

RECOMMENDATIONS TO CABINET 4 NOVEMBER 2014 FROM THE MEETING OF THE RESOURCES AND PERFORMANCE PANEL HELD ON 28 OCTOBER 2014

RP75: **CABINET REPORT: COMMUNITY INFRASTRUCTURE LEVY DECISION (CIL)**

The LDF Manager presented the report and explained that the Community Infrastructure Levy (CIL) came into force in April 2010. It allowed local authorities in England and Wales to raise funds from developers undertaking new building projects. The money could be used to contribute to; 'pump prime'; or help lever in investment for a wide range of infrastructure that was needed to support new development.

The Panel was informed that in order to be considered capable of being implemented, a CIL must not have a detrimental effect on development (taken as a whole) in the Borough area. Preliminary consultation took place with the development industry and other interested parties in January 2013, and the consultant used the information and was included as inputs to the Viability Assessment. It was explained that the next stage was to draw up a Preliminary draft Charging Schedule and consult on the Schedule. The document needed to outline the possible rates of CIL. The LDF Manager explained that this, however, did not commit the Borough Council to having a CIL or a particular rate at this stage, but allowed the Borough Council to collect the views of the community and development professionals operating in the Borough.

Members' attention was drawn to the following sections of the report:

- Background: What is the Community Infrastructure Levy? Who would pay? How would it be spent?
- Setting the Charge: What the Council needed in order to set a CIL. Development Plan Status, Infrastructure Evidence, Viability Evidence.
- Relationship of the Local Plan to CIL.
- Infrastructure Requirements and the Potential Revenue from CIL.
- Current Position and suggested Next Steps.
- Conclusions.
- Options Considered.
- Policy Implications.
- Financial Implications.
- Personnel Implications.

In conclusion, the LDF Manager highlighted that the report outlined a proposal to carry out the consultation exercise on a Preliminary Draft

Community Infrastructure Levy (CIL) Charging Schedule based on the evidence from the work undertaken by the chartered surveyor. He added that the Council was under no binding decision to introduce a CIL. If, however, the Council did decide to introduce CIL the Borough Council would need to make a judgement on the rates charged.

In response to questions from Councillor Wareham regarding the provision of affordable housing and the introduction of CIL, the LDF Manager explained that the provision of affordable housing was part and parcel of the system. The Council's current requirement for affordable housing was between 15% and 20%. He added that the study conducted indicated that there would be no change to the figures for the provision of affordable housing.

Following further questions from Councillor Wareham, the LDF Manager confirmed that CIL would be an additional charge to the developer. The LDF Manager outlined how the provision of affordable housing and CIL could be calculated. He explained that the Borough Council would have an appreciation of the maximum amount that could be paid by the developer. The Panel was advised that under the current regime of Section 106 Agreements, part of the agreement related to provision of affordable housing and if appropriate together with a contribution towards education, etc.

In response to questions from Councillor Mrs Mellish relating to the introduction of CIL being mandatory, the LDF Manager explained that confirmed that CIL was mandatory for developers and not discretionary and added that if the Council determined not to introduce CIL then the current mechanisms in place could not be used to provide a contribution towards infrastructure.

Following further questions from Councillor Mrs Mellish regarding the current Section 106 Agreements being utilised for education purposes and providing specifics on site, and the Borough Council having to collect the CIL and resource implications, the LDF Manager explained that the Borough Council did have the capacity to administer CIL, an element of the charge up to 5% could be used for administration purposes so would not present a burden to the Council.

In response questions from Councillor Humphrey relating to potential income to the Council, the LDF Manager advised that the potential income could exceed the £1.5 m per annum detailed in the report if, for example, a large supermarket or hotel was to be built.

Councillor Humphrey commented that he was impressed with the level of detail contained in the Viability Assessment prepared by HDH Planning and Development Ltd. However, the end result appeared to be basic and wondered therefore if it was necessary to have such detailed information. He felt the recommendations set out on page 145 were simplistic and that there was no definite recommendation as to whether the Council could

maintain the Section 106 Agreement arrangement as well as CIL as an option. In response the LDF Manager advised that the Section 106 Agreement arrangement would still continue. However, the ability to “pool” contributions on larger sites would cease and be used to provide specifics on site. He added that the contributions collected would reduce after April 2015.

In response to questions from Councillor Wareham, the LDF Manager confirmed that after April 2015, the Council would not be able to operate the pooling arrangement and Section 106 Agreements would be used to provide specifics, such as open spaces, on site. The LDF Manager advised that the CIL money would remain in the Borough to contribute and not transferred to Norfolk County Council towards provision of infrastructure, etc which the Borough Council would determine.

The Deputy Chief Executive commented that Tescos and Sainsburys located on the Hardwick Estate had contribution £¹/₂ m each towards improvements in the town centre under their Section 106 Agreements. He asked if a future supermarket/hotel, etc wished to develop on the Hardwick could contributions be used for improvements to the town centre after April 2015. In response, the LDF Manager advised that it would depend upon the pooling arrangement. Up to five Section 106 Agreements were permitted.

Councillor Wareham commented that with the introduction of CIL, the Borough Council would have more control over the money collected.

In response to questions from Councillor Gourlay on Neighbourhood Plans, the LDF Manager explained that in unparished areas there was provision for a Forum to be set up to produce a Neighbourhood Plan which would then receive an enhanced rate of 25%. The LDF Manager informed Members that there were Neighbourhood Plans currently being developed in the following areas of the Borough:

- Brancaster.
- Hunstanton.
- Walpole Cross Keys.
- West Winch and North Runcton.
- South Wootton.

Councillor Mrs Mellish asked if the 25% enhanced rate received by Parish Council who had a Neighbourhood Plan was ring-fenced. In response, the LDF Manager explained that the money must be spent on infrastructure and gave examples of:

- Enhancing open space.
- Provision of a community facility.
- Maintenance of footpaths.

In response to comments and questions from Councillor Collop on where

the contributions from CIL would go in an unparished area such as King's Lynn, the LDF Manager explained that the money would be put into a pot and the Borough Council would determine what the money was to be spent on.

Councillor Wareham enquired who was responsible for assisting Parish and Town Councils for producing a Neighbourhood Plan. The LDF Manager advised that the Borough Council had a duty to support and assist with the production of Neighbourhood Plans. The Deputy Chief Executive added that there was a grant available to Councils who provided assistance.

Councillor Morrison referred to page 183 of the report and asked if the figures set out in the table put the Borough Council in a place to compare with other authorities. The LDF Manager explained that it was difficult to compare one area to another and gave an example where Breckland Council's affordable housing provision was 30% as compared to the Borough Councils of between 15% and 20%. He added that if the Council decided to introduce CIL the contributions collected would have a "pot" to determine how it was to be spent. He drew the Panel's attention to the page 141, table 12.8 of the report which set out the Local CIL rates.

Councillor Gourlay expressed concern over the provision of affordable housing and commented that he did not mind how it was provided but that there was sufficient affordable accommodation to meet the needs of the Borough. Councillor Gourlay referred to section 7.3, first bullet point – "There is likely to be a general Government exemption from providing affordable housing on any scheme under 10 units thus improving the financial return on such schemes, potentially making any CIL less of a burden." Councillor Gourlay stated that his understanding was that the Borough Council's affordable housing policy was 5 units and therefore would result in rural villages receiving less affordable housing.

The LDF Manager advised that there was likely to be a general Government exemption from providing affordable housing on any scheme under 10 units, thus improving the financial return on such schemes, potentially making any CIL less of a burden. The Viability Assessment therefore had reacted to the affordable rents and Regulations if they were to change.

Councillor Gourlay also referred to section 4.26 of the report and commented that it appeared that with the introduction of charging higher rents for affordable housing, developers would require less grant and subsidy and that the development of affordable housing would effectively fund itself. The LDF Manager confirmed this to be correct and added that the concept of affordable rents had been an invention of the Government, affordable housing as affordable rent was more valuable to a Housing Association. The developer providing affordable housing would raise more revenue.

Councillor Humphrey referred to section 1.3.1 of the report and commented

that King's Lynn was unparished, he asked how a neighbourhood area was defined. Councillor Humphrey asked what the maximum size was for a Neighbourhood Forum. In response, the LDF Manager advised that he did not have the information to hand but undertook to email a response to the Panel.

The LDF Manager informed Members that the Borough Council could not impose a Neighbourhood Forum.

The Portfolio Holder for Housing and Community thanked the Panel for their contributions to support the recommendation for Cabinet to agree to move forward and carry out consultation on a Preliminary Draft Community Infrastructure Levy (CIL) Charging Schedule.

RESOLVED: That the Panel support the recommendations to Cabinet as follows:

- (1) That Cabinet agreed to move forward and carry out consultation on a Preliminary Draft Community Infrastructure Levy (CIL) Charging Schedule.
- (2) For the purposes of the consultation the draft CIL rates will be those outlined in Table 12.11 of the accompanying Viability Report.
- (3) The Director of Planning and Environment in consultation with the Portfolio Holder for Housing and Community be authorised to prepare the specific consultation documentation as required, based on the information in Appendices 1 and 2 of the report.
- (4) That a report is prepared following the consultation and the findings are brought back to a subsequent meeting of the Cabinet.

RP76: **CABINET REPORT: UPDATE TO STANDING ORDERS AND PROTOCOL TO ACCOMMODATE OPENNESS REGULATIONS**

The Deputy Chief Executive presented a report which recommended an updated set of Standing Orders and Protocol to take account of the new Openness Regulations which came into force on 6 August 2014. A Cabinet Task Group (Broadcasting Task Group) had been set up to look at the implications of the Openness Regulations and would prepare a report for consideration by Cabinet. A protocol had been drafted by the Democratic Services Manager and Eastlaw.

In response to questions from Councillor Gourlay on Councillors being permitted to record meetings, the Deputy Chief Executive explained that the Regulations permitted any person including Councillors to record Council meetings including the use of social media.

In response to questions and comments from Councillor Wareham on the public announcing their intention to record a meeting, the Deputy Chief

Executive advised that there was no requirement for anyone to announce their intention of recording a meeting. A Councillor could also be recording a Council meeting on a mobile device without announcing he/she was recording.

Councillor Mrs Mellish stated that mobile phones acted as a recording device and recordings could have already taken place in past years and that a common sense approach should be adopted. She asked if he Chairman of a meeting would have the discretion of whether to allow the recording or not.

The Deputy Chief Executive advised that the Chairman would have the discretion to determine if recording/filming was disruptive to the meeting, but not to prevent normal filming. He confirmed that if an exempt item was being considered, the camera/recording device would need to be turned off and the person requested to leave the meeting room during consideration of the exempt item.

Councillor Chenery enquired if Councillors would also be excluded from recording during consideration of an exempt item. In response, the Deputy Chief Executive advised that a Councillor would be treated in the same way as a member of the public and would therefore not be permitted to record during consideration of an exempt item.

Councillor Humphrey commented that if a member of the public did not wish to be filmed this should be respected. He suggested that at the beginning of any meeting, a member of the public not wishing to be filmed should notify the Chairman.

The Deputy Chief Executive reported that at a recent meeting of the Broadcasting Task Group a discussion had taken place on whether the Borough Council should record and webcast its meetings. It had been noted that some authorities were recording its meetings using a variety of methods. The Task Group would look at the available options and prepare a report for consideration by Cabinet.

The Chairman, Councillor Beal commented that with the introduction of the Openness Regulations, if a person was nervous of addressing a Council Committee and being recorded/filmed that a representative or Ward Councillor should be allowed to act on that person's behalf.

Councillor Wareham stated that the Openness Regulations entitled meetings to be recorded, but that the Council was not under any obligation to provide the necessary equipment.

The Leader added that the purpose of the Task Group was to investigate options to allow recording of meetings. The Council's Standing Orders had therefore been amended to allow recording of meetings in order to comply with the Transparency Agenda.

In response to questions from Councillor Chenery regarding fixed cameras, the Chairman, Councillor Beal explained that fixed cameras could also zoom in on the Chairman of the meeting.

RESOLVED: That the Panel support the recommendations to Cabinet as follows:

- (1) That Council approve the amended Standing Orders.
- (2) That Council approve the Protocol for working arrangements for the Openness Regulations.

RP77: **CABINET REPORT: COUNCIL TAX DISCOUNTS FOR SECOND HOMES AND EMPTY PROPERTIES**

The Deputy Chief Executive presented the report and explained that The Local Government Acts of 2003 and 2012 gave the Council powers to determine the discounts for second homes and long term properties. The Council was obliged to approve its determination afresh for each class of dwelling for each financial year. The report put forward proposals for no change to the current level of discounts and empty property levy for the financial year 2015/2016.

The Panel's attention was drawn to the following sections of the report:

- Background.
- Classes of Properties and Current Discounts 2014/2015.
- Long Term Empty Property Levy.
- Options Considered.
- Policy Implications.
- Financial Implications.

In response to questions from Councillor Humphrey relating to section 3.7 of the report and the clock being reset for a period longer than six weeks, e.g. six weeks and one day, the Deputy Chief Executive explained that this was possible and that the Local Government Association had recently asked if this could be the case to avoid paying.

The Leader commented that the proposed scheme with no change was the best approach the Council could identify, but added that it was not a perfect scheme.

RESOLVED: That the Panel support the recommendations to Cabinet as follows:

Council resolves that, under Section 11A of the Local Government Finance Act 1992, as enacted by Section 75 of the Local Government Act 2003, Section 11B of the Local Government Finance Act 1992, as enacted by Section 11 and Section 12 of the Local Government Finance Act 2012 and in accordance with the provisions of the Council Tax (Prescribed Classes of

Dwellings) (England) Regulations 2003 and the Council Tax (Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2012 the Council determines:

1. That the council tax discount for second homes defined as being within Class A of the Regulations is set at 5% for 2015/2016;
2. That the council tax discount for second homes as defined by Class B of the Regulations is set at 5% for 2015/2016;
3. That the council tax discount for empty dwellings defined as being within Class C of the Regulations is set at the following for 2015/2016:
 - a. 100% for three months starting on the day the property becomes unfurnished
 - b. 0% once the three month period has expired;
4. That the council tax discount for uninhabitable dwellings defined as being within Class D of the Regulations is set at the following for 2015/2016:
 - a. 50% for 12 months starting on the day the property becomes uninhabitable
 - b. 0% once the 12 month period has expired;
5. That the levy rate for Long Term Empty Properties as defined in the Regulations is set at 50% for 2015/2016;
6. That any period of occupation of less than six weeks shall be disregarded when calculating the maximum period of a reduction or the start date of the levy; and
7. That delegated authority be given to the Portfolio Holder for Resources in consultation with the Ward Member and the Chairman of the Resources and Performance Panel to consider individual applications to the Discretionary Hardship Fund
8. In accordance with Section 11A(6) of the Local Government Finance Act 1992, as enacted by Section 75 of the Local Government Act 2003 and the Local Government Finance Act 2012, these determinations shall be published in at least one newspaper circulating in West Norfolk before the end of the period of 21 days beginning with the date of the determinations.