RECOMMENDATIONS TO CABINET – 4 OCTOBER 2011

FROM THE REGENERATION, ENVIRONMENT AND COMMUNITY PANEL MEETING HELD ON 28 SEPTEMBER 2011

REC18: **COMMUNITY INFRASTRUCTURE LEVY**

Councillor R Groom attended under Standing Order 34 for this item of business; he had no comments to make.

In order to make Members fully aware of the need to agree a method for the fair collection of funding towards infrastructure, the Executive Director, Development, gave the background history of the previous Governments methodology in the collection of taxes. He explained that the first Town and Country Planning Act was passed by Government in 1947, by the then Labour Administration. The Act, which brought in a levy tax on future development, was set in place to address the lack of infrastructure funding available to support the development growth in cities, which were fast becoming congested resulting in an increased strain on public services and the lack of amenities. However, whenever an Act was brought in to address the infrastructure funding to development, it was repeatedly repealed by the following administration. The introduction of this additional tax on development also had the knock-on effect of land owners holding back development whilst they awaited the outcome of the ruling of the new Administration towards the tax and as a result the amount of land available for development had dried-up.

In 1980 the Section 106 Agreement was introduced, which started life as a legal agreement between a local authority and a developer to set aside funding towards something that was significant to the specific area of development. Local authorities now used Section 106 Agreements to agree funding towards infrastructure and the Norfolk County Council had collected circa £51m in contributions to date. However, the Section 106 Agreements were now seen to be ineffective, cumbersome and a charge could not be placed on every development proposal. There also existed a lack of certainty from land owners on the exact cost of developing the land through a Section 106 Agreement. Again, in 2006, the then Labour Administration, introduced a planning gain supplement tax; however this again had been repealed by the Conservative Administration when they were next elected. The Executive Director, Development, highlighted that this method of passing an Act only to have it repealed would seem to have been broken by the current Coalition Government who were pressing ahead and reinforcing the obligation for development proposals to fund the required infrastructure. The Coalition Government had decided that a tariff based charge on new development (known as the Community Infrastructure Levy or (CIL)) would provide the best framework to fund new infrastructure required to support growth from the 6 April 2014. This would mean that local authorities' ability to pool Section 106 Agreements towards the provision of infrastructure would be effectively removed.

The Executive Director, Development summarised the report and stated that there were three steps the Council would have to give consideration to:

1. Infrastructure Delivery Plan - Identify the magnitude of the infrastructure required across the Borough and made reference, by example, to the infrastructure requirements of the Internal Drainage Board, the Norfolk County Council Highways and the Environment Agency, to name a few statutory bodies. He added that it would be necessary to prepare an infrastructure delivery plan setting out an evidence based list of infrastructure projects and demonstrate that the infrastructure funding requirements were greater than the monies that could be raised through the CIL.

2. Viability - it would be important to strike 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 Borough. He highlighted that the schedule, once prepared, would be subject to public consultation and to a Public Inquiry, at which an Inspector would consider if the charges set were reasonable based upon sound evidence of viability.

3. Shopping List – It was highlighted that Members' decisions would be sought at this point on the internal process of governance for the collection and distribution of CIL funding and how this would be prioritised in terms of spending.

The report sought Cabinet's approval to prepare a draft CIL charging schedule, setting out the type of development for which CIL would be sought and the rates that would apply.

Members' questions/comments were invited, some of which are summarised below.

Councillor Pitcher, whilst agreeing that the Council would have to accept CIL as a way forward, raised concerns in relation to the use of the word 'threshold' and questioned how many dwellings would constitute a threshold and be subject to CIL. The Executive Director, Development, explained that this was not yet known and it would be dependant on how the CIL Charging Schedule was set out. He added that there were many infrastructure requirements that would have to be taken into account in the development of land and each developer would have to bring their proposals to the Council for evaluation on the amount of CIL that would be appropriate for that development. He stressed that what a developer could not do was ignore the CIL. He added that it was important to remember that smaller development schemes often grew to larger schemes with no infrastructure funding being received and made reference to the Coalition Government's estimate that only 6% of all planning permissions granted currently contribute towards Section 106 Agreements.

Councillor Collis stated that the report was comprehensive and he appreciated that the Council still had a long way to go in finalising matters. However, he

raised concerns in relation to the levy to be placed on affordable housing and sought clarification. The Executive Director, Development, reported that this was not yet known and Officers awaited guidance on a number of planning matters in relation to affordable housing from the Coalition Government. A decision on assessing the viability of affordable housing thresholds in relation to CIL would have to be made and factored into the CIL Charging Schedule once Officers were better informed on the Coalition Government's intentions.

Councillor Cousins stated that CIL would not cover all infrastructure costs and drew Members' attention to page 6 of the report, the last paragraph in the press release and made reference to the New Homes Bonus (NHB). The Chief Executive explained that the NHB replaced the Planning Delivery Grant and was set aside in the Council's Revenues Budget as funding towards the running of the Local Development Framework and the Planning Services. He reported that the Coalition Government had set a ringfenced NHB budget for the next three years and funding beyond those levels would come from a formula grant. He added that this method of grant funding would be extremely competitive in that some areas would require a lot of additional housing and would benefit from the NHB, but those areas that needed additional amenities but not additional housing would lose out on the funding. He further added that the Coalition Government were also giving consideration to localising business rates, top-ups and levies and when further information was received Members would be briefed.

Councillor Langwade made reference to the unused development land owned by the Council and suggested trialling a small build, promoted and controlled in-house against a parallel scheme, to determine the CIL to be allocated. The Chief Executive reported that a planning application was currently going through the planning process on a joint venture with the Council and the NCC of a small development of 50 dwellings which would be sold as market housing. This scheme was being carried out to stimulate development and could be followed by further phases if the market remained static.

In response to a question from Councillor Bubb, the Executive Director, Development, confirmed that the Borough Council would be the body that administered the CIL and the collecting authority and as such would determine and prioritise what infrastructure projects the CIL would be allocated to.

The Executive Director, Development, responded to a question from Councillor Cousins, and confirmed that a CIL could be paid in kind, by way of a land donation. However, it would be important to set out how the land was valued and how the CIL amount was achieved.

In response to a question from the Chairman, the Executive Director, Development confirmed that it was imperative that work on drafting the CIL Charging Schedule was commenced as early as possible. He added that once complete a further report would be submitted to Cabinet for consideration and the Panel would have an opportunity to comment on the report at that time.

The Portfolio Holder, Development, Councillor Mrs Spikings, made reference to the Section 106 monies currently collected and asked if a report could be

brought to Cabinet outlining the amounts of funding collected, the projects it had funded and the residue that was left, which the Executive Director, Development agreed.

RESOLVED: That, Cabinet be informed that the Regeneration, Environment and Community Panel support the recommendation to Cabinet as set out in the report at point (1) and make an additional recommendation to Cabinet as set out at point (2).

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

(2) That a report be submitted to Cabinet for consideration outlining the amounts of funding collected through Section 106 Agreements, the amount of spend towards projects and the funding that remained.

REC19: **NEW DUTIES REGARDING PRIVATE WATER SUPPLIES**

The Executive Director, Environmental Health and Housing, presented the report and explained that new Regulations (Private Water Supplies Regulations (England) 2009) came into force in January 2010, replacing earlier Regulations of 1991. The new Regulations placed additional duties on local authorities to carry out risk assessments of all private water supplies within their area (excluding single dwellings unless specifically requested) and to monitor these supplies. The Drinking Water Inspectorate (DWI) had 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, and as such would take a supervisory role and provide advice to local authorities on the scientific and technical aspects of the implementation of the Private Water Supply Regulations.

The report detailed the Council's progress made to date in complying with the new duties and requested the implementation of cost recovery under the Regulations. Given the amount of work required to carry out the risk assessments and monitoring of the private water supplies it was also proposed to increase the hours of the Sampling Officer, from 25 to 30 hours per week to take account of the additional work load.

Members' questions/comments were invited, some which are summarised below.

In response to a question from Councillor Langwade, the Executive Director, Environmental Health and Housing, explained that only wells that were used for drinking water would have to be tested.

Councillor White questioned whether testing the samples would be carried out in-house. The Executive Director, Environmental Health and Housing, explained that the Council had closed its in-house laboratory 3/4 years previously through the Cost Reduction Programme. However, the in-house laboratory then could only carry out microbiological tests and was not equipped

to test for chemicals. He clarified that all water samples were now tested by Anglian Water.

Councillor White asked if an individual could have their own independent test carried out on their water supplies and produce an analysis of the test to the Council. The Executive Director, Environmental Health and Housing, confirmed that an individual could produce an analysis of their water test, but it was part of the directive from the DWI that the Council would still be the responsible authority to carry out a 5 year Risk Assessment.

The Deputy Leader and Portfolio Holder for Environment and Community welcomed the new testing regime, and made particular reference to immunity being only acquired as a consequence of infection through drinking the water over an extended period of time. He further highlighted the importance of testing all private supplies especially those serving caravan sites, which were used by a great many visitors.

RESOLVED: That Cabinet be informed that the Regeneration, Environment and Community Panel supports the recommendation to Cabinet as set out in the report, as follows:

“That 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”.