

A Local Plan for

Lancaster District

2020 – 2031

Plan period 2011 - 2031



Community Infrastructure Levy Background Paper [January 2022]

<i>Report to</i>	CABINET BRIEFING
<i>Report of</i>	MAURICE BROPHY – SERVICE MANAGER PLANNING AND HOUSING STRATEGY
<i>Date</i>	11 JANUARY 2022
<i>Subject</i>	COMMUNITY INFRASTRUCTURE LEVY

1. Introduction and Background

CIL is an appropriate mechanism to secure funding for strategic infrastructure, the infrastructure projects required to meet the needs of several sites, and to provide benefits beyond a development. Local infrastructure, those elements specific to the site are more appropriate to be delivered through planning obligations in line with the policies of the Land Allocation / Development Management DPDs.

A balance must be struck between the delivery of infrastructure through planning obligations, CIL and viability. CIL must not result in development becoming unviable and differential rates can be charged depending upon the type, scale, and location of development. It is not expected that CIL will fund the entire amount of infrastructure and other sources will need to be explored.

The CELPR Viability Assessment (VA) carried out a review of the viability margins available for the introduction of CIL. It concluded that there is scope for the introduction of CIL of varying amounts throughout the district but recommends that CIL is not charged on Strategic Sites, Exception Sites, flats, older person housing or non-residential development (apart from supermarkets and hotels).

2. Infrastructure Evidence

There are two main pieces of evidence required when deciding whether to adopt CIL, an Infrastructure Delivery Schedule (IDS) and Viability Assessment. As CIL is intended to help fund the infrastructure necessary to deliver the development envisaged in the Local Plan, determining the necessary infrastructure should be the starting point.

An IDS was produced as supporting evidence for the adopted Local Plan. This identifies the infrastructure necessary to deliver the development allocated and provides indicative costs. The IDS includes a significant amount of infrastructure associated with development in Lancaster South, including the sustainable transport measures for Better Buses and the Cycle Superhighway, along with the road and education requirements. Infrastructure is also identified for the strategic sites including improvements to highway and cycling/walking improvements, bus provision and education. Ensuring delivery of the infrastructure necessary to support the development in the Local Plan must be the starting point for determining what CIL funds should be used for.

The IDS has been updated as part of the evidence for the CELPR. This includes updates regarding indicative costs, reclassification of some of the priorities and the addition of a general reference to flood manage projects and allotments/community gardens. Whilst these are important for achieving the aims of carbon reduction, their importance in terms of delivering development in the Local Plan is not as high.

3. Viability Assessment

The VA includes an assessment of whether CIL can be viably charged on development. It concludes that in most cases, CIL would be viable at the following rates:

Charging Zone	Development Type	Rate per Square Metre
Lancaster City Rural West Rural East Arnside & Silverdale AONB Forest of Bowland AONB	Residential – Use Class C3	£100
Morecambe Heysham Overton Carnforth	Residential – Use Class C3	£30
Strategic Sites	All Development Types	£0
Exception Sites	Residential – Use Class C3	£0
All Areas	Purpose Built Student Accommodation	£75
	Flatted Development and Older Persons Development	£0
	Supermarkets (over 300sqm)	£50
	Hotels	£20
	All Other Non-Residential Development	£0

These figures are based upon basic build costs, an inclusion of the affordable housing requirements in the local plan, a S106 package for site specific infrastructure, biodiversity net gain costs and EV charging points. A greater amount of S106 costs have been included for the strategic sites based upon the evidence within the IDS. The costs do not however include an allowance for abnormal costs, particularly those associated with remediation of brownfield sites.

The VA recommends that there is no margin for CIL for the Strategic Sites at East Lancaster and North Lancaster due to the high specific S106 costs associated with these sites. This is in line with guidance that suggests strategic sites are best dealt with by S106s. The VA did not specifically test the other strategic sites at Canal Quarter, Carnforth or South Lancaster.

A New Approach to Development Contributions – A Report by the CIL Review Team (Oct 2016)¹ recommends the use of S106 for strategic sites. It also concludes that CIL may result in less contribution than through S106.

‘Delivery of mitigation is more assured through s106 mechanisms where funding is ringfenced. Reliance on CIL funding could delay infrastructure provision on strategic sites and ultimately housing delivery putting the Plan’s strategy at risk.

Where CIL has been introduced, it has not necessarily worked well for larger sites with complex site specific mitigation requirements. It has

1

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/589637/CIL_REPORT_2016.pdf

effectively transferred the burden and risk of providing infrastructure from developers to local authorities who are not well placed to deliver. The cumulative nature of the collection of CIL has meant that necessary infrastructure is not provided up front when it is needed to support the earlier stages of development.

In effect the strategic nature of CIL results in a lowest common denominator approach that does not necessarily produce as much as Section 106 would have done for some sites, even in situations where it raises more generally.'

Given this advice and the viability evidence, it would be appropriate to exclude all strategic sites from CIL. The Canal Quarter site is likely to have significant additional costs arising from the site constraints, the mixture of uses expected and the likely requirement for residential development to cross subsidise community and non-residential uses. Site specific contributions could still be sought where viable to support walking and cycling provision, improvements to the gyratory and green/blue infrastructure.

Further commentary on South Lancaster is included below.

Adding further costs associated with CIL may have an impact on the viability and affect the delivery of other previously developed land, which is a priority of the Council. CIL could also pose similar risks to development in the Morecambe Area Action Plan area and future development at Frontier Land. One thing we cannot do with CIL is simply say previously developed sites are charged at a zero rate, each brownfield site would need to be identified separately. As the guidance advises to keep charging zones simple and not have multiple charging areas it could become overly complicated.

As Members will be aware, abnormal costs do arise frequently and we receive site specific viability assessments with planning applications. These viability assessments are likely to become more common if a CIL is introduced with a consequential reduction in affordable housing and a knock-on effect upon other policies requirements within the CELPR.

A New Approach to Development Contributions – A Report by the CIL Review Team (Oct 2016) states,

'The bureaucracy surrounding rate setting made the system unresponsive to changes in market conditions and potentially out of date on the day of adoption.'

As a set rate, CIL does not respond to changes in costs or values. It is indexed linked therefore when inflation is rising, CIL will increase each year.

4. Broad Location for Growth – Lancaster South Area Action Plan

Development proposals that fall within the 'Lancaster South Broad Location Area for Growth' (as identified under Policy SG1) will be expected to deliver the infrastructure necessary to support strategic growth in this area. For strategic development, including Garden Villages, the guidance referred to above, recommends that contributions are sought via S106s rather than using a CIL charge.

The HIF and IDS set out the infrastructure necessary for the growth planned for South Lancaster. The Area Action Plan (AAP) will set out the detailed policies and obligations

for the area. To support the policy and obligation requirements within the AAP, an evidence base will be required. This will include a specific viability assessment which takes into account the whole range of infrastructure costs, together with development costs specific to sites. The CELPR Viability Assessment does not do this in respect of South Lancaster as the detail in the Local Plan is deferred to the AAP. The viability evidence on which to base a decision regarding obligations is, at present, limited.

The Council has entered into a collaboration agreement with Lancashire County Council to ensure that strategic infrastructure in South Lancaster is funded. The City and County Councils are exploring the appropriate methods for securing monies from development proposals which come forward in the South Lancaster area. Our emerging understanding on this matter re-affirms guidance that this should be achieved via the S106 process, rather than via CIL. It is anticipated that for any development which comes forward in advance of the AAP, infrastructure costs will be secured using an Interim S106 Framework SPD (the mechanics of which are still being explored). Following the completion of the AAP, the AAP will provide the direction on how monies for infrastructure will be collected and set out the parameters for contributions and equalisation between developments.

5. Consultation Responses

The CELPR and the potential introduction of a CIL has generated significant objection from the development industry on viability grounds. While responses/rebuttals have been made to the issues raised, it is likely that viability will come under further challenge and scrutiny at examination. The responses received about the VA and CIL are incorporated into the Regulation 18 Statement of Consultation Report for the CELPR (included with Item 2 on this agenda - "Climate Emergency Local Plan Review (CELPR): Update on the Regulation 18 consultation outcomes and presentation of Regulation 19 Publication Version."

Respondents raised specific issues about the assumptions and methodology used in the VA. The responses include a detailed critique submitted on behalf of a consortium of developers. Respondents agreed that the strategic sites should not be charged due to the site-specific costs. It was also commented that development in the Broad Location for Growth in South Lancaster should also be subject to a zero-levy due to the costs associated with strategic infrastructure.

The development industry raised concerns that the introduction of CIL, especially in combination with the CELPR policy requirements would adversely affect viability to the point that deliverability of development within the Local Plan would be compromised.

Positive responses were received from the community. Support was received for CIL and its use for measures to support the reduction and mitigation of climate change, flood risk management, green spaces, walking/cycling routes, public transport, active travel, reducing food waste and retrofitting of insulation/renewables.

The County Council would wish to see education remain as a S106 obligation as this ensure a direct link between development impacts and provision.

6. Potential CIL Receipts

Once the strategic sites at North and East Lancaster, the Canal Quarter and the Broad Area for Growth are excluded, few allocated sites remain. These include Lundsfield Quarry at Carnforth and Grab Lane, Lancaster both of which are subject to current

applications and viability assessments seeking to reduce affordable housing provision and/or contributions.

CIL would be generated from the remaining sites plus any windfall sites not within the Broad Area for Growth. Neither Lundsfield Quarry or Grab Lane are likely to generate to amount of development envisaged in the plan, it appears Lune Industrial Estate may be redeveloped for employment uses and the site at Middleton Towers which may contribute a significant number of homes, would be charged at the lower value of £30/m².

The main impact of CIL on allocated sites would fall on the previously development sites (if planning permission is not in place prior to a CIL being adopted). Introducing CIL could add an unreasonable burden to these sites.

Affordable housing and self-build homes are exempt from CIL.

Where there is a Parish Council, the Parish Council receives 15% of all funds generated from development in that Parish. Where there is a Neighbourhood Plan in place, the parish will receive 25% of CIL. It is up to the Parish to determine what local infrastructure projects the funds will be used for.

The amount of development which would contribute to CIL in context of the development included in the plan is therefore limited and is unlikely to generate significant sums.

7. Administration of CIL

To administer CIL the authority would need to purchase an administration system. There appears to be one main supplier – Exacom. The system costs in the region of £22,000 with a yearly license/maintenance charge of £6,000 (fees obtained in 2019). They provide the package and training. Costs would also arise from staff resource to administer CIL and S106 agreements (there is currently a Planning Obligations Monitoring Officer, and this post or equivalent may need to be expanded). South Lakeland have a full time dedicated CIL/S106 Officer and at West Lancashire approximately half an officer's time is spent dealing with CIL.

Up to 5% of CIL income can be retained by a local authority for administration costs.

An annual Infrastructure Funding Statement must be prepared which includes the total CIL and S106 receipts and expenditure (including administration and infrastructure items) for the year and the total amount retained. This will also include infrastructure proposed for funding through CIL and S106 agreements.

8. CIL Adoption

Planning Resource publishes information on the progress of CIL. This was last updated on 2nd December 2021. At that time there were only 10 out of 23 Northwest authorities charging CIL. An additional 5 authorities in the northwest have published a schedule (each published over 5 years ago) but none these has progressed to the adoption of CIL.

The Incidence, Value and Delivery of Planning Obligations and Community Infrastructure Levy in England 2018-2019 (MHCLG) (Aug 2020)² report states that in July 2019,

*'48% of LPAs had chosen to adopt CIL';
'a further 67 local authorities/national parks are progressing (by at least consulting on a preliminary draft charging schedule).'*

If all these authorities progressed CIL, 68% would have an adopted CIL, however as can be seen from the Northwest figures, not all authorities which consult progress to adoption.

The Report by the CIL Review Team states,

'The main reasons cited by authorities not progressing CIL were actual or perceived lack of viability and prioritisation of affordable housing'.

9. Use of CIL to Support the Climate Emergency Measures

CIL is expected to primarily fund the infrastructure needed to deliver development. The IDS produced to support the local plan through examination, identifies various projects which are needed for the development planned for in the Local Plan. This should be the starting point when determining what CIL funds should be used for. The IDS includes various sustainable transport measures including improvements to bus services, foot and cycle paths and the Better Buses and Cycle Superhighway necessary to support the growth planned for in South Lancaster. The updated IDS produced for the CELPR also includes reference to flood mitigation and allotments/food growing. There however no specific projects identified.

As CIL must be used to deliver infrastructure to support the development planned for, it cannot be used for retrofitting homes or for other non-infrastructure related projects.

10. Conclusion

According to the VA it would be viable to introduce a CIL for some sites and types of development at varying rates. Introducing CIL must be balanced with the Council priority to adopt the policies in the CELPR which aim to reduce the carbon output of new development and ultimately ensure new buildings are zero carbon.

The proposed changes to Building Regulations/carbon reduction policies in the CELPR (specifically DM30a), biodiversity net gain requirements and EV charging points will add to costs and require developers to adapt. As members will be aware, the impact on viability and the delivery of homes has received significant challenge during the recent consultation. Introducing CIL in tandem with the CELPR will add a further complication to the process and increase challenges on viability grounds. Amongst other responses to the CELPR, is the assertion that policy DM30a should include a clause referring to flexibility in the carbon reduction requirements. Whilst this will be resisted, an Inspector may recommend that this suggestion is included.

If CELPR policies and CIL are adopted, notwithstanding the conclusions of the VA, it is likely that more viability assessments would come forward at application stage. Other

2

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907203/The_Value_and_Incidence_of_Developer_Contributions_in_England_201819.pdf

authorities have seen an increase in application specific viability assessments and an impact on other policy requirements such as a reduction in affordable housing provision. Viability is already regularly challenged at planning application stage resulting in policy requirements such as affordable housing being reduced. As CIL is fixed non-negotiable charge, where the overall contribution and policy requirements result in development which would be unviable, CIL would take precedence over other potential S106 contributions for infrastructure and other policy requirements within the Local Plan. This may include a requirement to treat the carbon reduction target within policy DM30a, affordable housing provision and other policies such as the requirements for above ground multi-functional SuDS, green space provision and the aims for increased food growing opportunities with flexibility.

It is considered that ensuring the CELPR can be found sound and adopted, new development builds in the carbon reduction requirements to reduce carbon output over the long term, the provision of affordable housing and the wider aims to ensure development is delivered and sustainable should take precedence at this time. This approach accords with the priorities in the Corporate Plan.