

## Developer Contributions Governance Arrangements – Ashley Smith CHDMBC

### **Synopsis of report:**

On 1<sup>st</sup> March 2021, Runnymede Borough Council introduced the Community Infrastructure Levy (CIL). As the CIL charging and collecting authority, the Council must administer CIL in direct accordance with the CIL Regulations.

A draft set of recommended Developer Contributions Governance Arrangements have been prepared and are appended to this report. This document would set the framework relating to the governance of the CIL funding process, as well as the Council's approach to Section 106 (S106) obligations which are also used to fund new infrastructure. The document also encourages strategic and joined up thinking on infrastructure priorities.

It is recommended in the report that these arrangements are agreed and adopted in order to ensure that the Council has appropriate governance in place for when the Council has a more significant quantity of developer contributions in hand.

The arrangements will also maximise the probability that developer contributions are utilised optimally and deliver the maximum benefits to the communities of the Borough.

### **Recommendations:**

- 1. To approve and adopt the Runnymede Borough Council Developer Contributions Governance Arrangements set out at appendix 1.**
- 2. To agree the setting up of the Developer Contributions Advisory Group as set out in appendix 2**
- 3. To authorise the Corporate Head of Law and Governance to refer any required constitutional changes to facilitate the above to the Constitution Working Group and subsequently Full Council.**

## **1. Context and background of report**

- 1.1 On 1<sup>st</sup> March 2021, Runnymede Borough Council introduced the Community Infrastructure Levy, which allows local authorities in England to raise funds from developers who are undertaking new building projects in their area. The money collected must be used to fund the provision, improvement, replacement, operation or maintenance of infrastructure to support new development. It cannot be used to remedy existing deficiencies unless these are exacerbated by new development.

- 1.2 Prior to the implementation of CIL, the Council collected developer contributions by S106 agreement. Historically, S106 obligations have been used by the Council to secure financial contributions for matters such as affordable housing, transport and highways improvements and public open space contributions or on-site affordable housing provision. Since the introduction of the CIL Regulations in 2010, the Government's intent has been that the use of S106 obligations should be scaled back to site specific issues and that the focus for developer contributions should be on an up-front CIL system, to help deliver infrastructure requirements, that provides more certainty to all.
  - 1.3 Since its adoption, CIL has become the Council's primary mechanism for securing developer contributions (however S106 is still used for some matters such as site-specific infrastructure and affordable housing). Like all Boroughs which are experiencing housing and other growth, there will be a need to provide new infrastructure to help mitigate this growth. The Council prepared an Infrastructure Delivery Plan (IDP) to inform the preparation of the Runnymede 2030 Local Plan and further revisions to the IDP will occur in the future. Alongside the IDP, sits an Infrastructure Delivery Schedule (IDS) which lists all the infrastructure schemes identified as being necessary to support the developments proposed through the adopted Local Plan. As identified in the preparation of the Local Plan and examination of the CIL charging schedule, developer contributions will be unable to cover the cost of all infrastructure need generated by new development, as such it is particularly important that high quality decisions on expenditure are made on contributions that are received.
  - 1.4 The Council adopted CIL in March 2021, as CIL only applies to development which receives planning permission after the adoption of the CIL charge, and then is only chargeable on development once it is commenced, there is inevitably a significant lag period between adoption and meaningful CIL receipts being received by the Local Authority. As such the amount of CIL already received by the Council is relatively low (£501k at time of writing), this amount is likely to significantly increase over the next 18-24 months as the Council has granted planning permissions for a number of large chargeable schemes in the last 18 months, these schemes are likely to commence on site in the relative short term. It is therefore considered an optimal time to put robust governance arrangements in place.
  - 1.5 CIL revenue, and decisions relating to its expenditure, must operate within a collection of multiple inter-related documents, plans and frameworks. Clear governance, prioritisation and effective project management are required to ensure that CIL funds, and any existing or future S106 funds, are used most effectively to deliver infrastructure across the Borough and to successfully mitigate the impacts of development. This approach will assist in securing a high quality environment and sustainable economic growth in Runnymede and assist with delivering the objectives of the Council's Corporate Plan.
2. **Report and, where applicable, options considered and recommended**
    - 2.1 Nationally, local authorities have been relatively slow to set up clear governance arrangements even those that have been collecting CIL for several

years. However, there are now a variety of different governance models that have been established across the country. Officers have reviewed these to consider what model will be the 'best fit' for Runnymede and enable it to best meet its needs.

- 2.2 Informed by best practice from elsewhere, the next section of this report addresses the key principles that are recommended that will help to deliver a simple and transparent process for Runnymede Borough.
- 2.3 Models in other Councils for infrastructure expenditure range from Cabinet/Corporate Management or lead member type decisions through to near full delegated authority based on previously established priorities by members. Most Local Authorities however have settled on decisions being made by an appropriate committee, informed by an appropriate advisory or working group which screens matters and makes recommendations as appropriate to the relevant committee. In most cases the final decision however remains with that relevant committee.
- 2.4 Whilst there are different governance options that could be adopted it should be kept in mind that Runnymede Borough Council members, as politically accountable for CIL's effective use, will need to have a significant say on the spending of Developer Contributions raised in its Charging Area. As such, elected members must play a central role in decision making and shaping priorities for infrastructure and communities. For this reason, models that involved delegation of all or most of the infrastructure decision making process to officers of the Council, have been discounted.
- 2.5 Given the significance of infrastructure delivery for the Borough and its residents, it is considered that it is appropriate that most infrastructure spending decisions are appropriately reserved to committee. Given the potential level of spending, nature of the spending and clear alignment with its other functions it is considered that this responsibility best sits with Corporate Management Committee. As such CMC is recommended as the primary and final accountable decision-making body for infrastructure spending decisions relating to developer contributions.
- 2.6 As previously mentioned, most Local Authorities who have adopted CIL create a group to support the relevant committee. As such it is recommended that a "Development Contributions Advisory Group" is established. The group would be advisory only, and membership of such a group would be drawn from the Chairmen of the committees closely related to infrastructure need or delivery and the most Senior officers of the Council. This should ensure that joined up thinking occurs across the Council's many functions with regards infrastructure. The objectives of the Developer Contributions Advisory Group would be:
  - To advise and recommend to the Corporate Management Committee schemes that will have maximum benefits to the community.
  - To monitor receipts and expenditure of CIL monies, including the maintenance of reserves in the fund as appropriate.

- To recommend a CIL Funding Program of infrastructure projects to be considered for agreement by Corporate Management Committee.

Effectively the advisory group, would seek to inform the recommendations to CMC, conduct screening of bids, avoid the excessive use of CMC time and ensure sufficient scrutiny and strategic thinking have been applied to infrastructure bids. The final decision to allocate any funding would rest with CMC. A draft terms of reference for the Developer Contributions Advisory Group is appended as appendix 2 of this report

- 2.7 Having concluded that this model was the most appropriate model available, officers have set about drafting appropriate governance arrangement details for developer contributions. This has led to the production of the governance document set out in appendix 1 of this report.
- 2.8 The governance document is considered to be detailed and comprehensive and as such this report does not seek to repeat its' contents at great length.
- 2.9 The initial parts of the document provide background on infrastructure need, identification and historic practice nationally in the Borough. Paragraphs 3.16-3.20 of the document deal with S106 expenditure. Historic S106 funds along with any newly secured funds on a site-by-site basis will continue to be spent in accordance with the requirements of related legal agreements as drafted. Where the contribution must be spent on a specific item (such as improving a specific junction or moving a specific CCTV camera) the matter would remain delegated. Where the spending is non-specific matter, and effectively there is choice on what it is spent on, the matter will be referred to the Developer Contributions Advisory Group and on to Corporate Management Committee for a final decision by members.
- 2.10 Section 4 of the governance documents explains the definition of infrastructure and the relevant portions of CIL that must be used for various purposes, such as the neighborhood and strategic proportions. Section 5 of the reports deals with the expenditure of the neighborhood proportion, identifies local areas in alignment with the local plan. This section also sets out processes for consulting communities with a view to agreeing how the neighborhood portion should be spent. This includes opportunities for local communities to set their own priorities via neighborhood planning and prioritisation documents or as a result of responding to consultation undertaken by the Borough. It also sets out a process by which community bidding can occur for part of the neighborhood portion. The neighborhood portion will need to be spent in the area that it was collected in (i.e. where the development occurred).
- 2.11 Section 6 deals with the strategic portion of the receipt. This is the largest portion of the funding. The proposed governance arrangements are designed to encourage strategic thinking with regards spending on key infrastructure. It seeks to tie in with the Infrastructure Delivery Statement and the Infrastructure Prioritisation SPD. The Council's current adopted hierarchy has already set out the Council's preferred current priorities on infrastructure. Whilst consideration

of schemes listed higher up the hierarchy are likely to be viewed as more critical, there will be times that the particular circumstances of schemes lower down the hierarchy may be given preference due to the particular merits of a scheme or the perceived benefits that they bring to the Borough.

2.12 It also sets out what work will be done with partners and infrastructure providers to identify current and future need arising from new development. The document then turns to a number of assessment and shortlisting criteria for considering schemes, these are designed to encourage strategic and joined up thinking and that consideration is given to other policies, projects and strategies. The draft criteria are:

- A. *Are CIL monies needed to deliver the project?*
- B. *Which category does the project sit within in the Council's hierarchy of prioritisation?*
- C. *Does the project meet a local need or demand that has arisen from new development i.e. is the project clearly defined as 'Infrastructure' as per the CIL Regulations?*
- D. *When can the infrastructure be delivered?*
- E. *Are clear project costs and funding known? Are other sources of funding available? Is the delivery of the infrastructure already in the strategy of another agency to fund and deliver?*
- F. *Are there 'Neighbourhood' CIL monies available in the Settlement Area in which the project is located that could be used to wholly or partly fund the project?*
- G. *Does the project help meet at least one of the Council's corporate priorities?*
- H. *Is the project listed in the Council's Infrastructure Delivery Schedule / Infrastructure Funding Statement or is it for infrastructure that supports growth of the area identified within a relevant local strategy, e.g. any of the Council's Corporate Plans or Strategies?*
- I. *Could the scheme help facilitate or accelerate the delivery of other major infrastructure in the Borough, particularly if aligned with other funding sources.*

2.13 The remainder of the document deals with other payment types, monitoring and reporting. The document is considered detailed and comprehensive, however if it proves necessary it can be reviewed at a future date or as legislation or processes evolve.

2.14 It is considered that the proposals included in the document provide robust governance arrangements for the expenditure of Developer Contributions that will provide appropriate oversight on infrastructure expenditure and also appropriate transparency. The arrangements will also maximise the probability that developer contributions are used effectively and deliver the maximum benefits to the communities of the Borough. For these reasons it is considered important to adopt effective governance arrangements at the earliest opportunity and the attached constitutes the recommended model.

### **3. Policy framework implications**

- 3.1 The relevant policies and legislation relating to developer contributions are set out in the Developer Contributions Governance Arrangements document.
- 3.2 The document, in particular shortlist and assessment criteria, acknowledge the interdependencies with the Council's Corporate Plan, other strategies and the work of other service areas. The document seeks to ensure strategic thinking and alignment with other work and funding streams that may be available.

### **4. Resource implications/Value for Money**

- 4.1 The Community Infrastructure Levy (CIL) together with Planning Obligations (s106) represent sources of funding to provide additional infrastructure and services necessary to enable and support new development. Such funding normally only represents a proportion of the total cost of the infrastructure. Therefore, additional funding from other sources may be required to deliver the infrastructure necessary. Developer Contributions help to reduce this deficit. This report deals with the Council's approach to spending contributions (the mechanism for collecting them is already established). Having a sensible and effective set of Governance arrangements ensures that money is spent effectively and reduces the risk of an infrastructure funding gap increasing.
- 4.3 At this time no growth is required for administration of CIL and developer contributions. The Council has previously procured the relevant Exacom software to administer CIL and has a member of staff working on developer contributions. As CIL provides for an administration proportion, the administration of CIL is currently self-financing. The governance arrangements will create more work for the Planning Services in preparing associated documentation, undertaking work for the Advisory group and CMC in relation to information of infrastructure needs and bid consideration, the work however is unavoidable if effective arrangements are to be put in place and infrastructure delivered. This could lead to a growth need in future years, however at this time the work can be undertaken using existing resource.

### **5. Legal implications**

- 5.1 Legislation governing the administration and governance of CIL is contained in the Planning Act 2008. This came into effect with the CIL Regulations 2010 (as amended). MHCLG has produced statutory guidance that the authority must have regard to. The proposed governance arrangements are consistent with the legislation and guidance.
- 5.2 Corporate Management Committee has the required authority to agree and adopt the proposed governance arrangements.
- 5.3 The Constitution will require amending, to make it clear that CMC is the responsible committee for making spending decisions with regards developer contributions (recommendation part 3).

## 6. **Equality implications**

- 6.1 An EqIA screening has been carried out which has indicated that the Developer Contributions governance arrangements do not require a full EqIA at this stage. At this stage the Council is predominantly making decisions on its internal processes for how to agree and authorise the spending of developer contributions.
- 6.2 Issues relating to protected characteristics and equality have been considered and it is not considered that the CIL Governance arrangements will have an adverse impact on any protected group or individual. In reality, by making transparent and good decisions about making communities more sustainable, CIL will facilitate economic growth and help to deliver improved services and good places. The infrastructure and services that CIL can provide (such as community facilities and transport networks) could enhance liveability for all sectors of society and could help to deliver new infrastructure that serves different needs within the community.
- 6.2 Any processes for inviting or assessing bids for funding will processes will have due regards to equality implications in order to make fair and reasonable decisions and ensure that the process is equally accessible to all groups including those with protected characteristics.

## 7. **Other Implications**

### Climate Change and sustainability

- 7.1 The use of CIL to help provide supporting infrastructure, commensurate with development is a key component in ensuring there are sustainable integrated spatial plans for housing and other development.
- 7.2 This will also contribute to developing plans which bring together different sectors or local government departments to achieve shared objectives. Examples could include strategies which exploit the connections between active travel and public health.
- 7.3 Without the necessary supporting infrastructure, development would be less sustainable thereby this is likely to have a risk of a corresponding effect on Climate change (for example congestion, or failure to provide sustainable transport options or green space). It is therefore very important that the right decisions are made with regards spending finite resource.

### Economy

- 7.1 The efficient collection and distribution of money collected through CIL will help to ensure that infrastructure is delivered alongside development to meet the identified needs of new and existing residents and businesses.

### Social Value

7.2 The efficient governance of CIL will ensure that money collected is spent on projects that provide the greatest benefit to the community. Furthermore, ensuring that a robust process is put in place for the spending of the neighbourhood proportion will ensure that communities in close proximity to development are in a position to benefit from the provision of new or enhanced infrastructure.

7.3 Without the necessary supporting infrastructure development would be less sustainable thereby is more likely to have a corresponding effect on Climate change. It is therefore important that the right decisions are made with regards spending finite resource.

## 9. **Timetable for Implementation**

9.1 It is proposed that the document is adopted with affect from the start of the 2023/2024 municipal year. This will provide appropriate time for the constitutional amendment relating to authority to Corporate Management Committee and allow officers time to work on processes and perform background work.

## 10. **Conclusions**

10.1 It is considered that the proposals included in the document provide robust governance arrangements for Developer Contributions that will provide appropriate oversight on infrastructure expenditure and provide appropriate transparency. The arrangements will maximise the probability that developer contributions are used effectively and deliver the maximum benefits to the communities of the Borough. For these reasons it is considered important to adopt effective governance arrangements and these constitute the recommended model.

### **Background papers**

Appendix 1 – Runnymede Borough Council, Developer Contributions Governance Arrangements (May 2023)

Appendix 2 - Terms of Reference: Developer Contributions Advisory Group