



WOKING JOINT COMMITTEE

DATE: 3 DECEMBER 2014
LEAD OFFICER: JENI JACKSON, HEAD OF PLANNING SERVICES, WOKING BOROUGH COUNCIL

SUBJECT: COMMUNITY INFRASTRUCTURE LEVY GOVERNANCE ARRANGEMENTS
AREA: WOKING

SUMMARY OF ISSUE:

This matter was deferred by the Joint Committee on 24 September to allow further consideration of the consultation with Members to be undertaken by the officer working group. The report has been updated to reflect changes to the proposed arrangements and to add in details of how infrastructure might be prioritised. The Terms of Reference has also been amended.

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.

The Council adopted the CIL Charging Schedule on 24 October 2014. 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 Member/Officer Infrastructure Working Group;
- (ii) the appointment of one county councillor and one borough councillor (to be one from each main political party) to the Infrastructure Working Group;
- (iii) 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;

(iv) that the Infrastructure Working Group will utilise the infrastructure prioritisation criteria set out within the report; and

(v) that the neighbourhood portion will be given further consideration post 2016 changes to the Ward boundaries.

REASONS FOR RECOMMENDATIONS:

The Borough Council is seeking to implement its CIL Charging Schedule 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. It was adopted by Full Council on 24 October 2014.

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.

1.4 Woking Borough Council intends to have the CIL charging schedule in operation on or before 1 April 2015. 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. These arrangements would be undertaken by a Joint Member and 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 as is necessary in the light of future development proposals, the IDP not having to be reviewed for decisions to be made; the Regulation 123 list informing the decisions of the Joint Committee and the joint working group.
- 2.3 The terms of reference for the working 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 membership of the group may need to change as it evolves and the terms of reference may be reviewed accordingly and be the subject of a future report to the Committee. In time the working group may act as a role model for other areas to follow.
- 2.4 It will be important to ensure that additional infrastructure capacity is timed to coincide with the expected delivery of new development in a particular area. The spending of CIL will therefore need to be carefully planned and managed. Given that there is a significant funding gap of over £53 million, infrastructure priorities will need to be agreed and a means of prioritising which infrastructure is to be delivered should be agreed. CIL receipts must be spent on capital projects; it can be used to increase the capacity of existing infrastructure or to repair failing infrastructure if that is necessary to support new development.

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2.5 In addition to understanding the infrastructure needs to support the planned growth within the Borough, as well as the costs and funding requirements, it will be important to understand the phasing of growth. This may include the need for phased funding and delivery of infrastructure. The housing development trajectory will be key evidence which will assist with prioritisation.

2.6 Once the likely level of available CIL is known stakeholders will be invited to 'bid' for funding towards their projects. To be given consideration schemes should meet a number of the following criteria:

2.7 Table 1: Infrastructure Prioritisation Criteria

Criteria	Yes/No
Be included in the Infrastructure Delivery Plan	
Be included in the Regulation 123 list	
Deliver specific policies of the Core Strategy (and, in due course, the delivery DPD)	
Contribute to the delivery of other approved Council strategies, e.g. open space	
Contribute to the delivery of the Council's Corporate Priorities	
Contribute towards the delivery of infrastructure by a provider where it can be satisfactorily be demonstrated that the infrastructure would not otherwise be delivered i.e. that all other possible funding sources are insufficient	
Address a specific impact of new development beyond that which has been secured through a section 106 obligation or a section 278 agreement	
Lever in other funds that would not otherwise be available e.g. need to match or draw grant funding	
Offer wider as well as local benefits	
Be deliverable in the year that the funding is being programmed i.e. justified by	
(i) a project plan including a timetable and resources available to meet the timetable	
(ii) consultation summary report to indicate stakeholder support; and	
(iii) arrangements for ongoing maintenance	

2.7 The Regulation 123 list refers to types of infrastructure but will not always specify regarding particular schemes or projects and reference back to the Infrastructure Delivery Plan will therefore be necessary. In essence infrastructure will be

categorised to assist the process of prioritisation to distinguish which projects are critical to enabling development and those that which mitigate the effects of the development compared to those that are important to deliver place making. The categories and descriptions are set out below:

Table 2: Categories of infrastructure priority

	Category	Description
1	Critical	Infrastructure that must be provided to enable growth and without it development cannot be allowed to proceed e.g. major utilities infrastructure
2	Essential	Infrastructure that is considered essential and necessary to support and/or mitigate the impact arising from development. The timing and phasing of these projects e.g. school places and public transport projects are usually linked to the occupation of development sites.
3	Deliverable	Infrastructure that is required to support wider strategic objectives, to build sustainable communities and to make places. This type of infrastructure is influenced more by whether a person chooses to use the facility e.g. community facilities. The timing is not critical and is usually linked to completion of development.

3. OPTIONS:

3.1 There are a number of possible 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 not considered appropriate that this is governed by an ad hoc arrangement.

3.2 It is considered most appropriate that the working group made up of representatives from the borough and the county at officer and member level 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 properly rests with the Local Planning Authority.

4. CONSULTATIONS:

4.1 Consultation has taken place with colleagues at Surrey County Council in relation to the working group and also in relation to the collection of CIL, which is an operational matter for Woking Borough Council.

4.2 Consultation has also taken place with the WBC Portfolio Holder for Planning.

5. FINANCIAL AND VALUE FOR MONEY IMPLICATIONS:

5.1 The costs of the formation and operation of the working 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 not able to make a decision in relation to a working group recommendation or the recommendation is disputed the risk will be mitigated by that decision being referred to the appropriate decision making committee of the Borough Council.

7. LOCALISM:

- 7.1 The Community Infrastructure Levy Regulations 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 can 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 has concerns with and which addresses 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. As Woking is unparished the local authority must agree with the local community how the money should be spent. It is proposed as part of these governance arrangements that this would be undertaken in consultation with the neighbourhood forum, where one exists. It should be noted that ward boundaries and fora boundaries are not aligned.
- 7.3 Woking has 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>.
- 7.4 Given that the ward boundaries within Woking's administrative area will change in 2016 it is recommended that the arrangements and governance in relation to the 'neighbourhood portion' be revisited after that change has occurred to ensure that they are fit for purpose. There will be issues where ward boundaries do not align with neighbourhood forum/plan boundaries – as at present – and a solution to how this will be equitably managed will need to be found. The IT system which will be used to support the CIL administration will retain the information as to the location of the development giving rise to the monies to allow for a full audit trail.

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 concluded that the Council will 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 in accordance with the Regulation 123 List. This will necessitate co-ordinated working arrangements both at officer and Member level of the Borough and County Council and also with external partners.
- 10.2 This would be undertaken by the infrastructure working group which would make recommendations to the Joint Committee 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 infrastructure 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, which will update 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 will seek 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. All applications which have a resolution to grant subject to a legal agreement may need to be reconsidered in the

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light of CIL. 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 of 2016.

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Consulted:

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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/cilinfrastucturefundinggap>
 - CIL Inspectors Report:
<http://www.woking2027.info/infrastructure/cilexamination/cilexamrep>
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