

# Task & Finish Group Report

Community Infrastructure Levy  
(CIL)

For consideration by the

General Overview & Scrutiny Committee

16th July 2013

# **Task & Finish Group Report Community Infrastructure Levy (CIL)**

## **Executive Summary**

Community Infrastructure Levy (CIL) is a new local government tax on development which aims to provide a revenue stream for local authorities and parishes which recognises the community stakeholding in the increase in value landowners derive from the grant of planning permission.

Careful consideration is required in setting the initial charge rates to balance policies supporting sustainable development with the economic realities of viable development - particularly while we remain in an economic downturn.

Herefordshire now plans to implement CIL in the autumn of 2014 and it is with this relatively short deadline in mind that this Task & Finish Group makes comment in this report on the progress being made in developing the county's policy on CIL.

During this year significant progress has indeed been made on this matter, with further guidance being received from the Council's consultants and a public consultation taking place on preliminary draft changes over the spring. Officers and the Cabinet Member are to be congratulated on delivering this in parallel with the onerous task of completing the final phases of the Core Strategy's evolution and submission to Council for approval.

The themes of viability, sustainability and deliverability remain central to the successful adoption of both the Core Strategy and CIL. Additionally these two mainstays of local planning policy remain inextricably entwined since CIL also provides a significant proportion of the funding critical to the delivery of county and local infrastructure projects.

This report addresses outstanding recommendations from our initial report on CIL of December 2012. It also comments upon the viability modelling undertaken in support of both the Core Strategy and the implementation CIL; upon the public consultation on preliminary draft charges for CIL; and upon recently released government guidance on the subject.

Throughout, we have referred to National Planning Policy Framework guidance and advice on best practice provided to DCLG. As the result of our investigations we recommend: additional modelling to address significant gaps; clarification of the Council's assumptions and approach to the policy to ensure consistency and compliance with guidance; review of certain aspects of the evidence base for CIL to confirm robustness; additional modelling/assessment to inform action; and further assurance on certain aspects of preparation for the implementation of the new charge to deliver resilience.

As a result of a delay in the analysis of the responses received to the spring consultation on CIL, this TFG will reconvene in the autumn to continue this policy-shaping piece of scrutiny work.

We submit the detail of our findings and recommendations contained in this report to General Overview & Scrutiny Committee for its consideration.

## 1 Background

- 1.1 The initial report of the CIL Task & Finish Group (TFG) was presented to General Overview & Scrutiny Committee on 10th December 2012 (the December Review report is available via the Council's web site)<sup>1</sup>. The Executive response was reported to the General Overview & Scrutiny Committee on 4th March 2013 (also available via the Council's web site)<sup>2</sup>. The Committee noted that the Cabinet Member (Environment, Housing & Planning) had accepted all the recommendations of the review and this has since been confirmed in a letter, from the Cabinet Member, to all parish councils, dated 11th April 2013.
- 1.2 The recommendations from the earlier report are as follows:
1. that a differential rates approach, in terms of both areas and zoning within areas, be taken to setting CIL in Herefordshire.
  2. that this Task & Finish Group be recommissioned early in 2013 to review the available documentation, engage with stakeholders on the proposed charging schedule and make recommendations. **[Outstanding]**
  3. that the guidelines set out in the Income & Charging Review be applied to the application of CIL rates.
  4. it is important to include all types of development in the CIL charging framework – although some categories may be given a £Nil rate in a particular charging timeframe.
  5. that this Task & Finish Group be re-commissioned early in 2013 to review the available documentation, and to engage with local stakeholders on the options for phasing of CIL payments before making further recommendations. **[Outstanding]**
  6. that a Locality-based approach to managing both the encouragement of development and the implementation and ownership of infrastructure projects - including those designated as 'strategic' at county level, is recommended for Herefordshire.
  7. to ensure that the implementation of CIL encourages and supports the Council's targets for affordable and social housing and advances the standards of building sustainability of the county's housing stock.
  8. that a special development category be included in the CIL rate recognising high energy efficient, lifetime sustainable developments.
  9. that a communication plan and workshops be instigated in advance of the implementation date to ensure that clear advice is available to both the development industry and the general public.
  10. that the question of how the cost of infrastructure projects are budgeted for and managed be investigated in more detail when the Task & Finish Group is recommissioned. **[Outstanding]**

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<sup>1</sup> General Overview & Scrutiny Committee 10 December 2012  
<http://councillors.herefordshire.gov.uk/ieListDocuments.aspx?CId=809&MId=4675&Ver=4>

<sup>2</sup> General Overview & Scrutiny Committee 4 March 2013  
<http://councillors.herefordshire.gov.uk/ieListDocuments.aspx?CId=809&MId=4646&Ver=4>

- 1.3 **Outstanding Recommendations:** These will be picked-up where they fit in the body of this report.

*Recommendation 2: that this Task & Finish Group be recommissioned early in 2013 to review the available documentation, engage with stakeholders on the proposed charging schedule and make recommendations. Para: 3.3*

*Recommendation 5: that this Task & Finish Group be re-commissioned early in 2013 to review the available documentation, and to engage with local stakeholders on the options for phasing of CIL payments before making further recommendations. Para: 3.5.*

*Recommendation 10: that the question of how the cost of infrastructure projects are budgeted for and managed be investigated in more detail when the Task & Finish Group is recommissioned. Para: 2.8.6*

- 1.4 Further information concerning the history, scope, work undertaken during the initial review, the documents received and the findings were all reported in the published report (the December Review Report) in the agenda for the Committee on 4 March<sup>1</sup>.
- 1.5 The recommissioned Task & Finish Group comprised Councillors: EPJ Harvey (Chair); B Durkin, J Hardwick; MAF Hubbard; GR Swinford. The Group were supported by Mr A Ashcroft, Assistant Director Economic, Environment & Cultural Services (Lead Officer); Mrs Y Coleman, Planning Obligations Manager; Mr P James, Democratic Services Officer; and latterly Mr A Tector, Head of Special Projects. We thank these officers for their assistance.
- 1.6 The TFG was reconvened on 6th February 2013 to return to and complete the work outstanding from the December 2012 CIL report, and to make any further recommendations where necessary regarding the implementation of CIL in Herefordshire.
- 1.7 During the period in which the TFG has been sitting the authority has undertaken public consultations covering both the draft Core Strategy/Local Plan and the preliminary draft charging schedule for CIL. These consultations ran in parallel from 4th March to 22nd April 2013.
- 1.8 During the course of the review, the TFG has posed a series of questions to Three Dragons, the authority's retained consultants, who have been providing specialist support on housing market assessment and viability testing since 2010. Responses were received on 24th June 2013. The TFG also met with Three Dragons' consultant, Lin Cousins on 27th June, to follow up of the responses to our questions and to discuss the draft of this report, produced in April. The questions and answers and the notes of the meeting held on 27th June will be circulated to Members shortly [to follow].
- 1.9 Three Dragons have considerable experience and national presence in the area of CIL implementation and viability assessment. They have played an instrumental part in the development of a guidance and best practice report to DCLG, by the Local Housing Delivery Group chaired by Sir John Harman, which was entitled: Viability Testing Local Plans – advice for planning practitioners<sup>3</sup>. As part of its guidance to DCLG the Local Housing Delivery Group provides 7 key principles associated with

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<sup>3</sup> Viability Testing Local Plans – advice for planning practitioners  
[http://www.nhbc.co.uk/NewsandComment/Documents/filedownload.47339\\_en.pdf](http://www.nhbc.co.uk/NewsandComment/Documents/filedownload.47339_en.pdf)

assessing the viability of local plans. These principles are as follows – with their key themes highlighted for this report:

1. It is critical that consideration is given to the **cumulative impact of the plan policies**, rather than treating policies in isolation or overlooking the potential impact of policies on the delivery of planned development.
2. Planning authorities will often need to **strike a balance between the policy requirements necessary to provide for sustainable development and the realities of economic viability**. There should be both clear local justification for the adoption of local standards and policies, and reasonable returns for landowners and developers. Making an informed and explicit choice about the risks to delivery is a key outcome of the assessment of Local Plan viability.
3. This **local choice should be supported by a collaborative approach that is taken throughout the policy making process**. The advice and input of local partners, particularly those with knowledge of the local market and development economics, and those who will be involved in delivering the plan, should be sought at each stage. This should avoid making poorly founded assumptions that can lead to plans being contested. It will also improve understanding of the need for the proposed policies and standards among those seeking to bring forward development in the area. The best plans are also regularly reviewed to test the policies adopted to ensure the plan remains viable and deliverable.
4. Viability assessments of Local Plans should therefore be seen as **part of the wider collaborative approach to planning** and a tool that can assist with the development of plan policies, rather than a separate exercise.
5. The approach to **assessing plan viability should recognise that it can only provide high level assurance** that the policies within the plan are set in a way that is compatible with the likely economic viability. It cannot guarantee that every development in the plan period will be viable, only that the plan policies will be viable for the sufficient number of sites upon which the plan relies in order to fulfil its objectively assessed needs.
6. The **assessment process should be iterative**. Draft policies can be tested based on the assumptions agreed with local partners, and in turn those assumptions may need to be revised if the assessment suggests too much development is unviable. This dynamic process is in contrast to the consideration of viability during development management, when policy is already set.
7. This approach does make viability assessment more challenging, particularly when considering the potential viability of plan policies over the whole plan period and across the different sub-markets of the plan area. However, a **demonstration of viability across time and local geography will be of much more value to local decision making** and will help develop a local shared understanding of deliverability.

- 1.10 We have used these principles and the guidance underpinning them as a framework for the investigations we have carried out throughout this scrutiny activity.
- 1.11 **NOTE:** The analysis of the comments received during the public consultation on CIL has not been undertaken yet, so the comments made in this report, while not forming a formal scrutiny response to the consultation, are intended to sit alongside the consultation responses. This TFG will reconvene in September 2013 to review the consultation results and to make further recommendations to the CIL rates ahead of any reports coming to Cabinet in October/November 2013.
- 1.12 The following sections of this report are organised to capture our recommendations associated with the key building blocks of evidence or activity associated with the development of policy on the implementation of CIL in Herefordshire.

## **2 The Economic Viability Assessment 2013 (EVA-2013)<sup>4</sup>**

- 2.1 This document comprises the viability assessment for the whole Core Strategy, and summarises the evidence for the development of a Community Infrastructure Charging Schedule. The report was received in its latest draft form in February 2013, was compiled by Three Dragons in support to Planning Officers, and formed part of the evidence base for the Core Strategy and CIL public consultations.
- 2.2 DCLG guidance states that *“it is important to note that the role of an assessment is to help inform the decisions made by locally elected members when preparing and adopting a Local Plan.”*
- 2.3 To further set the importance of this document in context, the National Planning Policy Framework (NPPF) states:

*“Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the 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. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.”*

*“Local planning authorities... should assess the likely cumulative impacts on development in their area of all existing and proposed local standards, supplementary planning documents and policies that support the development plan, when added to nationally required standards. 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. Evidence supporting the assessment should be proportionate, using only appropriate available evidence.”* NPPF paras 173-4

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<sup>4</sup> Draft Economic Viability Assessment (Feb 2013)

[https://www.herefordshire.gov.uk/media/5688108/economic\\_viability\\_assessment\\_2013\\_draft\\_report\\_draft\\_hcc\\_final\\_13\\_02\\_16\\_lc.pdf](https://www.herefordshire.gov.uk/media/5688108/economic_viability_assessment_2013_draft_report_draft_hcc_final_13_02_16_lc.pdf)

- 2.4 **Cumulative Impact of Policies [key principle 1]:** This TFG has reviewed the current EVA and discussed its contents with officers and Three Dragons. It is clear that there has been a change in the approach taken to modelling viability compared with that used for the previous document EVA-2011<sup>5</sup>. EVA-2013 has not undertaken an assessment of the total likely cumulative impact of policies upon development in Herefordshire, because a decision has been taken not to include the full cost of the infrastructure required in the Local Plan. No explanation has been provided for this change in approach. To take only a portion of the full infrastructure costs into account when undertaking the viability modelling of the whole Core Strategy/Local Plan is contrary to guidance (NPPF paragraphs quoted above and viability testing key principle 1, para 1.9) and should be corrected.
- 2.5 In advising this TFG, Lin Cousins of Three Dragons commented that “*Infrastructure issues need to be examined in considerable detail alongside their relationship to CIL and Section 106 payments*”. It is crucial that the authority has the required evidence to be assured that the Local Plan is viable, sustainable and deliverable. Without the evidence that the cumulative impact of all policy costs has been modelled it is not possible to be assured that the CIL rates proposed are achievable whilst delivering competitive returns for developers, without them jeopardising the delivery of local infrastructure and/or affordable housing targets.
- 2.5.1 **Recommendation:** That
- a. modelling of the cumulative effect of plan policies, to include full costs of all infrastructure mentioned in the Core Strategy policies, be undertaken as a matter of urgency; and
  - b. the results from this modelling be used to inform the setting of draft CIL rates throughout Herefordshire and to assess the viability of the Core Strategy/Local Plan ahead of examination in public.
- 2.6 **Sustainable Development & Realistic Economic Viability [key principle 2]:** The TFG remains concerned that the requirement for a balance between policy and reality has not yet been achieved. The Group accepts that the approach to modelling near-term (1-5yrs) development costs adopted by Three Dragons aligns with guidance, i.e. working on the basis of current costs and values. However, we remain concerned:
- i) That material discrepancies remain between the house and land values used in the modelling and those currently representative of prices being paid on the ground.
  - ii) That the Zone 4 housing market sub area proposed for a single CIL residential housebuilding rate of £140/m<sup>2</sup> is too large to represent a homogeneous market.
  - iii) That the precise positioning of housing market sub area boundaries needs review to avoid transitioning at locations where developer activity might reasonably be expected.
- 2.6.1 We recognise that there has been a significant amount of work undertaken to acquire a sound evidence base upon which to make these assumptions, but consider that

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<sup>5</sup> Economic Viability Assessment Final Report June 2011  
[https://www.herefordshire.gov.uk/media/5299382/Economic\\_Viability\\_Assessment\\_June\\_2011.pdf](https://www.herefordshire.gov.uk/media/5299382/Economic_Viability_Assessment_June_2011.pdf)

concerns expressed within particular geographies and by particular stakeholders warrant further investigation.

- 2.6.2 **Recommendation:** That 1-2-1 meetings with stakeholders, or stakeholder group meetings within Localities, are held to gather further information about house/benchmark land values to inform revisions to rates, areas and boundaries.
- 2.6.3 Additionally, not all strategic housing sites have been modelled with appropriate assumed land values: e.g. the viaduct site in Ledbury has been assessed as having a value which is a multiplier over its current agricultural use (£300k/gross ha), but since 2001 it has been designated as employment land. Therefore it already has a higher value than normal agricultural land and this should be reflected in the modelling assumptions.
- 2.6.4 **Recommendation:** That the benchmark land values ascribed to strategic sites are checked for correctness and new modelling take place for any strategic housing development which has been inappropriately classified according to its land type.
- 2.7 **Modelling assumptions [key principle 3]:** Not all of the modelling assumptions used throughout the latest EVA have been clearly stated in the document, e.g. those for large scale sites - net developable area, and opening-up costs. These assumptions have also changed compared to those in EVA-2011 which were identified at the time as being aligned with guidance. The reasons for these changes are not adequately explained.
- 2.7.1 No mention is made of the change in the method for handling S106/developer funded infrastructure from EVA-2011 to EVA-2013, as previously mentioned.
- 2.7.2 EVA-2013 state in para 1.18: “[*The modelling*] assumes that some types of infrastructure (such as education) which are currently delivered through s106 agreements will be paid for with CIL monies (and be included in the Council’s Regulation 123 list)”.
- 2.7.3 Cross referencing the infrastructure list in the IDP appendix, none of the new schools and school extensions listed in the plan are proposed to be funded by CIL. All are shown as developer funded. This creates uncertainty regarding where the funding source for the required education infrastructure.
- 2.7.4 **Recommendation:** That all modelling assumptions should be discussed collaboratively with stakeholders; cross referenced with documents in the Core Strategy/Local Plan evidence base for consistency; and clearly stated/explained in EVA-2013 with respect to wider benchmarks, guidance, previous studies and best practice.
- 2.8 **Testing Over Time and Across Geographies [key principle 7]:** Guidance recommends viability modelling of the Local Plan across time and local geography. EVA-2013 has not modelled viability across time, although it has recognised and taken account of the geographical variation of house and land prices.
- 2.8.1 It is disappointing to note that the TFG’s recommendation 1 from our December report has not been fully adopted, in that there was no zoning within CIL rate areas to create variation between town, village and rural CIL rates and thereby smooth the rate transitions at area boundaries. The comments and recommendations already made in section 2.6 also relate to improvements in the assessment of the geographical variations across the county.



- 2.8.2 In our earlier report we requested that the infrastructure projects in the IDP be organised by geography (which they have been) and phased according to the expected housing delivery trajectory in the Core Strategy/Local Plan (which currently they are not). Phasing over time would enable the investment profiles for CIL and developer funding to be better understood and would enable some time based viability modelling to be undertaken for the whole plan.
- 2.8.3 We consider that such time-based modelling would be of assistance in planning the approach to utilising CIL revenue in the broader financial management framework of the Council as a whole and would identify where CIL might assist with the funding of the infrastructure investments which should be implemented in advance of the development they support.
- 2.8.4 **Recommendation:** That, ahead of examination in public:
- a. the fully costed infrastructure projects in the IDP are phased to match with the development delivery trajectory in the core strategy; and
  - b. time-based viability modelling of the whole plan be undertaken.
- 2.8.5 During our review, the Group met with the Chief Officer Financial & Commercial (COFC) to discuss whether the existing finance system was able to account at a Locality level for CIL monies as previously recommended. He confirmed that CIL income could be pooled for significant periods of time and could be used to pay interest on borrowing for capital projects. COFC also confirmed that mechanisms exist to hold and manage monies at a Locality level and that the finance systems have the capacity also to apportion costs of county wide projects at a Locality level according to a variety of different criteria, e.g. population, household numbers, etc.
- 2.8.6 **NOTE:** This discharges the outstanding recommendation 10 from our December report and supports the adoption of the Group's previous recommendation 6 – by confirming that accounting for the bulk of the CIL money at locality level is feasible further supporting statements from Cabinet Member – Environment, Housing & Planning to all parish councils.

### 3 Preliminary Draft Charging Schedule

- 3.1 In July 2012 Cabinet requested that the final phases of the development of the Core Strategy/Local Plan and the policy development work to implement CIL in Herefordshire should run together. This TFG has been working throughout the autumn of 2012 and into 2013 to the joint timetable laid down by the administration for these two activities.
- 3.2 This current phase of the TFG work programme was initiated to review the evidence base for CIL provided by the EVA-2013 and to address as part of that the outstanding recommendations relating to the preliminary draft charging schedule and approaches to payment phasing.
- 3.3 **Charging Schedule:** Although the Group was provided with an early draft of the Council's consultation document on CIL<sup>6</sup> which contained some information about proposed charges for non-residential types of development informed by section 5 of the draft EVA-2013, the full final draft Economic Viability Assessment (EVA) was not made available to the Group ahead of the recommended preliminary draft charging

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<sup>6</sup> Community Infrastructure Levy Preliminary Draft Charging Schedule Consultation Document  
<http://consult.herefordshire.gov.uk/qf2.ti/f/18338/200037.1/pdf/-/Preliminary%20draft%20charging%20schedule%20March%202013.pdf>

schedule being submitted to Cabinet for approval and release to public consultation. Therefore the outstanding Recommendation 2 could not be completed by the Group.

3.3.1 The Group was not permitted to engage with stakeholder parish councils during the period of the public consultation on CIL.

3.4 The Group made a number of suggestions regarding these preliminary draft non-residential rates, some of which made their way into the final document, e.g.

- i) making a distinction between town centre and out-of-centre comparison retail
- ii) creating separate rates for large/small convenience retail developments.

3.5 **Payment Phasing:** The EVA produced in 2011<sup>5</sup> (section 5, page 35 onwards) notes the extreme sensitivity of the viability modelling to payment phasing. At that time, the viability modelling undertaken considered a number of different discounted cash flow models which indicated that the deferment of payments for a number of years was necessary for a number of strategic housing sites to ensure that the developments were financially viable.

3.5.1 EVA-2013 (Table 4.3, page 29) has modelled development sensitivity to payment phasing, but this has been undertaken using the land value, net developable area and opening-up cost assumptions about which we have already raised concerns elsewhere in this report. It may be that revisiting these modelling assumptions will then change the criteria used in the sensitivity testing of CIL payment phasing.

3.5.2 **Recommendation:** That

- a. the reasons for the revised modelling assumptions for net developable area and opening-up costs compared to EVA-2011 are clearly explained, and
- b. assurance be provided that there is no detrimental impact on the viability and deliverability of all aspects of developments by the recommendation that the phasing of CIL payments is not now necessary.

[Acknowledging that there is some delayed payment effect created by the current government proposals to link payment of CIL to the resolution of reserved planning matters (see paragraph 5)].

3.5.3 The Group made some suggestions regarding changes to the gradation of the proposed phasing criteria when the CIL consultation report was still in its draft form, although these suggestions were not incorporated in the document released for public consultation, we restate them here for further consideration:

*The phasing criteria determining the instalment schedule for CIL payment in the CIL consultation report do not appear to be sufficiently wide to differentiate between more than the very smallest of developments, e.g.: in Zone 4: Ledbury-Ross-Northern Rural area, where a CIL rate of £140/m<sup>2</sup> is proposed, then £40k (the highest value instalment profile) would be raised on a development of just 4 average sized houses – i.e. less than the minimum number considered for a designated development plot in the Strategic Housing Land Availability Assessment (SHLAA).*

3.5.4 **Recommendation:** That the gradation of the payment phasing criteria should be reviewed to provide flexibility when tested for large, small and staged developments.

3.5.5 It is disappointing that the provisional draft rates consulted upon did not include special rates for self-build and high energy efficient build projects, as suggested in

recommendations 7 & 8 of our December report. However, it is gratifying to see that the latest national consultation on CIL does recommend such allowances (See paragraph 5).

- 3.5.6 Further to our earlier recommendation 8 we note the evidence provided by the 2013 Understanding Herefordshire Report on the proportion of households in Herefordshire already suffering from fuel poverty currently assessed as standing at ~25%. We would like to recommend that the administration consider treating high energy efficiency developments (to PassivHaus standards) as being equivalent to infrastructure developments. In that their development does not create the additional burden upon the county's utility infrastructure which normal housing development generates. Such developments also have significantly reduced lifetime running costs for their inhabitants, which is of importance in a county recognised as having a working population operating well below average national wage levels.
- 3.5.7 This contribution towards reducing the county's infrastructure loading could be recognised in applying a £negative CIL to these properties – i.e. making a per m<sup>2</sup> payment from the CIL fund to the developer for each house built to these standards. NOTE: This would not preclude the application of S106 agreements to address the need for local infrastructure.
- 3.5.8 **Recommendation:** That the Executive consider setting a £Negative CIL rate for developments delivered to PassivHaus standards to recognise their contribution towards reducing the strain on strategic infrastructure.

#### **4 CIL Public Consultation**

- 4.1.1 Although this report does not comprise a formal response from scrutiny to the Council's public consultation on CIL, the TFG has a number of comments regarding the detail of the consultation undertaken between 4th March and 22nd April 2013.
- 4.1.2 The consultation elicited approximately 500 responses from across Herefordshire and was probably assisted in achieving this level of returns by the parallel and related consultation on the Core Strategy/Local Plan itself. The consultation document was very much simpler than that for the Core Strategy. The webpage and the document contained hyperlinks to local evidence and national policy on CIL and were clearly written and well laid out.
- 4.1.3 Similar to the Core Strategy/Local Plan, the CIL consultation was undertaken mainly online. Given the nature of the stakeholder group for this consultation, the TFG considers that an online approach was an effective method of engagement.
- 4.1.4 Although the TFG has concerns regarding the evidence and assumptions underpinning the rates and housing market areas consulted upon, we are broadly content with the consultation process itself. However we do make the following minor comments:
- i) no CIL rate was set for the 'Superstore' category of combined convenience and comparison stores, despite this having been modelled in EVA-2013.
  - ii) the size of the store in this category is described as 'Large' in question 9 of the recent consultation while in EVA-2013 a convenience store of ~300m<sup>2</sup> is described as 'small' – with large stores defined as <2,500m<sup>2</sup> and superstores as >2,500m<sup>2</sup>. We question whether the definition of a 'large' store in Herefordshire should start at 280m<sup>2</sup>.

#### 4.1.5 **Recommendation:** That

- a. a 'Superstore' rate of CIL be proposed for the next round of consultation; and
- b. question 9 of the CIL consultation be reviewed for correctness.

4.1.6 According to the original timetable, the TFG were expecting the analysed results from the consultation to be ready in time for this report to comment on them. However, it is presently anticipated that the results will be ready during September/October. Consequently this TFG will reconvene in the autumn to consider these results along with the draft charging schedule proposed for final consultation, ahead of these reports coming to Cabinet.

## 5 **New Guidance**

5.1.1 On 26th April 2013, immediately following the closure of the consultations on the Core Strategy/Local Plan and CIL, government published a number of further guidance notes relating to planning matters and CIL. These will need to be taken into consideration in taking the work on CIL forward. These documents can be found at:

<https://www.gov.uk/government/publications/section-106-affordable-housing-requirements-review-and-appeal>

<http://www.legislation.gov.uk/ukpga/2013/27/contents/enacted>

<https://www.gov.uk/government/publications/community-infrastructure-levy>

5.1.2 At this time, government also initiated a national consultation on revisions to the existing legislation relating to CIL. This document can be found at: <https://www.gov.uk/government/consultations/community-infrastructure-levy-further-reforms>. The consultation closed on 23 May 2013 and the outcomes have not been published. It is likely that the outcomes will influence the work going forward on CIL

5.1.3 Presently officers have not had sufficient time to evaluate fully the impact of these policy changes and a more detailed summary will be provided when this TFG reconvenes in September 2013.

5.1.4 It is clear that a number of these policy changes involve additional work for the Council in administering CIL policy and that some of the changes actively encourage developers to break their developments into small schemes or many phases. Since the present management charge for CIL is a proportion of the total money charged, this does not have the capacity to reflect the additional workload created by managing many small schemes.

5.1.5 Additionally a number of the changes to the planning system require rapid response by planners to particular types of application and/or amendments to permissions - with penalties imposed if these response timescales are not met.

5.1.6 This Group seeks assurance that the Council has the manpower, tools, and mechanisms to identify, prioritise and process this increasingly complex workload.

5.1.7 Alongside these proposed revisions government gave permission for S106 payments to be pooled for a further 12 months, out to April 2015. This has resulted in the administration proposing to decouple the development of policy on CIL from the final phases of the implementation in the Core Strategy/Local Plan with the intention to slip the implementation of CIL to autumn 2014.

- 5.1.8 However, DCLG guidance and the NPPF state that “*wherever practical, Community Infrastructure Levy charges should be worked up and tested alongside the Local Plan. Because a local authority’s CIL will be one of the policy costs on development*”.
- 5.1.9 **Recommendation:** That following submission of the Core Strategy/Local Plan to full Council in July 2013, priority is given to bringing the CIL and Core Strategy back in alignment (in line with guidance) and that this be achieved ahead of the Core Strategy being submitted to examination in public.
- 5.1.10 Legislation was enacted in April 2013 to cap the amount of CIL funding to be returned to parishes in possession of a parish/town plan. The impact of this amendment to the proposals for distribution of a ‘meaningful proportion’ of the CIL revenue generated in a parish is still being evaluated by officers but this Group recommends that guidance on the matter is issued to parishes by the end of August.
- 5.1.11 **Recommendation:** That officers assess the impact of CIL capping for councils holding a parish plan and provide guidance to all parishes by the end of August 2013.

## **6 Future Work Programme**

- 6.1 The revised timetable for the implementation of CIL is dependent on the publication of the outcomes of the latest government reforms to CIL. This will inform the work required in the next stage of the process and will also influence the next stage of viability modelling.
- 6.2 At this stage we anticipate further modelling work will need to take place in support of a final set of draft CIL rates for the county. Getting these rates correct at the outset is critically important, ensuring that development continues to come forward alongside delivering the planned proportions of affordable housing and required local infrastructure.
- 6.3 Given this, we strongly recommend that further thought is given to the matter of transitioning from the current system of S106 agreements to CIL + S106. With CIL now planned for introduction in autumn 2014, it is likely that the current poor economic conditions will remain in effect. It is in no-one’s interest to have the introduction of CIL result in the trading away of affordable housing quotas and local infrastructure projects to bring forward viable developments while land prices are adjusting to the introduction of this new ‘development tax’.
- 6.4 The TFG recommends that a transition plan be devised involving the introduction of a lower set of initial CIL rates than are indicated as viable by the revised modelling.
- 6.5 We also recommend that Three Dragons are requested to provide advice on the kind of monitoring indicators that could be used to review market behaviour post-implementation, and to suggest the thresholds for these indicators which could be used to trigger an early rate review.
- 6.6 **Recommendation:** That
- a. a set of transition CIL rates be initially introduced which are significantly lower than those modelled as viable, to assist with immediate market land price adjustment and to encourage development to come forward following the introduction of CIL; and
  - b. consultants provide advice on monitoring indicators and trigger thresholds for future rate review.

- 6.7 The Council currently works with a Principal Surveyor at the District Valuation Office to independently assess planning applications where viability assessments are submitted. The cost of this is borne by the developer as it is in their interest to have an independent assessment of their viability assessment to secure planning permission, or not, where a case of viability is not proven. Presently this approach is planned to continue and is incorporated into the explanatory text of the Local Plan - Core Strategy Infrastructure Delivery policy, where it states:

*“The council accepts that there are may be occasions where development proposals are unable to meet all the relevant policy requirements and still remain viable, where the council is satisfied that an otherwise desirable development cannot be fully compliant and remain viable, a reduced package of planning obligations may be recommended.*

*In order to enable the council to assess the viability of a proposal, the applicant will be required to provide any necessary cost and income figures to the council and pay the council’s full costs in appointing an independent assessment of the viability proposal.*

*In all cases, the council requires viability to be undertaken using a residual land value approach. This means that the starting point for a viability assessment is to be the existing use value (i.e. what the site is worth in its current condition for the use that it has planning consent for). Viability claims based on an over inflated price that has been paid for a site will not be accepted.”*

- 6.8 Whatever the rates eventually adopted, the introduction of CIL will require that the authority is capable of undertaking very robust pre- and post-application negotiations regarding viability. The TFG seeks assurance that the approach to future negotiations is informed by detailed knowledge of market/industry economics and detailed financial modelling of the specific developments.

- 6.9 We remain concerned that taking existing use values as the starting point for negotiations does not sufficiently take into account the considerable number of sites which are already clearly identified for development in the plan, and worry that this approach will lead to significantly reduced affordable housing and local infrastructure if the viability modelling is not sufficiently robust and informed to push back hard on the developers' argument.

6.10 **Recommendation:** That

- a. The Executive provides information and assurance to the reconvened Task & Finish Group to demonstrate that the DVO approach comprises detailed and continually updated market and economic information on whole development costs sufficient to ensure the robust defence of local infrastructure and affordable housing targets; and
- b. this is demonstrated to the Group's satisfaction ahead of the Core Strategy being submitted to examination in public.

## **7 Summary of Recommendations**

### **1. That**

- a. modelling of the cumulative effect of plan policies, to include full costs of all infrastructure mentioned in the Core Strategy policies, be undertaken as a matter of urgency; and**
- b. the results from this modelling be used to inform the setting of draft CIL rates throughout Herefordshire and to assess the viability of the Core Strategy/Local Plan ahead of examination in public.**

*[para. 2.5.1]*

- 2. That 1-2-1 meetings with stakeholders, or stakeholder group meetings within Localities, are held to gather further information about house/benchmark land values to inform revisions to rates, areas and boundaries.**

*[para. 2.6.2]*

- 3. That the benchmark land values ascribed to strategic sites are checked for correctness and new modelling take place for any strategic housing development which has been inappropriately classified according to its land type.**

*[para. 2.6.4]*

- 4. That all modelling assumptions should be discussed collaboratively with stakeholders; cross referenced with documents in the Core Strategy/Local Plan evidence base for consistency; and clearly stated/explained in EVA-2013 with respect to wider benchmarks, guidance, previous studies and best practice.**

*[para. 2.7.4]*

- 5. That, ahead of examination in public:**

- a. the fully costed infrastructure projects in the IDP are phased to match with the development delivery trajectory in the core strategy; and**
- b. time-based viability modelling of the whole plan be undertaken.**

*[para. 2.8.4]*

- 6. That:**

- a. the reasons for the revised modelling assumptions for net developable area and opening-up costs compared to EVA-2011 are clearly explained, and**
- b. assurance be provided that there is no detrimental impact on the viability and deliverability of all aspects of developments by the recommendation that the phasing of CIL payments is not now necessary.**

*[para. 3.5.2]*

7. That the gradation of the payment phasing criteria should be reviewed to provide flexibility when tested for large, small and staged developments.

*[para. 3.5.4]*

8. That the Executive consider setting a £Negative CIL rate for developments delivered to PassivHaus standards to recognise their contribution towards reducing the strain on strategic infrastructure.

*[para. 3.5.8]*

9. That

- a. a 'Superstore' rate of CIL be proposed for the next round of consultation; and
- b. question 9 of the CIL consultation be reviewed for correctness.

*[para. 4.1.5]*

10. That following submission of the Core Strategy/Local Plan to full Council in July 2013, priority is given to bringing the CIL and Core Strategy back in alignment (in line with guidance) and that this be achieved ahead of the Core Strategy being submitted to examination in public.

*[para. 5.1.9]*

11. That officers assess the impact of CIL capping for councils holding a parish plan and provide guidance to all parishes by the end of August 2013.

*[para. 5.1.11]*

12. That

- a. a set of transition CIL rates be initially introduced which are significantly lower than those modelled as viable, to assist with immediate market land price adjustment and to encourage development to come forward following the introduction of CIL; and
- b. consultants provide advice on monitoring indicators and trigger thresholds for future rate review.

*[para. 6.6]*

13. That

- a. The Executive provides information and assurance to the reconvened Task & Finish Group to demonstrate that the DVO approach comprises detailed and continually updated market and economic information on whole development costs sufficient to ensure the robust defence of local infrastructure and affordable housing targets; and
- b. this is demonstrated to the Group's satisfaction ahead of the Core Strategy being submitted to examination in public.

*[para. 6.10]*