base supporting CIL.

3. Defining Infrastructure

3.1 Before considering the detail of the DCS, it is worth noting the legal definition of “infrastructure”, which can be split into 3 broad categories.

- Physical infrastructure, e.g. highways, transport links, cycleways, energy supply, water, flood alleviation and waste management.
- Social infrastructure, e.g. education, health, social care, emergency services, art and culture, sport halls, community and faith halls, crematoria.
- Green infrastructure e.g. parks, woodlands, play areas and public open space.

3.2 Under the legislation, affordable housing is not classed as infrastructure and therefore CIL monies generally cannot be spent by the charging authority to fund affordable housing. This puts the onus on local planning authorities to fully understand the realities of costs related to both CIL related infrastructure and affordable housing. Discussion about what is an appropriate balance between the provision of affordable housing and the provision of infrastructure is an important one which has been the subject of the review undertaken by the consultant, PBA. If CIL is set too high, this will limit the ability of the Council to effectively negotiate affordable housing which is policy compliant. However, it is worth noting that the percentage of CIL devolved to local neighbourhoods and parish councils does not have the limitations that charging authorities have. If neighbourhoods wished to spend their element on affordable housing, then they are able to do so. Further detail on this provided in section 9 of this report.

4. Requirements to set a CIL

4.1 In order to set a CIL, the Charging Authority requires an appropriate evidence base on the infrastructure funding gap and evidence in relation to the viability of development.

4.2 Infrastructure evidence: An Infrastructure Delivery Plan was prepared in 2014 as part of the evidence base for the JCS. It clearly shows that a funding gap exists between what is needed, around £814m, and the currently identified funding gap of around £700m. As such this procedural requirement is satisfied. The Infrastructure Delivery Plan provides the starting point in helping to identify priorities for future spending of CIL.

4.3 Viability evidence: PBA have carried out further viability assessment for the JCS and an initial assessment of viability for CIL. The two stages of this work cover viability assessments of:

- A range of typologies of the nature and scale of development.
- The Strategic Allocations as set out in the JCS.

The viability assessments identify the potential development value that can be generated from development within Cheltenham Borough – identifying the ‘headroom’ available across a range of development uses. The assessments identify that there is scope to introduce a CIL across some development uses. This is detailed below.

5. The proposed Draft Charging Schedule

5.1 The DCS is the document which sets out the proposals for the Cheltenham CIL, publication. The JCS authorities have continued to work with PBA as specialist consultants on development plans and CIL to assess the viability evidence and to prepare the DCS, taking into account a number of factors, including the requirement that any proposed CIL rate does not undermine the viability of proposed development. The Charging Authority is required to publish the DCS and invite representations and then submit the DCS for public examination for formal adoption.

5.2 The purpose of this report is to gain agreement to publish the DCS for comment and progress this DCS to Examination in Public. A CIL rate is proposed for development within Cheltenham

Borough and separate CIL rates are also proposed for the JCS strategic allocations and for development within Gloucester City and Tewkesbury Borough areas.

- 5.3** The PBA report concludes that whilst most sites are viable across the JCS area, when taking account of affordable housing delivery, the type and size of sites and their location likely to come forward - a one size fits all approach is not applicable for the JCS in respect of CIL. A full copy of the proposed DCS for Cheltenham is provided at appendix 2 and the section below provides a summary of the proposed charge within each use category. This will not be the same for Gloucester or Tewkesbury.
- 5.4 Setting a CIL for residential development:** As the characteristics of residential sites are many and varied, PBA have analysed a number of 'site typologies' which provide a representative sample of the sites (types of site, sizes and mix of uses) expected to come forward within each authority's area.
- 5.5** Within Policy SD13, the JCS sets out a target of 40% affordable housing for sites accommodating in excess of 10 dwellings. Again, it is recognised that the level of affordable housing to be secured from any eligible site will be affected by the characteristics of that site. In some circumstances, the requirement for other forms of infrastructure may mean that lower levels of affordable housing would be provided due to the challenges presented by such sites. In such cases, applicants will be required to submit appropriate viability information that will allow the Council to make an informed decision on these matters.
- 5.6** Residential development would normally attract higher levels of CIL charge, due to the infrastructure needs arising from such development. The level of charge is dependent upon the characteristics of each site and many charging authorities have adopted 'differential' CIL rates that reflect these characteristics.
- 5.7** As currently drafted Policy SD13 of the Submission JCS seeks the provision of 40% affordable housing on eligible sites of more than 10 dwellings (subject to site viability) as per the requirements of the National Planning Practice Guidance. An analysis of affordable housing delivery during the last three years within Cheltenham has revealed an overall provision of 41% affordable housing across all eligible sites. It is important to note that rates of affordable delivery have varied considerably across these sites. From a total of 11 sites, 2 sites have been developed entirely for affordable housing; 4 sites have achieved 40% and the remaining 5 sites have delivered a range from 12 – 28%. In all of these instances, the Council has sought to deliver an appropriate housing mix that reflects the viability of each site. As part of the JCS examination, and in light of the evidence on CIL now available, the JCS officer team are now working with the Inspector on revisions to the affordable housing policy of the JCS – for CIL to be successful it needs to work within a compatible policy framework. Recommendations from consultants PBA in the context of the viability evidence is as follows:
- Cheltenham and Tewkesbury can suitably continue to work within a policy context of 40% on sites of 10+ dwellings with 0% below 10 dwellings,
 - Gloucester does not have the viability to support 40% and 20% is recommended on sites of 10+ dwellings.
 - 35% recommended on all strategic JCS sites, in recognition of significant on site infrastructure and recommendation for CIL charge to be levied (see below).
 - To continue a blanket approach of 40% across all sites within the JCS is likely to be at the expense of seeking infrastructure contributions
- 5.8** In Cheltenham, the recommendations arising from the PDCS consultation responses and the subsequent reappraisal of JCS site viability indicates that a CIL rate of **£200 per sqm** is levied on residential sites of more than 10 dwellings, and **£148 per sqm** is applied to sites of up to 10

dwellings. The PBA report states that there are areas of the Borough that could support a higher value charge, but this would add greater complexity to the administration of CIL for the Council and would not be capturing the majority of development. Application of CIL across all sites will capture contributions, particularly on small sites, which will not have been captured via S106.

- 5.9 Setting a CIL for strategic sites:** On the JCS strategic sites it is proposed that infrastructure can be best delivered through S106 and Section 278 agreements – capturing infrastructure on or near sites. However, there will still be wider strategic infrastructure requirements across the JCS area as a result of strategic development brought forward by the strategic allocations. The recommendation is therefore that a **£35 per sqm** is levied, with the exception of strategic allocation A8 (Ashchurch – MOD element only) where the rate should be zero due to high remediation costs.
- 5.10 Setting a CIL for other forms of development:** In addition to residential uses a number of other land uses were tested. A summary of each is set out below
- 5.11 Retirement and extra care:** Across the JCS area only Cheltenham is considered to have scope for a CIL charge. In regards to retirement homes it is recommended that a charge reflecting that recommended for regular open market units is levied – a rate of **£200 per sqm**. The viability evidence concludes that there is lesser scope for a charge relating to extra care, however, scope does exist tested against the provision of 40% affordable housing. A rate of **£100 per sqm** is recommended.
- 5.12 Retail:** Viability appraisal demonstrates that there is scope for a CIL charge to be levied to varying degrees. For Cheltenham town centre, whilst there is limited scope for CIL, it is negligible therefore a zero rate (£0) is proposed. Out of centre retail however clearly demonstrates that there is scope for a charge and a rate across the JCS area of **£100 per sqm** is recommended.
- 5.13 Other uses:** All other uses tested (B –class development (employment), hotels, student accommodation, public service and community facilities) were found to have insufficient financial ‘headroom’ to levy a charge – although this may change should the economy improve. The DCS therefore proposes a zero rate (£0) for other development uses.

6. Relationship of the Joint Core Strategy to CIL

- 6.1** In delivering a joint development plan, it is hoped that, if the three JCS authorities each adopt a Charging Schedule, these will be aligned to deliver the best contribution toward infrastructure to support new development.

7. Publication of Draft Charging Schedule

- 7.1** If all three JCS Councils agree to move forward with publication on a DCS for their area, it is proposed that the three separate Charging Schedules with accompanying documentation would be co-ordinated. The JCS Councils are working together to align the dates of publication. The CIL Regulations sets a minimum of 4 weeks, but a six week period of publication is proposed which will be confirmed shortly.

8. Infrastructure List

- 8.1** The infrastructure list is a list of infrastructure projects or types of infrastructure that the charging authority, by publishing on its website, intends will be, or may be wholly or partly funded by CIL. Once a charging authority’s first Charging Schedule has taken effect the inclusion of infrastructure on the list may not constitute a reason for the granting of planning permission. CIL cannot be used as well as Section 106 to collect funds for the same piece of infrastructure.
- 8.2** Therefore, in order to preserve an ability to provide for specific infrastructure to continue to be

dealt with by planning obligation after the adoption of a Charging Schedule, the Charging Authority will also need to prepare a list prior to the examination of a Charging Schedule, setting out the types of infrastructure that it intends will be, or may be, funded wholly or partly by CIL. A draft infrastructure list has been prepared to indicate how CIL monies could be used to cater for the anticipated level of growth in the area. This is intended to ensure that developers are not asked to fund the same infrastructure via both Section 106 and CIL.

- 8.3** The inclusion on the list of an infrastructure project or type of infrastructure does not represent a commitment by the charging Authority to provide that project or type of infrastructure either with or without funding from CIL. The only function of the list is in relation to the future use of S106 agreements and to avoid any perception of double charging to developers. The list can be reviewed on a regular basis, for example annually, to ensure that it remains up to date. A draft Regulation 123 List is provided at Appendix 2 - included in the DCS.

9. Neighbourhood Funds

- 9.1** In accordance with the CIL Regulations a specific proportion of CIL receipts would be passed to 'neighbourhood funds'. Therefore, in locations with an adopted Neighbourhood Plan, 25% of CIL receipts would be passed to such communities/forums to help fund local infrastructure in their areas. In all other locations (where no Neighbourhood Plan has been approved), 15% of CIL receipts would be passed to local communities, subject to annual total limits as defined within the CIL Regulations. In parished areas, the relevant proportion of CIL will be passed to Parish Councils. In non-parished areas, the Borough Council will engage with the relevant communities to determine how CIL is spent. Discussions have been initiated with the council's Strategy and Engagement Team to consider the best way of initiating a way forward with these communities.
- 9.2** Within the context of the CIL Regulations neighbourhoods have a wider definition of what CIL receipts can be spent on, whereas the Charging Authority is restricted to investing CIL receipts on infrastructure to support the development of the area. These wider spending powers allow the local community to decide what they need to help mitigate the impacts of development. The Regulations state that this proportion of funds must be used "*to support the development of the local area by funding;*
- (a) The provision, improvement, replacement, operation or maintenance of infrastructure; or*
- (b) Anything else that is concerned with addressing the demands that development places on an area."*
- 9.3** If a parish council has failed to spend CIL funds passed to it within 5 years of receipt, or has applied the funds not in accordance with the CIL Regulations, then the Charging Authority can serve a notice on the parish council requiring it to repay some or all of the receipts passed. Any recovered funds must be spent by the Charging Authority in the parish council's area.

10. Costs associated with CIL

- 10.1** Costs arising in respect of CIL to date have arisen broadly through the following:

- Viability assessment – DVS
- Consultants support – PBA
- CIL manager (contract post)

- 10.2** The costs arising have been funded through 3 sources; JCS budget, Large Scale Infrastructure Fund and specific CIL contribution of £25,000 per authority agreed by Cheltenham, Tewkesbury and Gloucester (agreed by Cheltenham Cabinet 14 April 2015). Costs incurred and projected cover the period 2014/15 – 2016/17 and will facilitate CIL through to its examination.

10.3 Resource is needed to successfully deliver the implementation of CIL, including infrastructure and procedures for billing and governance. As a Charging and a Collecting Authority the Council will need to have a robust system in place for the day to day administration of CIL. Although the liability for CIL is determined through the planning process, there are also legal and financial dimensions and the Council will need to determine how these respective responsibilities are to be integrated and administered. The JCS Operations Board is currently considering options for this. Any further requests for funding will be reported to Cabinet. It should be noted that within the CIL legislation provision has been made for 5% of CIL income to be utilised for management fees as well as enabling local authorities to 'claim back' set-up costs.

11. Reasons for recommendations

11.1 To ensure that new development contributes proportionately to infrastructure provision in the longer term and that the Council has control over the priorities for infrastructure investment for its area.

12. Alternative options considered

12.1 At the early stages of considering CIL, an option not to implement CIL and continue to rely only on negotiations of S106 was investigated. However, the restrictions put in place as set out in paragraph 1.2 which limit the ability to pool receipts from S106 will result in loss of resource to fund identified infrastructure needs. CIL is a tool that will address the funding gap for infrastructure.

13. Consultation and feedback

13.1 Public consultation took place on a PDCS from 29th May to 10th July 2015. Comments received have fed into the DCS.

13.2 Planning and Liaison Member Working Group have fed into the analysis undertaken by consultants PBA, with discussion taking place on 15th October 2014, 12th November 2014 together with ongoing updates over 2015. Members considered the detail of this report and the recommendations of PBA at a meeting 3 March 2016.

13.3 To support the Council on the consideration of CIL a training session arranged through the Planning Advisory Service took place on 11 September 2014 – focussing on the technical details of CIL and the impacts of the CIL legislation. Prior to consideration of the PBA report a seminar for members was organised 21st March 2016 with a presentation and discussion with PBA.

13.4 There has been ongoing engagement with the development industry through the preparation of the evidence supporting the DCS.

14. Performance management – monitoring and review

14.1 Following the statutory 6 week publication period, any representations received will be passed to the Planning Inspectorate and considered through an Examination in Public (date yet to be determined). The Regulation 123 list accompanying the CIL Charging Schedule will be kept under review.

14.2 Should changes in the economy improve the potential to charge CIL on development uses previously identified as a zero charge (£0), or that potentially a higher charge on existing rates could be levied, then this would trigger a formal review of the Cheltenham CIL Charging Schedule and would be subject to statutory consultation and re-examination.

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Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Cheltenham – Draft Charging Schedule & Regulation List 123
Background information	<ol style="list-style-type: none"> 1. Cabinet 14 April 2015 – Community Infrastructure Levy Preliminary Draft Charging Schedule https://democracy.cheltenham.gov.uk/documents/s15235/2015_04_14_CAB_CIL_report.pdf 2. Preliminary Draft Charging Schedule Consultation Report http://www.gct-jcs.org/Documents/CIL/JCS-CIL-PDCS-consultation-report.pdf 3. Peter Brett Associates: Gloucester, Cheltenham and Tewkesbury – Plan Viability, Community Infrastructure and Affordable Housing http://www.gct-jcs.org/Documents/Examination-Document-Library-4/EXAM-176---JCS-CIL-and-Plan-Viability-Report-Final-January-2016.pdf

The risk				Original risk score (impact x likelihood)			Managing risk					
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register	
	Pooling restrictions for Section 106 came into force April 2015. If Cheltenham does not progress with the implementation of CIL it will be unable to be proactive in the delivery and co-ordination of infrastructure.	Tracey Crews	16/3/2016	5	2	10	Reduce	Progress to publication of Draft Charging Schedule, examination and adoption.	31/12/2016	Tracey Crews	To divisional risk register	
	A robust system needs to be put in place for the day to day administration of CIL. There are legal and financial responsibilities which need to be administered. Failure to put in place a system will mean that the Council will not be able to effectively collect CIL receipts and fulfil its responsibilities as a Charging Authority.	Tracey Crews	16/3/2016	5	2	10	Reduce	Investigate options for governance and billing of CIL.	31/12/2016	Tracey Crews	To divisional risk register	
	If CIL is implemented before the government's intentions over the use of 'Starter Homes' as an alternative to other affordable housing products is known, then CIL may no longer accurately represent the indicative viability of sites.	Tracey Crews	21/3/2016	2	5	10	Reduce	Keep under review progress of Housing and Planning Bill and ensure latest position is taken into account at future CIL examination, should starter homes be introduced. Should starter homes initiative be implemented CIL viability evidence to be reviewed.	31/12/2016	Tracey Crews	To divisional risk register	

Explanatory notes
Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

Likelihood – how likely is it that the risk will occur on a scale of 1-6

(1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

Control - Either: Reduce / Accept / Transfer to 3rd party / Close