



WOKING JOINT COMMITTEE

DATE: 24 SEPTEMBER 2014
LEAD OFFICER: JENI JACKSON, HEAD OF PLANNING SERVICES, WOKING BOROUGH COUNCIL
SUBJECT: COMMUNITY INFRASTRUCTURE LEVY GOVERNANCE ARRANGEMENTS
AREA: WOKING

SUMMARY OF ISSUE:

Woking Borough Council has prepared its Community Infrastructure Levy (CIL) Charging Schedule and a Regulation 123 list. The Community Infrastructure Levy is a charge on new floor space arising from developments in residential or retail use and the monies collected can be used to deliver new infrastructure which is needed to support new development in the Borough. The schemes which might be used for spending the money collected are set out in the Regulation 123 list.

Having received a report from the Community Infrastructure Levy Examiner that the Council may now adopt the Levy it is important that appropriate governance arrangements are put into place in order that the Joint Committee may determine how the monies collected are spent against the Regulation 123 List. This will necessitate co-ordinated working arrangements at officer level of the Borough and County Council and also working with external partners.

The report sets out how those governance arrangements would work in practice.

RECOMMENDATIONS:

Woking Joint Committee is asked to agree:

- (i) the terms of reference for the Officer Infrastructure Working Group
- (ii) that the Infrastructure Working Group will make recommendations to the Joint Committee in future about how monies collected using the Levy will be spent in accordance with the published Regulation 123 list

REASONS FOR RECOMMENDATIONS:

The Borough Council is seeking to implement its CIL Charging Schedule, subject to formal adoption, from 1 April 2015. It is likely to take some time for money to come in as a result of applications being commenced which have to pay the charge. When money is accrued this will have to be spent against the agreed Regulation 123 list which sets out the schemes to be delivered but does not prioritise those schemes. A mechanism will need to be in place for the priorities to be agreed to best serve future residents in those new developments in terms of infrastructure provision.

1. INTRODUCTION AND BACKGROUND:

- 1.1 In the past the impact of new development on services, amenities and infrastructure has been mitigated through the collection of financial contributions for specific works or through provision of facilities/infrastructure on development sites. All of these have been secured using Section 106 of the Planning Act through a formal legal agreement linked to the planning permission. Negotiations to secure 106 agreements have been on a case by case basis with the local planning authority having to make the case to developers that the requirements are linked in scale and kind to the development being proposed. Councillors will previously have received monitoring reports in relation to spending of those monies for the specific purposes set out in the legal agreements. It would not be unusual for monies to be collected in a 'pot' from several sites before enough money has accrued to delivery that piece of infrastructure and in 2008 Government decided to introduce a different way of doing this through a Community Infrastructure Levy that would offer more certainty to developers of the monies to be paid and be more transparent in what they would go towards.
- 1.2 The Community Infrastructure Levy (CIL) Regulations made in 2010 (and subsequently amended) require that the Council has a CIL Charging Schedule adopted and in operation by 1 April 2015 in order to continue to pool contributions for new infrastructure related to the delivery of five or more planning permissions consenting new development. This requires the Council to set out what Infrastructure is needed to support new development in the area and to show the likely costs of that infrastructure and any funding gap. The Regulations have been amended on a number of occasions and recent further amendments exclude self builders from the levy. Affordable housing is already excluded from being charged CIL. The Council's Charging Schedule sets out the levy on new floorspace coming forward as part of development in specific use classes; Woking's Charging Schedule is appended to this report. Whilst the Borough Council Local Development Framework Working Group has made a recommendation to the Council's Executive that the Schedule should be adopted; it has not yet been formally adopted by the Council. It has been approved by a Planning Inspector following Written Examination.
- 1.3 Section 106 agreements would continue to be used to secure the delivery of affordable housing or contributions towards the delivery of affordable housing by another party. Section 106 would also continue to be used to delivery highway improvements, in association with section 278 or section 38 of the Highways Acts, and potentially for other specific infrastructure requirements that arise solely from that development being consented and are not included on the Council's Regulation 123 list. A Regulation 123 list sets out those items of infrastructure for which the Council is collecting money through CIL. Woking's Regulation 123 list is appended to this report; it is not yet formally adopted by the Council, it has been approved by the Planning Inspector.
- 1.4 Woking Borough Council intends to have the CIL charging schedule adopted and in operation on or before 1 April 2015. This will be the subject of a report to Executive and Full Council separate to this report to Joint Committee. In implementing the charging schedule the Council has to ensure that it has all the practical requirements met internally within the Planning Service and associated services and also that the appropriate governance arrangements are in place. The Council will be required to publish an annual report on money collected and what it has been used on. In

essence, so that the priorities for spending the money collected can be determined openly and transparently and in accordance with the published Regulation 123 list.

1.5 This item is for decision.

2. ANALYSIS:

- 2.1 This report seeks to achieve approval for governance arrangements for determining the priorities for spending CIL monies collected within Woking Borough and in accordance with the published Regulation 123 list. This would be done by an officer working group which would report to Joint Committee and make a recommendation having consulted with Borough Ward Councillors, County Divisional Councillors, Neighbourhood Fora (as necessary) and infrastructure providers, including utility companies.
- 2.2 The Regulation 123 list is published by Woking Borough Council and is based on the Infrastructure Delivery Plan which accompanied the Core Strategy and was subject to examination in 2012. This plan was developed with wide ranging consultation including with County officer colleagues and with infrastructure providers. The Council is committed to review the IDP every two years, and the next review is scheduled for October/November. The Regulation 123 list is up-to-date to inform decisions of the Joint Committee or the Working Group and as such the report should not create the impression that the IDP has to be reviewed for decisions to be made.
- 2.3 The terms of reference for the group are attached to this report for decision. This has been drafted in consultation with SCC colleagues. It is important to emphasise that the group cannot project manage but will seek to programme manage as set out in section 4) under objectives. Over time the group may need to change as it evolves and the terms of reference may be reviewed accordingly and be the subject of future report to the Committee. In time the working group may act as a role model for other areas to follow.

3. OPTIONS:

- 3.1 There are a number of options for taking forward CIL governance. However, the terms of reference for the Joint Committee included the fact that it would be the vehicle for governing CIL and this is the basis for the report. It is not considered appropriate that this is governed using an ad hoc arrangement.
- 3.2 It is considered most appropriate that the officer group is a working group made up of representatives from the borough and the county and with other stakeholders or infrastructure bodies being required to attend meetings as appropriate. It is also deemed appropriate that this remains under the leadership of the Local Planning Authority in which the Levy is invested as regulatory authority. The final decision must properly rest with the Local Planning Authority.

4. CONSULTATIONS:

- 4.1 Consultation has taken place with colleagues at Surrey CC in relation to the officer working group and also in relation to the collection of CIL which is an operational matter for Woking BC.

www.woking.gov.uk
www.surreycc.gov.uk/woking

5. FINANCIAL AND VALUE FOR MONEY IMPLICATIONS:

- 5.1 The costs of the formation and operation of the officer group will be met from existing budgets.

6. RISK MANAGEMENT:

6.1 In terms of risk management this is considered in the narrow focus of CIL Governance. The responsibility for CIL sits with the Borough Council as the local planning authority and it is a regulatory function. In the absence of any alternative governance model the Council would use the existing Executive and Council structure for decision making. In the event that the Joint Committee is either not able to make a decision in relation to an officer recommendation or that decision is under dispute the mitigation to that risk is that the decision will be taken by referral to the appropriate decision making committee of the Borough Council.

7. LOCALISM:

- 7.1 The Community Infrastructure Levy Regulations made in 2013 set out how the operation of neighbourhood Community Infrastructure Levy (CIL) would take place. Local Planning Authorities operating CIL will pass on 25% of the money raised from development within the neighbourhood plan area to the community itself so it could decide how the money is to be spent. To qualify the neighbourhood plan would need to have been through referendum and adopted, the area would need to have a forum established and CIL would need to be in operation. Communities (Wards) that do not have a plan in place will receive 15% of CIL receipts (subject to a cap). The money would only be able to be spent on the provision, improvement, replacement, operation or maintenance of infrastructure or anything else that the community is concerned with addressing demands that development places on an area.
- 7.2 In areas with parishes the money would automatically go to the relevant Parish or Town Council. Woking is unparished, in the borough the local authority must agree with the local community how to spend the money. It is proposed as part of these governance arrangements that this would be done in consultation with the neighbourhood forum, where one exists.
- 7.3 Woking has now a number of neighbourhood fora preparing neighbourhood plans: Brookwood and Bridley, Byfleet, Hook Heath, Pyrford and West Byfleet. Details of the area each forum covers are available on the Woking Council website: <http://www.woking.gov.uk/planning/policy/ldf/neighplg>.

8. EQUALITIES AND DIVERSITY IMPLICATIONS:

- 8.1 None.

9. OTHER IMPLICATIONS:

Area assessed:	Direct Implications:
Crime and Disorder	No significant implications arising from this report.
Sustainability (including Climate Change and Carbon Emissions)	No significant implications arising from this report.
Corporate Parenting/Looked After Children	No significant implications arising from this report.
Safeguarding responsibilities for vulnerable children and adults	No significant implications arising from this report.
Public Health	No significant implications arising from this report.
Human Resource/Training and Development	No significant implications arising from this report.

10. CONCLUSION AND RECOMMENDATIONS:

- 10.1 Having received a report from the Community Infrastructure Levy Examiner that the Council may now adopt the Levy it is important that appropriate governance arrangements are put into place in order that the Joint Committee may determine how the monies collected are spent against the Regulation 123 List. This will necessitate co-ordinated working arrangements at officer level of the Borough and County Council and also working with external partners.
- 10.2 This would be done by an officer working group which would report to Joint Committee and make a recommendation having consulted with Borough Ward Councillors, County Divisional Councillors, Neighbourhood Fora (as necessary) and infrastructure providers, including utility companies.

11. WHAT HAPPENS NEXT:

- 11.1 Following the decision an inception meeting of the officer working group would take place chaired by the Head of Planning Services, Woking BC. The attendees would be expected to communicate back to their organisations the process now in place and the appropriate channels for communication.
- 11.2 Members of the Borough and County Council Divisional Members with a ward falling within Woking Borough would be advised through an email updating them on the governance arrangements and the appropriate communication.
- 11.3 In publicising its intention to adopt CIL the Borough Council will make the governance arrangements clear to relevant stakeholders and residents.
- 11.4 The Council is likely to adopt its CIL Charging Schedule in late 2014 with a view to implementation of the Charge from 1 April 2015. All applications sitting with the local planning authority which have not been determined upon that date will potentially be subject to a charge as set out in the Schedule; in reality this will be a small number of retail and residential schemes. The monies are not due until the development has commenced so it is unlikely that the Council will be collecting monies until Summer

2015 and then it is predicted in small amounts. The earliest that the Joint Committee might expect to receive a report is Spring 2016.

Contact Officer:

Jeni Jackson, Head of Planning Services, T.01483 743020

Consulted:

Ray Morgan, Chief Executive, WBC
Douglas Spinks, Deputy Chief Executive, WBC
Ernest Amoako, Planning Policy Manager, WBC
Tracey Haskins, Corporate Policy Manager, WBC

Paul Sanderson, SCC
Paul Druce, SCC
Paul Fishwick, SCC
Dominic Forbes, SCC
Trevor Pugh, SCC

Borough Portfolio Holder

Cllr Graham Cundy

Annexes:

Terms of reference for the Officer Working Group
Woking Borough Council Draft Charging Schedule with Proposed Modifications
Woking Borough Council Draft Regulation 123 list

Sources/background papers:

- Woking 2027 Core Strategy DPD
- Infrastructure Delivery Plan, Woking BC (2012)
<http://www.woking2027.info/corestrategy/cssubmission/borough/cs16>
- CIL Viability Study: <http://www.woking2027.info/infrastructure/cilviabilitystudy>
- Infrastructure Funding Gap Topic Paper:
<http://www.woking2027.info/test/infrastructure/cilinfrastructurefundinggap>
- CIL Inspectors Report:
<http://www.woking2027.info/infrastructure/cilexamination/cilexamrep>