

Borough Council of  
**King's Lynn &  
West Norfolk**



# **CABINET**

**Agenda**

**TUESDAY, 4 OCTOBER 2011  
at 5.30pm**

in

**Meeting Rooms 1-3  
King's Court  
Chapel Street  
King's Lynn**



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Borough Council of  
**King's Lynn &  
West Norfolk**



King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX  
Telephone: 01553 616200  
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22 September 2011

**CABINET AGENDA**

**DATE: CABINET – TUESDAY, 4 OCTOBER 2011**

**VENUE: MEETING ROOMS 1-3, KING'S COURT, CHAPEL STREET, KING'S LYNN**

**TIME: 5.30 pm**

**1. MINUTES**

To approve the Minutes of the Meetings held on 6 and 20 September 2011.

**2. APOLOGIES**

To receive apologies for absence.

**3. URGENT BUSINESS**

To consider any business, which by reason of special circumstances, the Chair proposes to accept, under Section 100(b)(4)(b) of the Local Government Act 1972.

**4. DECLARATION OF INTEREST**

Please indicate whether the interest is a personal one only or one which is also prejudicial. A declaration of an interest should indicate the nature of the interest and the agenda item to which it relates. In the case of a personal interest, the member may speak and vote on

the matter. If a prejudicial interest is declared, the member should withdraw from the room whilst the matter is discussed.

These declarations apply to all those members present, whether the member is part of the meeting, attending to speak as a local member on an item or simply observing the meeting from the public seating area.

**5. CHAIRMAN'S CORRESPONDENCE**

To receive any Chairman's correspondence.

**6. MEMBERS PRESENT PURSUANT TO STANDING ORDER 34**

To note the names of any Councillors who wish to address the meeting under Standing Order 34.

**7. CALLED IN MATTERS**

To report on any Cabinet decisions called in.

**8. FORWARD DECISIONS LIST**

A copy of the Forward Decisions List is attached (Page 6 )

**9. MATTERS REFERRED TO CABINET FROM OTHER COUNCIL BODIES**

To receive any comments and recommendations from other Council bodies some of which meet after the dispatch of this agenda. Copies of any comments made will be circulated as soon as they are available.

- Resources and Performance Panel – 27 September 2011
- Regeneration, Environment & Community Panel – 28 September 2011

**10. REPORTS**

**1 New duties regarding Private Water Supplies (Page 7)**

The Council has a duty to monitor private water supplies within its area. New Regulations have placed additional monitoring duties on the Council including the need to carry out risk assessments of all private supplies (excluding single dwellings). The Council may recover reasonable costs.

This report outlines these new duties and the proposed fee structure.

## **2 Community Infrastructure Levy (CIL) (page 16)**

The Government has decided that a tariff based charge on new development (known as the Community Infrastructure Levy or CIL) provides the best framework to fund new infrastructure required to support growth. From the 6<sup>th</sup> April 2014 the Council's ability to pool S106 agreements towards the provision of infrastructure will be effectively removed leaving a need to consider introducing CIL if we are to help support the infrastructure needs of development in West Norfolk.

As part of introducing CIL, the Council must identify the scale of infrastructure needed to support growth and then set a rate that will seek to raise a contribution whilst striking an appropriate balance between the desirability of funding infrastructure and the potential effects of the imposition of the levy upon the economic viability of development across the area. This draft schedule will be subject to an extensive process of public consultation and to a public inquiry at which an Inspector will consider if the charges set are reasonable and based upon sound evidence of viability.

### **EXCLUSION OF THE PRESS AND PUBLIC**

To consider passing the following resolution:

"That under Section 100(A)(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Act."

## **3 Asset Management – King's Court Office Accommodation (Page 23)**

To: Members of the Cabinet  
Councillors N J Daubney (Chair), A Beales, Lord Howard, B Long, Mrs E A Nockolds, D Pope and Mrs V Spikings.

Cabinet Scrutiny Committee

For further information, please contact:

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King's Lynn PE30 1EX

Telephone: (01553) 616327 Email: [sam.winter@west-norfolk.gov.uk](mailto:sam.winter@west-norfolk.gov.uk)

## FORWARD DECISIONS LIST

Officer Portfolio Responsible

### **4 October 2011**

New Duties regarding Private Water Supplies	Exec Dir Environmental Health & Housing	Dep Leader
Community Infrastructure Levy	Exec Director Regeneration & Development	Development/ Regeneration

### **1 November 2011**

Corporate Enforcement Policy	Exec Dir Environmental Health & Housing	Dep Leader
Corporate Strategy Refresh	Exec Dir Central Services	Leader
Update to Constitution Articles	Chief Executive	Leader
Contract for shared service Revs & Bens system with NNDC – Holding Report	Deputy Chief Executive	Shared Services
Care and Repair Framework Agreement	Exec Dir Environmental Health & Housing	Dep Leader
Business Continuity Policy and Strategy	Dep Chief Exec	Leader
Local Authority Leisure Company	Exec Dir Leisure and Public Space	Leader/Leisure and Operational Assets
Report of the recycling task group	Exec Dir Leisure & Public Space	Dep Leader – Environment
Update to Financial Regulations	Deputy Chief Executive	Leader
Document Retention Policy	Deputy Chief Executive	Leader

### **6 December 2011**

Contract for shared service Revs & Bens system with NNDC	Deputy Chief Executive	Shared Services
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### **Forthcoming Items, as yet unprogrammed**

Planning Fees	Exec Dir Regeneration & Development	Development
Community Governance Review	Chief Executive	Leader
Revised KLATS & KL Car Parking Strategy	Exec Dir Regeneration & Development	Regeneration / Sports Arts and Open Spaces
Service Review – Refuse and Recycling	Exec Dir Leisure & Public Space	Environment/ Personnel/ Resources
Community Cohesion Strategy	Chief Executive	Community
Town Centre Plan	Exec Dir Regeneration & Development	Regeneration

Open		Would any decisions proposed :		
Any especially affected Wards	Mandatory/ Operational	(a) Be entirely within cabinet's powers to decide NO		
		(b) Need to be recommendations to Council Yes		
		(c) Be partly for recommendations to Council NO and partly within Cabinets powers –		
Lead Member: Cllr Brian Long E-mail: cllr.brian.long@west-norfolk.gov.uk		Other Cabinet Members consulted:		
		Other Members consulted: Regeneration Environment and Community Panel		
Lead Officer: Vicki Hopps E-mail: Vicki.hopps@west-norfolk.gov.uk Direct Dial:01553 616307		Other Officers consulted: Andy Piper – Executive Director, Environmental Health and Housing		
Financial Implications YES	Policy/Personnel Implications NO	Statutory Implications (incl S.17) YES	Equal Opportunities Implications NO	Risk Management Implications NO

**Cabinet date : 4 October 2011**

## **1 NEW DUTIES REGARDING PRIVATE WATER SUPPLIES**

### **Summary**

The Council has a duty to monitor private water supplies within its area. New Regulations have placed additional monitoring duties on the Council including the need to carry out risk assessments of all private supplies (excluding single dwellings). The Council may recover reasonable costs.

This report outlines these new duties and the proposed fee structure.

### **Recommendation**

That the Cabinet note the new duties and agree to the implementation of the new fee structure and an increase in hours of the sampling officer to carry out the duties in the Regulations.

### **Reason for Decision**

To respond to the change in legislation.

## **1. Introduction**

1.1 New Regulations (Private Water Supplies Regulations (England) 2009) came into force in January 2010, replacing earlier Regulations of 1991. They impose new enforcement and monitoring duties on Councils. These include a duty to carry out a risk assessment on specific areas of the supply and allow for the recovery of reasonable expenses that are incurred when fulfilling the functions.

1.2 This report will detail the progress so far in complying with the new duties and requests the implementation of cost recovery under the Regulations.

## **2. Background**

- 2.1 The annual report of the Drinking Water Inspectorate (DWI) on drinking water quality in England and Wales was published in July 2011. It provides a comprehensive commentary on the quality and safety of drinking water from both public and private supplies.
- 2.2 The Report outlines the work of the DWI and how well the water industry and local authorities are meeting the desired outcomes of drinking water policy which are:
  - Water suppliers deliver water that is safe and clean
  - Consumers have confidence in their drinking water
  - People are not exposed to unsafe private water supplies.
- 2.3 The role of the DWI is to independently check the quality of drinking water which not surprisingly must be wholesome and fit for human consumption at all times and in relation to public supplies to take action to require improvements when there is sound evidence of a risk of a particular water supply failing to meet the drinking water standards.
- 2.4 Improvement and monitoring of private water supplies is the responsibility of local authorities with the DWI exercising a supervisory role. The DWI has a statutory role, on behalf of the Secretary of State, to supervise the work of local authorities in relation to monitoring and enforcement of private water supplies. DWI provides advice to local authorities on the scientific and technical aspects of the implementation of the Private Water Supply Regulations.
- 2.5 The DWI is responsible for reporting on UK compliance with drinking water standards and the requirements of the EU Drinking Water Directive.

## **3. Private Water Supplies**

- 3.1 A private water supply is defined as “any water supply that is not provided by a statutory water undertaker”, i.e. is not on a mains supply, with the water itself coming from a spring, well, borehole, pond or stream.
- 3.2 In England and Wales private water supplies serve just over one million people, but many more are exposed to them when they are travelling throughout the UK or taking a holiday.
- 3.3 A supply may serve just one property or it could be a large supply serving many properties. Households who use private water supplies do not pay water charges to this areas ‘statutory water undertaker’ Anglian Water but may pay a fee to the owner of the private supply if they do not own it themselves. The owner or the person who uses such a supply is responsible for repairing and maintaining it.



- 3.4 It has been recognised for some time that small private or community supplies are more often of poor quality and linked to illness than are public supplies. This situation is partly due to the fact that owners/users of private supplies tend to lack access to technical knowledge and consequently have insufficient understanding of the hazards and these can be best controlled practically.
- 3.5 One of the most frequent comments made to local authorities by owners seeking to assert that a given supply is safe (and therefore does not require either monitoring or improving) are along the lines of “*my supply has been drunk by generations and no-one has been ill*”.
- 3.6 The inherent problems underpinning this attitude by owner occupiers are twofold: firstly, immunity is only acquired as a consequence of infection; therefore, it is dismissive of the wellbeing of certain vulnerable family members (such as infants, young children or the elderly or other vulnerable adults) for whom a gastrointestinal illness is not only unpleasant, but can have very serious long-term health consequences; secondly, the immunity-based assertion does not hold true for visitors and the wider public to whom leisure or hospitality services are being sold. This is an important point to note because the public at large, unlike long-term owner occupiers of dwellings served by private supplies, expect that water in all such establishments is safe and to the same high standard as everywhere else.

#### **4. Borough Council responsibilities for Private Supplies**

- 4.1 The report identifies the role of Environmental Health staff in firstly, identifying where such supplies exist and secondly, by ensuring through risk assessing, monitoring and sampling that owners/users are aware of what exists and potential risks in order that they are enabled to manage supplies safely and, thirdly are empowered where necessary, to require those responsible to make improvements.
- 4.2 The quality and safety of these supplies is controlled by the Regulations. The standards and principles of regulation are the same for both public and private supplies: self-regulation by the owner/operator and independent scrutiny by the regulator.
- 4.3 The Council has a statutory duty to:
- a) take a measured and prioritised approach to this matter by monitoring and sampling supplies focussing on those supplies which would pose the greatest risk to health.

Those deemed to pose the most risk to public health will therefore be dealt with first. This measured approach allows resources to be targeted at the supplies in greatest need of improvement.

b) carry out an assessment of each private water supply in its area to establish whether there is a significant risk of that supply constituting a potential danger to human health. This detailed appraisal would determine the frequency of sampling and the parameters subject to testing. After an initial

assessment the process is repeated every five years, or at the request of the owner/users (for single dwellings).

c) to arrange that the supplies in their area are monitored through sampling for chemical and bacterial content to determine compliance with the drinking water standards. The Council has to sample all supplies, with the exception of single domestic supplies, to ensure they are safe and wholesome to drink.

d) where failure of a drinking water standard is reported then to investigate to determine the cause and take appropriate action to secure that private supply owners rectify any deficiencies identified.

4.4 The Health Protection Unit (the local public health advisory arm of the NHS) has no formal statutory duties and powers under the Regulations but is likely to be approached by environmental health staff for advice and support regarding the results of testing of supplies. The health and toxicological advice required in these situations is already provided in response to similar enquiries about the results of testing of public water supplies or in the case of water or food borne illnesses reported to the Council.

4.5 The decision as to whether a particular private water supply is a potential danger to human health would be a matter which is determined by the Council following HPU advice and is based on detailed knowledge of the supply from source to tap obtained from historic monitoring information, assessments and investigations carried out in conjunction with the private supply owner and, where appropriate, the local water supply company and the Environment Agency. If an informal approach does not achieve an improvement in water quality and safety then there are other options provided in the Regulations, including the serving of notices.

## 5. Private Supplies within the Borough

5.1 There are currently 70 private supplies (known) within the Borough and 166 Private Distribution Systems (caravan sites). The caravan sites have been desk top risk assessed and those that have more than 5 caravans located on the site have been included in the sampling programme as these were deemed to be a high priority. All supplies are listed in the table below. A map is attached in Appendix 1, for information, showing the location of the private supplies.

**Table 1: Types of Supplies as defined in the Regulations**

<b>Large Supplies</b> ( $10\text{m}^3$ /day or serve 50 people) to two or more dwellings, (or the water is used in a commercial premises)	14
<b>Small Supplies</b> ( $< 10\text{m}^3$ /day or serve $< 50$ people) to two or more dwellings (Domestic only)	14
<b>Single dwellings</b> water supplied to a single domestic dwelling	42
<b>Private Distribution Systems (Caravan Sites)</b>	19 – Residential Sites 46 – Holiday Sites ( $>5$ caravans)

## 5.2 Large Supplies

These are defined as:

- Any private water supply that provides 10m<sup>3</sup> / day or more (or supplies more than 50 persons or more);
- Any private water supply that supplies water to premises where the water is used for a commercial activity irrespective of the volume of water provided or the number of persons supplied; the majority of commercial supplies in the Borough are Bed and Breakfast accommodation and two larger premises – RAF Marham and a vegetable washing plant;
- Any private supply that supplies water to public premises irrespective of the volume of water provided or the number of persons supplied.

### Small Supplies

Any private water supply that provides less than 10m<sup>3</sup>/day (or supplies less than 50 persons) where the supply is only used for domestic purposes (there is no commercial or public activity)

### Single Dwellings

These are supplies which serve a single property for domestic purposes only.

### Private Distribution Systems

These are systems where mains water is supplied to a location but then further distributed by someone other than the water undertaker in their own pipework. These are for, the most part in this Borough, caravan sites.

## **6. Monitoring Requirements**

- 6.1 Currently the Council employs a part time Sampling Officer to carry out mandatory food, environmental and shellfish sampling. Under the previous Regulations there was no prescribed obligation on the Council to sample and monitor private water supplies unless requested to or where problems were identified. Due to this the amount of work generated was limited and incidental to the other work carried out within the team and could be accommodated within existing resources. No charges were made under the old regime.
- 6.2 The new Regulations stipulate the sampling frequency and type of sampling required for specific supplies. There is a significant increase in both the frequency of sampling and a new duty to carry out a risk assessment of each water supply initially and at five year intervals thereafter. The table below shows the sampling frequency and service demand each year and it is apparent that the current resource within the team, which has been depleted as a result of the cost- reductions programme is inadequate to carry out these duties.

**Table 2 – Monitoring Requirements**

<b>Type of Monitoring#</b>	<b>Type of Supply</b>	<b>Number</b>	<b>Frequency</b>
<b>Check Monitoring</b> Basic parameters (levels) measured	Large/Commercial Supplies	12	Twice per year
		2	Quarterly
	Small Supplies	14	Annually
	Single Dwellings	8 (requesting sampling)	Annually
	Private Distribution Systems (Caravan Sites)	19 Residential Sites 46 Holiday Sites (>5 caravans)	Annually
<b>Audit Monitoring</b> Additional parameters measured as identified in the risk assessment	Large/Commercial Supplies	12	Twice per year
		2	Quarterly
	Small Supplies	14	Annually
<b>Risk Assessment</b>	Large/Commercial Supplies	14	Initially then every five years
	Small Supplies	14	Initially then every five years
	Single Dwellings	8 (requesting sampling)	Once every five years (where requested)
	Private Distribution Systems (Caravan Sites)	19 Residential Sites 46 Holiday Sites (>5 caravans)	Initially then every five years

## **7. Activity to Date**

- 7.1 A new database has been created to assist in the storage and retrieval of information relating to the private water supplies within the Borough. All historical data relating to the supplies has been scrutinised which has enabled a desk top risk assessment to be carried for all supplies. This has allowed any high risk supplies to be identified.
- 7.2 All owners/users of private supplies have been contacted by letter to inform them of the new duties under the Regulations and the potential introduction of charges. Owners/users of single supplies have been encouraged to carry on with the sampling regime, however only 8 premises to date have responded that they would like to be including in the sampling programme. The remainder will be contacted in the future advising them of the benefits to having sampling carried out.

7.3 Sampling of all supplies has begun along with visits to carry out on site risk assessments. So far two full risk assessments have been carried out.

## 8. Proposed charges

8.1 It is proposed that a tiered fee for the risk assessment based on the number of consumers (i.e. the size of the supply) reflecting the time and effort involved in carrying out the risk assessment be adopted with a flat fee for each sample depending on the size of the supply.

The proposed fees are as follows;

<u>Risk assessments</u>	
Single private dwelling	£96
Small Supplies	£120
Large/Commercial/Private Distribution Systems	£180
<u>Sampling</u>	
Small Supply/Single Dwelling (per visit including analysis costs)	£42
Large/Commercial /Private Distribution Systems (per visit including analysis costs)	£54
<u>Other investigations</u> (e.g. Investigating failure)	£120
<u>Granting an authorisation</u> (to depart from the standard)	£120

The proposed fees will produce the following income for the Council:

	Number of supplies	Annual Sampling Frequency	Annual net Income from sampling*	Income from Risk Assessments (every 5 years)
<b>Large/Commercial</b>	12	Twice	£1,296	£2,160 (12*£180)
<b>Large/Commercial</b>	2	Quarterly	£432	£360 (2*£180)
<b>Small Supplies</b>	14	Once	£588	£1,680
<b>Single Dwellings #</b>	8	Once	£336	£768
<b>Private Distribution Systems</b>	65	Once	£3,510	£11,700
<b>Total</b>	<b>100</b>		<b>£6,162</b>	<b>£16,668</b>

\* These figures are based on minimum frequency sampling

# These have requested sampling to date – it is anticipated that there may be more in the future.

## **9. Proposal**

9.1 Given the amount of work required to carry out the risk assessment and monitoring of private water supplies it is proposed to increase the hours of the Sampling Officer.

9.2 The Council agree to the charges and an increase in the Sampling Officer's hours by five hours per week from 25 to 30 to take in to account the extra work load.

## **10. Personnel**

10.1 Increase the hours of the Sampling Officer.

## **11. Financial Considerations**

11.1 Implementation of these Regulations will provide an income to the Council annual of approximately £5,135, with a further income of approximately £13,890 every 5 years.

11.2 The cost of increasing hours of the Sampling Officer from 25 to 30 would be £2970.

## **12. Risk Assessment**

12.1 Failure to carry out the duties specified in the Regulations may result in a detrimental effect on the health of users of private water supplies in the Borough.

## **13. Policy Implications**

13.1 None

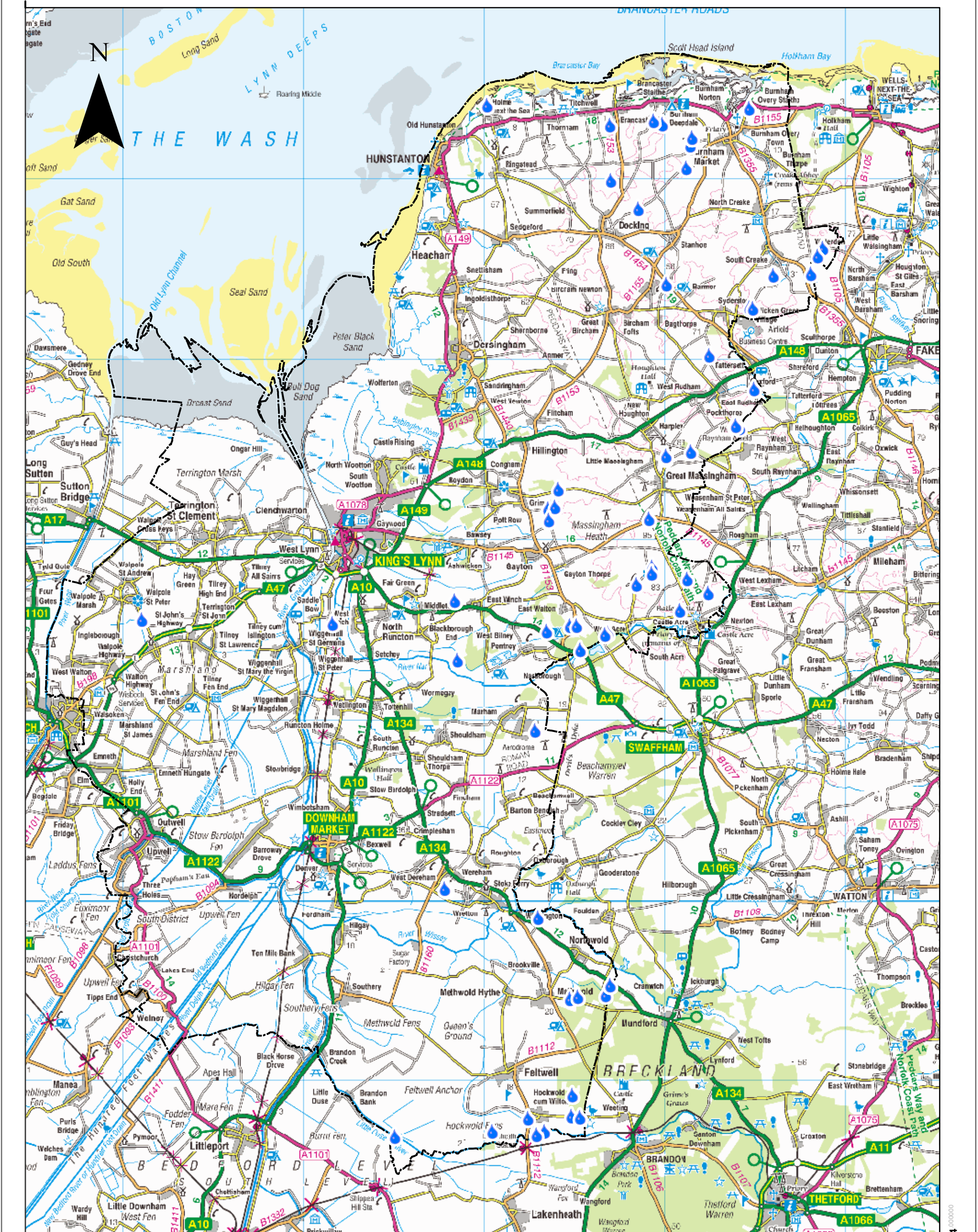
## **14. Statutory Considerations**

14.1 The Council has a duty to carry out its functions under the Private Water Supplies Regulations and to comply with the obligations set out in the DWI Guidance.

## **15. Risk Assessment**

15.1 The Council has the responsibility to ensure that private water supplies within the Borough are wholesome thus reducing the likelihood of illness.

15.2 By not providing adequate resources for the implementation of the Private Water Supply Regulations the authority may be classed as a failing authority in the view of the DWI which could in turn lead to an adverse audit report or cases of ill health associated with the consumption of contaminated supplies.


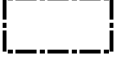


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**Legend**

-  Private Water Supply
-  Borough Boundary

# Appendix 1A Private Water Supplies



## REPORT TO CABINET

<b>Open</b>		Would any decisions proposed :		
<b>Any especially affected Wards</b>	Discretionary / Operational	(a) Be entirely within cabinet's powers to decide YES (b) Need to be recommendations to Council NO (c) Be partly for recommendations to Council NO and partly within Cabinets powers –		
Lead Member: E-mail: Cllr Alistair Beales Cllr Vivienne Spikings		Other Cabinet Members consulted:		
		Other Members consulted:		
Lead Officer: Geoffrey Hall E-mail: geoff.hall@west-norfolk.gov.uk Direct Dial:		Other Officers consulted: Management Team		
Financial Implications YES	Policy/Personnel Implications NO	Statutory Implications YES	Equal Opportunities Implications NO	Risk Management Implications YES

Date of meeting: 4<sup>th</sup> October 2011

## 2 COMMUNITY INFRASTRUCTURE LEVY (CIL)

### Summary

The Government has decided that a tariff based charge on new development (known as the Community Infrastructure Levy or CIL) provides the best framework to fund new infrastructure required to support growth. From the 6<sup>th</sup> April 2014 the Council's ability to pool S106 agreements towards the provision of infrastructure will be effectively removed leaving a need to consider introducing CIL if we are to help support the infrastructure needs of development in West Norfolk.

As part of introducing CIL, the Council must identify the scale of infrastructure needed to support growth and then set a rate that will seek to raise a contribution whilst striking an appropriate balance between the desirability of funding infrastructure and the potential effects of the imposition of the levy upon the economic viability of development across the area. This draft schedule will be subject to an extensive process of public consultation and to a public inquiry at which an Inspector will consider if the charges set are reasonable and based upon sound evidence of viability.

### Recommendation

That Cabinet endorse the need to prepare a draft Community Infrastructure Levy charging schedule setting out the type of development for which CIL will be sought and the rates that will apply.

### Reason for Decision

To provide a mechanism for pooling contributions towards the provision of infrastructure to support economic and housing growth in this borough.



## 1 Background

- 1.1 The coalition government remains committed to the promotion of housing and economic growth and is introducing a number of changes and incentives to help encourage this process. There is a widespread recognition both within government and beyond that if this growth is to be sustainable there is a need to ensure that adequate provision is made for infrastructure investment.
- 1.2 The lack of adequate investment in infrastructure has been a recurring problem, with infrastructure often lagging behind development or simply failing to materialise. This long term failure to properly invest in infrastructure has implications in terms of economic growth (congestion, flooding, skills etc) as well as affecting the acceptability of new development in the eyes of the public who often perceive the negative impacts of growth rather than the benefits.
- 1.3 Historically, investment in infrastructure has come from several sources, the most significant of which are:
  - **National taxation** – directed through public bodies such as RDA's, Environment Agency, Highway Agency etc or through grant settlements to Local Authorities in the form of Local Transport Plans etc
  - **Local taxation** – directed at specific projects (such as Nora) or towards supporting private sector investment through PFI's
  - **European investment** – directed primarily at areas of economic and social deprivation; and
  - **S106 contributions** – where development over a certain size has been required to contribute towards local infrastructure in the form of schools, libraries and transport
  - **Direct Investment** – by the developer in a particular site, often including roads, open space, drainage etc.
- 1.4 At a national level the government has significantly reduced the amount of money available for both direct and indirect expenditure on infrastructure. It is unlikely that this position will change significantly in the foreseeable future and that the infrastructure needs of development will be met from this source.
- 1.5 At the same time, pressures on local government expenditure mean that there is no possibility of bridging the infrastructure gap through local taxation.
- 1.6 The S106 process has developed over time to enable money to be raised for infrastructure investment but has proved to be costly to administer, inefficient and inequitable. Although almost all development that comes forward will have some impact on the need for infrastructure the Government estimates that only 6% of all planning permissions granted currently contribute towards S106. The Government believes this to be unfair with schemes currently contributing solely based upon their size rather than impact or affordability.

They also argue that the current process which is based upon site by site negotiation introduces uncertainty and delay to the development process.

1.7 Finally, the Government has made clear that S106 agreements should not be used beyond April 2014 for pooling contributions towards infrastructure and that Councils should instead rely upon CIL to deliver local infrastructure funding.

1.8 The decentralisation Minister Greg Clark has set out the Government's position on funding growth and CIL in a press release saying:

*"Communities should reap the benefits of new development in their area and these reforms will put in place a fairer system for funding new infrastructure while also providing certainty for industry."*

*"Too little of the benefits of development go to local communities, and our ambition is to correct that with a reformed levy under genuine local control. Neighbourhoods will now get a direct cut of the cash paid by developers to councils - to spend how they wish to benefit the community, from parks and schools to roads, playgrounds and cycle paths."*

*"Our decentralising changes will also benefit developers through a system that is flexible, predictable and transparent while also cutting the red tape and bureaucracy faced by councils."*

*"Alongside the New Homes Bonus, this is another way to make sure communities benefit from development in their area. It will help change the debate about development from opposition to optimism."*

## **2 WHAT IS CIL?**

2.1 The Community Infrastructure Levy (CIL) came into force in April 2010 and allows local authorities in England and Wales to raise funds from developers undertaking new building projects in their area. The money raised through CIL must be used to fund the infrastructure that is needed as a result of development. This could include new or improved road schemes, flood defences, schools, hospitals and other health and social care facilities, park improvements, green spaces and leisure centres. The levy is not intended to be used to remedy pre-existing deficiencies unless the new development makes that deficiency more severe.

2.2 The Government believes that a tariff-based approach provides the best framework to fund new infrastructure to unlock land for growth. Levy rates will be set in consultation with local communities and developers and are intended to both raise money for infrastructure as well as provide developers with more certainty 'up front' about how much money they will be expected to contribute.

2.3 Responsibility for setting the CIL rate and its collection would rest solely with this Council although the rate must be set in consultation with both infrastructure providers and developers and will be subject to a full public inquiry at which all objectors are entitled to attend.

- 2.4 CIL can be applied to any new buildings (having a floor area greater than 100 square metres) that are accessible to people. Whilst this definition will apply in principle to most development that takes place, it will remain for this Council to define what would be included and what should be excluded from a charging schedule based upon an assessment of the impact of the levy on particular schemes.
- 2.5 Those buildings that are not accessible or which people enter only intermittently for the purpose of inspecting or maintaining fixed plant or machinery are excluded from the levy. Structures which are not buildings, such as pylons and wind turbines would not be liable to pay the levy.
- 2.6 While any new build over 100 square metres floorspace may (subject to viability) be subject to CIL, the gross floorspace of any existing buildings on the site that are going to be demolished is deducted from the calculation of the CIL liability. Similarly the gross floorspace arising from development to the interior of an existing building may be disregarded from the calculation of the CIL liability. This is intended to ensure that CIL does not act as a disincentive to regeneration proposals coming forward.

### **3 Calculating Charges**

- 3.1 Whilst the introduction of CIL is intended to raise money for investment in infrastructure, it is important to recognise that for most development this would represent a new charge that many developers do not currently pay and that it is therefore important that CIL does not undermine the viability of schemes.
- 3.2 As part of the process of setting a CIL, Council's are required to prepare an infrastructure delivery plan setting out an evidence based list of infrastructure projects considered to be necessary to support growth in their area together with an indication of their total cost. This plan would be drawn up with infrastructure providers and must be able to show that the aggregate infrastructure gap is larger than the CIL funding target to ensure that CIL is properly used to fund infrastructure spending.
- 3.3 It is likely that the scale of 'need' identified by the infrastructure delivery plan will far exceed the ability of sites to support such investment and remain viable within the current plan period. The challenge in setting a CIL will therefore be to set a rate which maximises the return for infrastructure investment whilst ensuring that sites remain viable.
- 3.4 We know from viability work carried out in support of the Council's affordable housing thresholds that the economic viability of schemes across the district varies in the same way that viability between brownfield and greenfield sites can vary. Because of this variation, Council's can choose to include differential rates within their charging schedules although this must again be justified by clear evidence of viability.

## **4 Reliefs from paying the levy**

- 4.1 The regulations provide a number of types of relief from paying the levy if they meet the conditions set out within the regulations:
- 4.2 A charity landowner must be granted exemption from paying the levy on their portion of the development used for charitable purposes. The Council can also choose to offer discretionary relief to a charity where the greater part of the chargeable development will be held as an investment, from which the profits are applied for charitable purposes. The levy is not payable on those parts of the development which are intended to be used as affordable housing.
- 4.3 The regulations also allow for discretionary relief in exceptional circumstances where a specific scheme cannot afford to pay, although there are a number of conditions that must be met including being able to demonstrate an adverse impact upon the economic viability of a scheme.
- 4.4 The Council must produce an annual report for the financial year detailing the total receipts for the reported year, total expenditure and a summary of the items of infrastructure to which these receipts were applied.

## **5 Next Steps**

- 5.1 Government guidance on CIL emphasises the importance of ensuring that the process of setting a charge is open accountable and based upon evidence of both viability and need.
- 5.2 The first step in producing a CIL for this Council would be to prepare an infrastructure delivery plan in consultation with key infrastructure providers setting out a costed program of infrastructure investment required to support growth in this area.
- 5.3 The next stage is to assess the economic viability of different types of development in order to assess what level of charge could be imposed whilst maintaining the viability of those schemes. This type of assessment has been previously carried out as part of the Council's affordable housing policy.
- 5.4 The CIL calculation will have to take account of all costs (including affordable housing) on the viability of individual schemes and it is therefore appropriate that this process consider both affordable housing contributions and CIL rates in parallel.
- 5.5 An internal process of governance for the collection and distribution of CIL will also need to be put in place, together with a clear understanding of how CIL will be prioritised in terms of spending.
- 5.6 Although much of the evidence that will go into drawing up the CIL will be of a technical nature, based upon an assessment of both need and viability, there

will be a clear need for a political judgment on how the balance between growth and investment is to be struck.

5.7 This entire process will be subject to a process of public consultation and to a public inquiry where the inspector will examine the CIL to be satisfied that:

- The document is supported by robust evidence of the need for infrastructure investment; and
- That the rate set will not undermine the viability of development coming forward in the area.

5.8 These 'tests' are matters that Members would wish to be satisfied in any event and provide members with a high degree of discretion over how and where to set the CIL levy

## **6 Policy Implications**

6.1 Consideration of the report and its recommendation at this stage does not constitute the adoption of a policy.

## **7 Financial Implications**

7.1 There is no specific budget for preparing the CIL infrastructure delivery plan, or carrying out the assessments needed to assess the impact of CIL on the viability of schemes. Much of the work associated with preparing CIL will be carried out internally using existing staff resources from within the LDF and Regeneration teams although there will be a need to bring in external expertise to provide advice on viability and the sensitivity of different types of development to different rates of CIL. We estimate that the cost of providing this work is likely to be in the region of £20,000 which can be met from general fund balances.

## **8 Staffing Implications**

8.1 There are no direct staffing implications since this work will be taken on by both the LDF and Regeneration teams. This will however have an impact upon capacity that will require a reprioritisation of work across both teams.

## **9 Statutory Considerations**

9.1 The CIL schedule will be prepared in accordance with the CIL regulations that came into force in April 2010.

## **10 Equalities Considerations**

10.1 There are no equalities considerations in relation to this proposal.

## **11 Risk Management**

- 11.1 The Government has signalled their intention that Councils should use CIL to help meet the infrastructure requirements in their area. From April 2014, the Council will not be able to use S106 agreements to pool infrastructure contributions across developments for investments in infrastructure.
- 11.2 If the Council fails to introduce a CIL regime, it remains unclear how this investment in infrastructure will be funded and the lack of proper investment in infrastructure is likely to have negative impacts on the economy and quality of life for people living within or moving to the district.