

THURSDAY, 23 OCTOBER 2014

## REPORT OF THE PORTFOLIO HOLDER FOR ECONOMY AND EDUCATION

## COMMUNITY INFRASTRUCTURE LEVY AND PLANNING OBLIGATIONS

## EXEMPT INFORMATION

## PURPOSE

To seek authorisation to consult on the preliminary draft charging schedule, approve the draft Regulation 123 list and to release s106 monies.

## RECOMMENDATIONS

- 1) The Preliminary Draft Charging Schedule is approved for 6 week public consultation in accordance with the Community Infrastructure Levy Regulations 2010 (as amended)
- 2) The draft Regulation 123 list is approved
- 3) Existing s106 monies from Car Parking Commuted Sums accounts totalling approximately £89,111.83 (less £83k already released), Highways Commuted Sums totalling approximately £124,656.78, Recreation Facilities totalling approximately £9,696 are released to increase the Gateways Capital project budget as detailed in the report in accordance with the legal agreements, local policy and the NPPF
- 4) Existing s106 monies from Recreation Facilities accounts totalling approximately £54,309 are released to create the Wigginton park capital project budget as detailed in the report in accordance with the legal agreement, local policy and the NPPF
- 5) Existing s106 monies from Recreation Facilities accounts totalling approximately £11,108.58 are released to increase the Broad Meadow capital project budget as detailed in the report in accordance with the legal agreement, local policy and the NPPF
- 6) Existing remaining s106 monies from account Recreation Facilities totalling approximately £123,226.26 is released to create an Open Space Capital Project budget and the Portfolio Holder for Economy and Education and the Portfolio Holder for Environment and Waste Management are given delegated authority to approve their final use in accordance with the legal agreement, local policy and the NPPF

## EXECUTIVE SUMMARY

## 1) Community Infrastructure Levy

The Community Infrastructure Levy (CIL) came into force in April 2010. It allows local authorities in England and Wales to raise funds from developers undertaking new building projects in their area. The money can be used to fund a wide range of infrastructure that is needed as a result of development. This includes new or safer road schemes, flood defences, schools, hospitals and other health and social care facilities, park improvements, green spaces and leisure centres. The Regulations also restrict the use of Section 106 to collect developer contributions.

Tamworth Borough Council, under the Regulations is classed as the 'Charging Authority' and is able to put in place a 'Charging Schedule' which sets out rates (in £'s per Sq. M.) that the Levy is charged for different types of development.

Tamworth Borough Council will also be the 'Collecting Authority' and will have responsibility for issuing liability, commencement and demand notices. The Council will also have Enforcement Powers to be used for example if the required Levy has not been paid. The Council will also have to make decisions about what infrastructure to fund and when.

In May 2012 Cabinet considered whether or not to seek to introduce a Community Infrastructure Levy (CIL) charging schedule and gave authority to officers to start work on the production of the evidence base and preliminary draft charging schedule for further consideration by Cabinet prior to public consultation. The decision to proceed with a CIL recognised that the funding gap for the delivery of infrastructure could not be bridged by CIL alone. The report also included a timetable for production and adoption. This timetable has slipped considerably due to the withdrawal of the Local Plan in March 2013. The NPPF requires that an 'up to date' Local Plan is adopted by the local authority before a CIL can be adopted.

To support the production of the Local Plan, the existing evidence base on viability needed to be updated. A study has been undertaken looking at the costs of development in Tamworth, the costs of the policies in the Local Plan, including Affordable Housing, and what may be left over for a potential CIL rate. A residual value approach to viability appraisal was undertaken for residential and non-residential schemes to inform the study recommendations. The planned growth is based on delivery taking place in parallel within the smaller urban brownfield sites and four strategic greenfield sites. There was a general consensus from stakeholders and research that there is one single mid-range value zone in Tamworth. The two policies identified as directly impacting on viability were affordable housing and infrastructure. The emerging recommendations have informed the Local Plan policies - adopting an 'iterative approach' to guide policy so that the proposed policy obligations do not threatened the whole plan viability, and support the delivery of development.

Based on the work undertaken, only residential schemes greater than two units of 210 sqm gross floor space and retail schemes which take place out of centre support a CIL. The rates proposed are £35 per square metre for residential and £200 per square metre for out of centre retail. The preliminary draft charging schedule is attached in appendix A.

The residential charge is comparable with nearby authorities and the retail charge is higher than others. This reflects the success of Ventura park in area such as Tamworth where land values are relatively low.

Local Authority	Stage	Residential charges	Commercial / Retail Charges	Others
Birmingham	Preliminary Draft Charging Schedule Published	Two residential charging zones with rates of £55 and £115 per square metre. Two hotel charging zones with rates of £45 and £25 per square metre.	Two supermarket charging zones with rates of £150 and £380 per square metre. All other retail developments will be charged £150 per square metre.  Three office development charging zones with rates of £15, £25 and £55 per square metre	No charge for all other uses.
Cannock Chase	Preliminary Draft Charging Schedule Published	Residential developments will be charged £40 per square metre.	Supermarkets, superstores and retail park developments will be charged £60 per square metre	No charge for all other uses.
Lichfield	Preliminary	Two residential	Supermarkets will be charged	No

	Draft Charging Schedule Published	charging zones with rates of £50 and £30 per square metre.	£160 per square metre. Retail warehouse developments will be charged £100 per square metre. Neighbourhood convenience retail developments will be charged £35 per square metre.	charge for all other uses.
Shropshire	Adopted	Two residential charging zones with rates of £40 and £80 per square metre	No charge for retail or commercial developments.	No charge for all other uses.

The next steps are to consult on the preliminary draft charging schedule (PDCS) for a period of 6 weeks. It is hoped that this can be undertaken at the same time as the Pre-Submission Local Plan consultation. An indicative timetable for the production, examination and adoption of CIL is as follows:

Consultation on PDCS	6 weeks – end of October to early December 2014
Full Council consider Draft Charging Schedule	December 2014
Consultation on DCS	January 2015
Submit Charging Schedule	February 2015
Examination	March / April 15 (to follow Local Plan examination)
Inspectors Report	Early summer 2015
Adoption of CIL	Autumn 2015

In addition the Council needs to put in place the relevant procedures and processes for collecting the Levy; for determining priorities for spending the collected monies; and allocating monies to schemes. The Planning Advisory Service have offered free support to help draft the procedures and processes and work with officers will begin in late October on this. In addition the Tamworth Strategic Partnership has established an officer group from across the Borough and County Council, the Environment Agency, Highways Agency and neighbouring authorities. The remit of the group is as follows:

- To produce a yearly work plan for agreement by the Tamworth Strategic Partnership Board
- To identify the infrastructure needed to support the current and future communities of Tamworth
- To identify funding available to deliver infrastructure
- To recommend to the Tamworth Strategic Board priorities for delivery
- To develop and maintain the Infrastructure Delivery Plan
- To monitor and report to the Board progress against the IDP

## 2) Infrastructure Delivery Plan

Through the production of the Local Plan an Infrastructure Delivery Plan has been compiled following technical consultation with organisations such as the County Council and Environment Agency and through the TSP officer group. This identifies what infrastructure is required to support new development and the vision for the town, when it is needed, how it is going to be delivered and by whom.

The draft Infrastructure Delivery Plan (IDP) is included in Appendix B. This forms part of the Local Plan which is due to go to public consultation in October prior to being submitted to the

Secretary of State for an independent examination. The IDP identifies total known infrastructure costs of c£75m although this does include a cost of c£30m for improvements to the Water Orton Rail Corridor. The identified funding gap for all of the infrastructure after taking into account the amount already committed and anticipated is c£33m. One of the requirements to be able to implement a CIL is to have a funding gap.

The IDP will evolve over time as infrastructure is delivered and new infrastructure needs are identified. It is anticipated that the TSP will review the ISD annually and update it.

### 3) Planning Obligations and Regulation 123 list

As previously reported the CIL Regulations will restrict the ability to pool s106 obligations for pieces of Infrastructure. Originally the cut off date was going to be 1<sup>st</sup> April 2014 but the Government have extended this to the 1<sup>st</sup> April 2015. After this date the Council will not be able to collect more than 5 planning obligations (which are back dated to include those collected since 6<sup>th</sup> April 2010) for a project. It is considered any 'lost' s106 monies in the interim until CIL is adopted is likely to be low and where appropriate alternative s106 contributions may be sought.

Until CIL is in place the Council will need to ensure that development mitigates its impact through appropriate planning obligations. This will be straight forward for site specific infrastructure but whereas in the past contributions have been collected for general open space improvements or contributions to increase education facility capacity, these will no longer be able to be done. Therefore any planning obligations will need to be specific about what the obligation is for in relation to these types of infrastructure.

[Regulation 123](#) of the Community Infrastructure Levy Regulations, as amended by the [2011](#), [2013](#) and [2014](#) Regulations, provides for charging authorities to set out a list of those projects or types of infrastructure that it intends to fund, or may fund, through the levy.

Where the regulation 123 list includes a generic type of infrastructure (such as 'education' or 'transport'), section 106 contributions cannot be sought on any specific projects in that category. A draft Reg 123 list has been prepared and is included in Appendix C. This contains specific pieces of infrastructure and generic infrastructure and for those items on the list, once CIL is adopted, no s106 monies can be collected. However, the ability to charge CIL on all development should not result in any significant reduction in overall levels of planning obligation.

It should be noted that Affordable Housing is excluded from CIL and therefore will continue to be secured through s106's.

### 4) Existing planning obligations

As detailed above, the Council has previously collected s106 monies for a range of generic infrastructure such as open space enhancements and maintenance, and a town centre commuted sum in lieu of on site provision of car parking to enhance access to public transport, make environmental improvements within the Town Centre Commuted Sums Area and improve public car parking.

Officers have identified a series of projects to utilise these funds that are in accordance with the adopted policy and the section 106 legal agreement. These are summarised below and authority is sought to allow officers to work up the final schemes and check the legal agreements to ensure the monies are spent in accordance with the agreement and for the relevant portfolio holders to approve them. This approach was taken to the TSP Infrastructure group and they endorsed the proposed approach.

#### Town Centre Commuted Sums

There is approximately £89,111.83 (interest is added throughout the year so final figures may vary) that has been collected. £83k of this has previously been allocated, but not yet spent,

to support the Gateways project in the 2013/14 capital programme.

There are also further funds of £238,852.88 for specific highways improvements related to developments including such items as finger posts and cycle links. It is proposed to allocate approximately £124,656.78 from this cost centre to the Tamworth Gateways project the objectives of which are as follows:

- Create welcoming gateways to town centre
- Improve legibility
- Promote pedestrian and cycle priority access to key functional movement corridors
- Identify and promote key development sites

Work has focused on developing the links between the town centre and Ventura park and the town centre and the railway station. Landscape Architects have produced schemes and now the County Council are working up detailed engineering designs for the Town Centre – Ventura Link with a hope that work can start on site in early 2015 focusing on the Ladybridge part of the link (phase 1) with the remaining part of the route being implemented once the County Council have identified funding. The proposed improvements have been broken in to stages to be implemented as funding allows. It is recommended that the following contributions are released to the project in addition to the existing capital monies and an indication of which phase they will be allocated to is shown.

Account Code	Account Name	Approx*	Contribution to Phase 1 Budget	Contribution to phase 2 budget
R6051	Car Parking (Town Centre Plan)	55,833.83	0	55,833.83
R6053	11 Silver Street (Car Parking)	9,614.00	0	9,614.00
R6055	Car Parking 34 Market Street	1,243.00	1,243.00	0
R6057	58 Albert Road	2,013.00	2,013.00	0
R6058	2a George Street	3,021.00	3,021.00	0
R6064	Contribution Re 22 George St	8,284.00	0	8,284.00
R6066	21 Church Street	7,040.00	7,040.00	0
R6067	17 Lower Gungate	1,032.00	1,032.00	0
R6068	Magistrates Court	1,031.00	1,031.00	0
R6602	Bitterscote Links li	12,910.78	12,910.78	0
R6608	Sec 106 Bonehill Rd Hamer Ford	48,981.00	48,981.00	0
R6610	Cin Ventura Park Road	2,206.00	0	2,206.00
R6611	Finger Posts Cardinal Point B & Q	5,124.00	5,124.00	0
R6612	Finger Posts John Lewis	5,119.00	5,119.00	0
R6613	Allied Carpet Site Travel Plan	251.00	0	251.00
R6614	JB Aucott Gateway Project	50,065.00	0	50,065.00
		<b>213,768.61</b>	<b>87,514.78**</b>	<b>126,253.83</b>

\*due to interest earned the final amounts may differ when drawn down

\*\*£83k of this has previously been allocated, but not yet spent, to support the Gateways project in the 2013/14 capital programme.

There are also monies available in the Recreation Facilities accounts (approximately £198,339.84) for enhancements to open space which would be suitable for undertaking work in the castle grounds associated with the project (for example, landscaping works) as follows:

Account Code	Development Name	Approx Amount*
R6217	17 Victoria Road	1,708.00
R6307	42 & 42a Victoria Road	5,091.00
R6314	Olivers 19 Lower Gungate	1,059.00
R6315	8 Aldergate	527.00
R6317	5 Albert Road	791.00
R6330	8 Aldergate	520.00
		<b>9,696</b>

\*due to interest earned the final amounts may differ when drawn down

#### Open space Enhancements

There is approximately £198,339.84 in the Recreation Facilities accounts for enhancements to open space. The agreements have been mapped against a 400m buffer of existing open spaces. The emerging Local Plan requires new development within 400m of existing open space should contribute to its maintenance, improvement or access to, the 400m buffer was informed by the 2012 Open Space Review. All of the agreements with the exception of one are within 400m of an open space. The one exception is to the north of the town is approximately 450m from an open space. A number of potential projects have been identified that would benefit from funding by the officer group. Two specific ones are Wigginton park and Broad Meadow. It is recommended that the following funds are released to these projects:

#### Wigginton Park

Account Code	Development Name	Approx Amount*
R6213	Masefield Drive Open Space	406.00
R6219	Land At Lud Lane	830.00
R6319	41 Coton Lane	784.00
R6332	107 Comberford Road	1,038.00
R6336	Solway Cl - Bellway Homes	20,163.00
R6342	Flat 4 Coton Precint	507.00
R6344	Coton Hall Farm	1,511.00
	Coton Hall Farm Phase 2	6,000
R6348	Garage Sites Leyfields	10,033.00
R6349	Garage Sites Leyfields Ph2	11,036.00
R6353	77 Wigginton Road	2001
		<b>54,309</b>

\*due to interest earned the final amounts may differ when drawn down

#### Broad Meadow

Account Code	Development Name	Approx Amount*
R6345	22 Lichfield Street	504.00
R6346	67a Halford Street	504.00
R6304	Jolly Sailor Site - W Ashley	5,635.58
R6340	The White House 93lichfield St	4,465.00
		<b>11,108.58</b>

\*due to interest earned the final amounts may differ when drawn down

With regards to the remaining funding, it is proposed that the officer group is expanded to include representatives from Planning, Street Scene, Community Leisure, Community Development and Housing. The remaining funding totalling approximately £123,226.26 is requested to be released and it will be allocated to projects as they are further developed by the project group and IDP officer group after the agreement of the Portfolio Holder for Education and Economy and the Portfolio Holder for Environment and Waste Management.

## **OPTIONS CONSIDERED**

- Higher and lower rates for CIL were considered through the evidence base, however, it is felt that the proposed rates strike the appropriate balance required by the Regulations.
- Options for spending the existing s106 have been looked at by the officer group. The funding could be spread over more smaller sites however, given the small amounts involved this would not be the most efficient use of resources. By grouping the monies into the two identified project and greater impact can be achieved.

## **RESOURCE IMPLICATIONS**

A budget already exists for the preparation of a CIL.

It has been estimated that from the point of adoption of a CIL until 2031 the likely CIL receipts will in the region of £2.8m. However, if planning applications are approved prior to the adoption of CIL this figure will be less, although s106 should capture the necessary planning obligations.

Capital funding has already been allocated to the Gateways project. The County Council are seeking additional funding through s106 agreements, Local Transport Plan programme, Local Sustainable Transport Fund funding and Local Growth Fund funding.

## **LEGAL/RISK IMPLICATIONS BACKGROUND**

The legal implications of CIL are covered in the report.

The legal agreements for the identified s106 monies need to be checked to ensure they allow for the spend as proposed. If they do not the monies will have to be allocated to other projects.

## **SUSTAINABILITY IMPLICATIONS**

The CIL will assist in delivering infrastructure which is needed to allow sustainable growth of the Borough.

## **BACKGROUND INFORMATION**

### **REPORT AUTHOR**

Matthew Bowers, Head of Planning and Regeneration x276

### **LIST OF BACKGROUND PAPERS**

Report to Cabinet, "Community Infrastructure Levy", 30<sup>th</sup> May 2012  
Whole Plan Viability, Affordable Housing and CIL Study, 2014

### **APPENDICES**

- A) Preliminary Draft Charging Schedule
- B) Infrastructure Delivery Plan
- C) Regulation 123 list

This page is intentionally left blank