Executive summary

The implementation of the Local Plan is essential in furthering the Council’s aim of ‘Building a Better Bournemouth’ and encouraging business investment.

Community Infrastructure Levy (CIL) will be used to raise contributions from developers to pay towards the cost of delivering the infrastructure that is required to support development. This has been established in the Local Plan namely the Core Strategy and Town Centre Area Action Plan.

Creating the conditions for a thriving economy is a priority for the Council. In delivering this priority in a competitive economic world, the Council recognise the need to work with the business community to deliver growth in Bournemouth.

Following two rounds of public consultation, the Bournemouth CIL Charging Schedule has now been examined by an independent Examiner and the Examiner’s Report was issued.
on 30th October 2015 (see Appendix 1). This concluded that CIL has been found sound for the Council to adopt subject to 3 modifications. This report highlights the Examiner’s findings and recommends adoption of the CIL Charging Schedule and the setting of an implementation date of 1st March 2016. In addition the report recommends the adoption of a Regulation 123 List and CIL Instalment Policy.

The CIL Charging Schedule, Regulation 123 List and Instalment Policy are attached as Appendices 2, 3 and 4 respectively.

<table>
<thead>
<tr>
<th>Recommendations</th>
<th>That Cabinet recommends Council to approve:</th>
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<tbody>
<tr>
<td></td>
<td>1) The adoption of the Bournemouth Community Infrastructure Levy Draft Charging Schedule;</td>
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<td>2) The CIL Charging Schedule to take effect from 1st March 2016;</td>
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<td>3) The adoption of the Regulation 123 List;</td>
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<td>4) The adoption of the CIL Instalment Policy.</td>
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<table>
<thead>
<tr>
<th>Reasons for recommendations</th>
<th>To enable the implementation of the CIL Charging Schedule in Bournemouth as of 1st March 2016.</th>
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<tbody>
<tr>
<td></td>
<td>CIL Regulations require that full Council adopt the CIL Charging Schedule and set an implementation date. The Regulations also require the adoption of a Regulation 123 List and there is an option of adopting an Instalment Policy.</td>
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<tr>
<td></td>
<td>The implementation of CIL will enable the Council to continue to gain contributions from developers towards the provision of infrastructure needed to support development.</td>
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<td></td>
<td>The collection of contributions through CIL will further Council priorities as expressed in the Corporate Plan 2014/15 ‘Ambition 2020’, in particular priorities under the headings of An Active Community, An Improving Environment and A Thriving Economy.</td>
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</table>

### Background detail

1. Members will be aware of the progress of CIL through reports and public consultation over the past year. The Council published its Preliminary Draft Charging Schedule for a 6 week period of public
consultation in August 2014. This set out a CIL charge expressed in £s per sq m on various types of development.

2 Following consideration of comments received and further viability testing, the Council published a Draft Charging Schedule for a 6 week period of public consultation in February 2015.

3 The Draft Charging Schedule, comments received on it, accompanying supporting documents and evidence were submitted to the Planning Inspectorate in April 2015. At the same time the Council published a Statement of Modifications for a 4 week consultation period. This set out proposed minor modifications to the CIL Draft Charging Schedule, together with proposed minor modifications to the Council’s Draft Regulation 123 list and Funding Gap Background Paper. The CIL Examination Hearing session was held in August 2015.

**CIL Examiner’s Report**

4 The Examiner issued his report to the Council on 30th October 2015 (attached as Appendix 1). His report concludes that, subject to 3 modifications, the Council’s CIL Charging Schedule satisfies the requirements of Section 212 of the 2008 Act and meets the criteria for viability in the 2010 Regulations (as amended). He found that the Council had used appropriate and available evidence and that the recommended revised charges will ensure that the overall development of the area will not be put at risk.

5 The three modifications to the Draft Charging Schedule recommended by the Examiner are:

- **EM1**: A new levy rate of £134 per sq m for small scale convenience stores (between 100 sq m and 280 sq m) across the whole Borough should be introduced;
- **EM2**: The charge for student accommodation should be reduced from £50 per sq m to £40 per sq m;
- **EM3**: A single rate for residential development outside the Town Centre Area Action Plan area of £70 per sqm.

6 The first modification EM1 relates to a new rate for small scale convenience stores. The Examiner was concerned the proposed CIL charge put these types of retail development at risk. He acknowledged the Council’s position that these stores were typically conversions or, if redevelopment, resulted in a small net gain of floorspace under 100sq m, therefore not liable for CIL. However he considered that there was no guarantee that this form of development would not come forward and the Council’s evidence
showed that it would not be viable with the proposed CIL charge. Therefore he considered a rate of £134 per sq m to be reasonable and realistic in terms of viability. After further retail testing, a differential retail rate of £134 per sq m for small convenience stores was suggested by our consultants Peter Brett Associates (PBA) as an option if the Examiner was mindful to consider that the delivery of smaller convenience stores was unduly at risk.

7 The second modification EM2 relates to a reduction in the rate for student accommodation from £50 per sq m to £40 per sq m. The Examiner was concerned that the CIL headroom figure was an insufficient amount and that only a small change in a number of variables would render a development unviable. He considered that a reduction of the CIL rate to £40 per sq m would increase the buffer by an adequate amount and would be reasonable and realistic.

8 The third modification EM3 relates to the proposed residential rate. The impact of the recent High Court judgement to quash Planning Practice Guidance previously amended in November 2014 to introduce a threshold approach to seeking financial contributions from development was discussed at the hearing. The Examiner agreed with the Council that the CIL residential differential rate of £120 per sq m for sites of 10 units or less and £70 per sq m for sites of 11 units or more outside the Town Centre AAP area should be removed and replaced with a single rate of £70 per sq m outside the Town Centre AAP area. This would now be appropriate and in line with current guidance.

9 The Examiner suggested that the Council reviews the Charging Schedule within 3 years of adoption to ensure that the overall approach remains valid, development remains viable and the appropriate balance is being struck.

**Revised CIL Charging Schedule**

10 A revised CIL Charging Schedule incorporating the modifications recommended by the Examiner and minor textual changes for clarification is attached as Appendix 2. The proposed table of charges, amended to take into account the Examiner’s recommendations in his report is as follows:-
**Definitions of uses and the boundary of the Town Centre AAP area are included in the Draft Charging Schedule – see Appendix 2**

### Adoption

11 The Council is able to decide whether or not to adopt the Charging Schedule. In line with the Examiner’s conclusions and subject to the 3 modifications being made, officers are recommending that the Charging Schedule as set out at Appendix 2 is adopted. The Council is not able to make further changes to the detail of the Charging Schedule unless it undertakes further consultation and another examination.

12 **Regulation 123 List** - Under Regulation 123 of the CIL Regulations, the Council is required to publish a list of infrastructure that it intends to fund, or may fund, through the levy. The purpose of the list is to differentiate between those types of infrastructure that the authority intends to fund through CIL and those areas where a Section 106 planning obligation or Section 278 highway agreement will be sought to make the development acceptable in planning terms. This will ensure there is no ‘double charging’.

13 A draft Reg 123 List was published for consultation at both previous stages of consultation on the charging schedule and submitted as a supporting document to the Draft Charging Schedule. Amendments were made to the Reg 123 List in response to some of the comments received.

<table>
<thead>
<tr>
<th>Development Type</th>
<th>CIL Charge per sqm</th>
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</thead>
<tbody>
<tr>
<td>Residential development (including retirement and extra care housing*) outside the Town Centre AAP area</td>
<td>£70</td>
</tr>
<tr>
<td>Residential development (including retirement and extra care housing*) inside the Town Centre AAP area</td>
<td>£0</td>
</tr>
<tr>
<td>Offices</td>
<td>£0</td>
</tr>
<tr>
<td>Light Industrial/warehousing</td>
<td>£0</td>
</tr>
<tr>
<td><strong>Student accommodation</strong></td>
<td><strong>£40</strong></td>
</tr>
<tr>
<td>Comparison Retail* inside the Town Centre AAP area</td>
<td>£0</td>
</tr>
<tr>
<td><em><em>Comparison Retail</em> outside the Town Centre AAP area</em>*</td>
<td><strong>£250</strong></td>
</tr>
<tr>
<td><strong>Large scale convenience retail / supermarkets</strong></td>
<td><strong>£250</strong></td>
</tr>
<tr>
<td><strong>Small scale convenience retail</strong></td>
<td><strong>£134</strong></td>
</tr>
<tr>
<td>Hotel</td>
<td>£0</td>
</tr>
<tr>
<td>Mixed leisure</td>
<td>£0</td>
</tr>
<tr>
<td>Public service and community facilities</td>
<td>£0</td>
</tr>
<tr>
<td>Other (standard charge) uses*</td>
<td>£0</td>
</tr>
</tbody>
</table>

*Definitions of uses and the boundary of the Town Centre AAP area are included in the Draft Charging Schedule – see Appendix 2*
14 It is therefore recommended that the Regulation 123 list attached as Appendix 3 is adopted.

15 Once CIL is implemented, the Regulation 123 List must be available to view on the Councils website. It can be reviewed and updated regularly, as funding streams and priorities change, subject to appropriate local consultation. Monitoring of CIL income and expenditure is required and results have to be published on an annual basis.

16 **Instalment Policy** A draft Instalment Policy was published for consultation at Draft Charging Schedule stage and submitted as a supporting document to the DCS. This allows for the phasing of CIL payments. No concerns were expressed about the Council’s approach. It is therefore recommended that the Instalment Policy attached as Appendix 4 is adopted.

17 **Implementation Date** It is recommended that the Charging Schedule is implemented on 1st March 2016. This should allow sufficient time for the Council to ensure that the appropriate administrative procedures are in place to charge and collect CIL. It is also important for the Council to give sufficient advance notice to potential developers as to when CIL will come into effect. All planning decisions made on or after 1st March 2016 will be subject to the requirements of the Charging Schedule, regardless of when the applications were submitted. To ensure that applicants are aware of this and its implications, an Interim CIL Informative Note has been published on the website, together with more detailed information in a Developers and Applicants Guide to CIL.

Consultation

18 The Preliminary Draft Charging Schedule consultation was the first opportunity for stakeholder comment on, and scrutiny of, the proposed rate and viability assumptions. It was published for a 6 week consultation period between 1st August – 15 September 2014. The Draft Charging Schedule was published for a 6 week consultation period between 9th February and 23rd March 2015. When the Draft Charging Schedule was submitted, the Council also published a Statement of Modifications for a 4 week consultation period between 17th April and 15th May 2015. After the Hearing, the Council emailed a letter on 21st August 2015 to respondents on previous stages of consultation inviting comments on a proposed change to the CIL residential rate within a 2 week period expiring on 4th September 2015.
Representations received during the consultation periods have been considered and have informed the preparation of the Charging Schedule. A significant proportion of representations were of a technical nature relating to the viability appraisals in the PBA Economic Viability Reports. PBA have considered these objections, updated the viability appraisals where appropriate and have provided the technical responses to these issues in the summary tables of representations received and Council’s Response which were included in the submitted Examination Documents. Please refer to ED 12 and ED 16 on www.bournemouth.gov.uk/CILSubmission and ED 26 on www.bournemouth.gov.uk/CILExamination.

Internal consultation in preparing the Charging Schedule has been undertaken with the Local Development Framework (LDF) Steering Group, Corporate Management Team, Executive Board and Portfolio Holder for Planning and Environment.

Options

An alternative option is to recommend that the Council does not adopt a Community Infrastructure Levy. From April 2015 no more than five separate Section 106 contributions can be combined to pay for infrastructure. This has a particularly significant impact on Bournemouth because of the generally small nature of development sites and the resultant small section 106 contributions achieved. Combining the maximum of just 5 such contributions will result in an inability to pay for infrastructure requirements, for example heathland mitigation projects fall within the CIL definition of infrastructure. This will mean that the Council’s legal duties to protect the designated heathlands and comply with the Habitat Regulations will not be met without introducing a CIL.

Although CIL is not a statutory requirement, the option of not introducing CIL is not a realistic alternative as restrictions after April 2015 have made Section 106 impractical as a source of developer contributions for strategic infrastructure.

Summary of financial/resource implications

The costs incurred progressing the CIL schedule to adoption, for example, consultant fees, examination costs and printing will be met within existing budgets. However it is unlikely the staff resource required to implement and monitor CIL will be covered by existing resources. As the charging authority the Council will be required to administer the collection, management and distribution of CIL payments, including engagement with community groups where they are entitled to a proportion of the levy.
The Regulations allow for up to 5% of CIL receipts to be applied to administrative expenses. Based on the estimated CIL receipts of £980k per annum, £49k per annum would be available to fund the administration of the programme, if the Council chose to do so. In view of the resource implication it is proposed that the Council makes use of this facility.

It is a requirement of the CIL regulations that a proportion of CIL be passed on to neighbourhood communities, 25% of CIL receipts in an area with a Neighbourhood Plan and 15% where there is no Neighbourhood Plan in place (capped at £100 per dwelling). As well as a reduced CIL pot to spend on Council infrastructure priorities there is a resource implication for the Council in terms of officer time required to engage with communities to agree how best to spend neighbourhood funding. Further work is required to address the governance of any future CIL spending. The period between the implementation of CIL and developments starting to pay CIL will allow time to develop governance arrangements.

In time CIL will provide a source of funding for infrastructure across the Borough. CIL and Section 106 contributions will operate in a complimentary way. There will continue to be a role for Section 106 contributions for site specific infrastructure (in accordance with Regulation 122) and affordable housing and Strategic Access Monitoring and Management (SAMM) which are not classified as infrastructure. It is difficult to estimate the expected CIL receipts as this will be dependent on the number and type of planning applications submitted, for example many that are presently subject to Section 106 contributions will be exempt from CIL. However, based on past trends of residential development it is estimated that approximately £980,000 could be raised from CIL per annum. As CIL is paid on commencement of development, it will take some time beyond the implementation date of 1st March 2016 for the Council to receive significant income through CIL.

Government guidance states that in order to meet the Habitats Directive the Council must be clear it intends to prioritise the use of CIL receipts to deliver heathland mitigation. This will have an impact on the ability to fund other infrastructure requirements. Importantly even where a residential development is non CIL liable the local authority as the competent body must ensure the impacts from those dwellings are mitigated, in effect this means using money from the overall CIL pot.

The latest capital programme, as reported in the Medium Term Financial Plan on 24 February 2015, shows a funding shortfall of £38.7m over the three years to 2017/18 based on the organisation’s
aspirations. This funding shortfall does not currently make any assumptions for the projected CIL income.

Summary of legal implications

29 The Planning Act 2008 (as amended) and CIL Regulations 2010 (as amended) set out requirements for adopting a Community Infrastructure Levy. The Charging Schedule has been found to be in compliance with relevant legislation and statutory Guidance by an independent Examiner. In accordance with the Planning Act 2008 (as amended), the Council has had regard to the Examiner’s recommendations and the reasons for them and has incorporated his recommendations within the Charging Schedule.

30 The CIL Regulations and Planning Practice Guidance state that the Charging Schedule must be formally approved by a resolution of full Council. The resolution should include an appropriate commencement date. Under regulations this is noted as the beginning of the day on which it takes effect. The recommended commencement date is 1st March 2016.

31 The Planning Act 2008 (as amended) and associated CIL Regulations 2010 (as amended) detail the requirements on how CIL is operated – the calculation of liability and charging, collection and enforcement arrangements.

32 When CIL is adopted, the Council will still be able to secure contributions from developers via S106 for any item or type of infrastructure which is not included in the Regulation 123 List (but subject to the pooling restriction). This means that the Council can secure S 106 contributions for site specific infrastructure (in accordance with CIL Regulation 122) and affordable housing and Strategic Access Monitoring and Management (SAMM) which are not classified as infrastructure.

Summary of human resources implications

33 Becoming a CIL charging authority will require staff and other resources to ensure the processes and procedures are in place for the CIL operation. This will involve officer time including planning officers, planning registration, IT support, land charges and finance (collection, accounting and invoicing). Staff will need to be trained to understand and administer the CIL process. The human resources implications are expanded in paragraphs 23 -25 above.
Summary of environmental impact

34 The Environmental Checklist has been completed. There are no environmental implications for this consultation. DCLG PPG (2014) advises that charging schedules do not require a Sustainability Appraisal.

35 The proposed charging schedule is a financial tool, not a plan or programme. However CIL can be used to raise money towards infrastructure which may meet environmental objectives.

Summary of equalities and diversity impact

36 An Equalities Impact Needs Assessment Screening Record has been completed. There are no identified equality or diversity issues associated with the CIL process.

Summary of risk assessment

37 There is a risk that if the levy is set too low, there will not be sufficient resources to fund the required infrastructure. Conversely if the levy is set too high there is a risk that development becomes unviable and will not be delivered. A high CIL rate could also result in the money received by way of section 106 contributions for affordable housing being reduced or removed.

38 There is a risk that existing staff functions and the performance of could be compromised should the ongoing operation of CIL not be adequately resourced.

Background papers

Environmental Impact Checklist:  www.bournemouth.gov.uk/CILEIS

EINA Screening Record:  www.bournemouth.gov.uk/CILEINA

Risk Assessment:  www.bournemouth.gov.uk/CILRisk

All supporting and evidence documents relating to the Community Infrastructure Levy are available to view on www.bournemouth.gov.uk/CIL and www.bournemouth.gov.uk/CILsubmission
Appendices

Appendix 1 Report on the Examination of the Draft Bournemouth Borough Council Community Infrastructure Levy Charging Schedule 30 October 2015

Appendix 2 Bournemouth Borough Council CIL Charging Schedule March 2016

Appendix 3 Bournemouth CIL Regulation 123 List March 2016

Appendix 4 Bournemouth CIL Instalment Policy March 2016