

MINUTES

CABINET

29 NOVEMBER 2016

Present:

Members:

Councillors: Williams (Leader)
Griffiths (Deputy
Leader)
Elliot
Harden
Marshall
G Sutton

Officers:	Sally Marshall	Chief Executive
	Mark Gaynor	Corporate Director - Housing & Regeneration
	James Deane	Corporate Director - Finance and Operations
	Mark Brookes	Solicitor to the Council and Monitoring Officer
	Jim Doyle	Group Manager - Democratic Services
	Chris Taylor	Group Manager - Strategic Planning and Regeneration
	Robert Freeman	Strategic Planning & Regeneration Officer

The meeting began at 7.30 pm

CA/109/15 MINUTES

The minutes of the meeting held on 18 October 2016 were agreed by the members present and signed by the Chairman.

CA/110/15 APOLOGIES FOR ABSENCE

None received

CA/111/15 DECLARATIONS OF INTEREST

None received

CA/112/15 PUBLIC PARTICIPATION

None received

CA/113/15 REFERRALS TO CABINET

None received

CA/114/15 CABINET FORWARD PLAN

That the Cabinet Forward Plan be noted, subject to the following amendments:

December 2016

Add New Build Update and Stationers Place Contract award

Add Budget Monitoring Q2

Defer Park Bye Laws to January

Defer Civic Centre Site Feasibility to January

Defer Review of Northgate CSCG contract to January

Remove Award of the Community Alarm Monitoring Contract report

January

Add Development Company Report

CA/115/15 AUTHORISATION OF VIREMENTS

This item was withdrawn from the agenda.

CA/116/15 HOUSING AND PLANNING ACT 2016 AND WELFARE REFORM AND WORK ACT 2016

Decision

1. That the contents of the report be approved.
2. That the additional workload arising from new responsibilities which impact on planning and development control be considered within the 2017/18 budget process be approved.
3. That, in accordance with current policy, planning applications proposing Starter Homes in advance of formal government guidance being issued and enacted be resisted and for current policy to apply with regard to affordable homes.

Reason for Decision

To set out the implications for the Council and the Borough of the Housing and Planning Act 2016 and the Welfare Reform and Work Act 2016.

Financial

Housing and Planning Act

The impact on planning arises from the new and increased responsibilities that the Act brings in, specifically the creation and maintenance of the Brownfield Register and the technical requirements of assessing Permission in Principle. There may

also be an impact if there is an increased demand for Neighbourhood Plans which will require direct support.

There is a possible impact arising from the Act, and the associated Welfare Reform and Work Act, in reducing the amount of affordable accommodation that is available and increasing homelessness and possible bed and breakfast costs.

The sale of higher value council properties will require the HRA to pay an amount, as yet not known, to the Treasury each year. It is estimated that this may be in the order of £5M per year which will require either actual sales to provide the funds or reductions in expenditure elsewhere in the HRA.

The administration of Pay to Stay may require top up funding within the Housing Revenue Account should the actual costs exceed the allowance from the government.

Welfare Reform and Work Act

The most significant impact arises from the 1% reduction in the rent of all Council homes that must apply each year for four years. The impact of this compared to the previous rent policy is £30M over this period. This will be reflected in the Housing Revenue Account Business Plan but has already had the effect of restricting the new build programme beyond 2020.

The freezing of the Local Housing Allowance and other benefits, together with the reduction of the Benefit Cap, will directly lead to an increase in homelessness as tenants on Housing Benefit find their rents unaffordable.

Whilst all efforts will be made to cope with the additional workloads through existing resources it seems likely that some burden will fall to the Council.

Risk Implications

The main risks identified are the potential increase in homelessness and reduction in the supply of genuinely affordable homes.

Health & Safety Implications

N/A

Equality Impact Assessments

The government has carried out the appropriate Equality Impact Assessments

Corporate Objectives

Ensuring economic growth.

Providing good quality affordable homes, in particular for those in most need.

A clean safe and enjoyable environment.

Monitoring Officer/S.151 Officer Comments

Monitoring Officer:

The report identifies a number of legislative changes which will have a significant impact on the Council and the borough as a whole. The detail of many of the changes will be introduced by further subordinate legislation and guidance in due course and therefore the full impact will need to be continually monitored as the detail and timetable for implementation becomes clear.

Deputy S.151 Officer

The full impact of the proposals will be factored into the HRA business plan as and when the government confirms the details. Any resulting amendments and impacts will be reported to councillors. Any amendments to the HRA budget will be submitted through the usual process to comply with Financial Regulations.

The impact of the creation and maintenance of the brownfield register will be considered through the 2017/18 budget cycle.

Advice

Councillor Sutton explained that there was still work to be done.

M Gaynor noted that the report was originally due in September however the government did not issue the regulations in time, but now more detail was emerging. He explained that the Housing & Planning Act also covered the Welfare Reform & Work Act and there were some significant changes being made which members needed to be made aware of to help the future of the development plan and the HRA business plan.

He added that the Housing Minister had confirmed that starter homes would be implemented, but at present, the council were unsure of the detail of the process. He explained the four main areas:

- The requirement to establish and maintain a brownfield register of previously developed sites capable of delivering five or more homes. Associated with this is the introduction of Planning Permission in Principle.
- The impact on the delivery and availability affordable homes together with a likely rise in the incidence of homelessness. The impact of the lowering of the benefit cap and the freezing of Local Housing Allowance leading to a reduction in the supply of affordable private rented accommodation will have a greater and direct impact on homelessness which will exert direct pressure on the Council.
- The massive financial impact on the Housing Revenue Account
- The very wide extent of these two Acts and the degree to which detail has yet to be issued as both Acts allow much to be introduced by way of regulation set by the relative Secretaries of State.

Councillor Griffiths referred to the brownfield register and asked if the process would remain the same for the normal planning permission or would you have to own the land and therefore have permission of the site.

M Gaynor replied that there would be no change to the current process.

Councillor Williams felt that the only certainty was around the brownfield regulations.

He explained that the council would not be in a position to accept any starter home applications until they knew all of the new details.

M Gaynor said that the number of planning changes would all go through and the Welfare Reform and Work act would come into force. He felt that members would need further ongoing updates on this.

Councillor Williams said that there were not many sites in Dacorum which could build 2 bed properties for less than £250k.

M Gaynor agreed and said this observation has previously been made and that not all starter homes were affordable.

Councillor Williams asked if affordable starter homes could not be built, would there be the need to revert to affordable rent?

M Gaynor confirmed this would be the case and felt that shared ownership would increase too.

Councillor Marshall sought clarification that the council would not be permitting starter home applications.

M Gaynor confirmed the applications would only be accepted once the regulations have been issued and the council knows what they are.

Councillor Marshall asked where the council would stand if a developer did not want to pay the CIL if providing a starter home.

M Gaynor said that the application could be made as affordable housing as they were unsure of the details required for starter homes.

Councillor Sutton felt that the act was large and complex and said that there must be regular member briefings.

M Gaynor confirmed he was happy to carry out all member briefings in January 2017.

He noted that there was a white paper on Housing due before Christmas and a Planning one would follow in a few months.

Voting

None.

CA/117/15 GOVERNANCE ARRANGEMENTS FOR THE COMMUNITY INFRASTRUCTURE LEVY (CIL)

Decision

- 1) That Cabinet approves the information provided on CIL Income and Expenditure at Appendix 1 of the Cabinet report and agrees to its publication as required under Regulation 62 of the CIL Regulations 2010 (as amended)

Resolved to Recommend:

- 2) **the Terms of Reference to the Infrastructure Advisory Group as set out in Appendix 3 of the Cabinet report, including that authority is delegated**

to the Chairman of the Infrastructure Advisory Group to approve spending of CIL receipts of up to £50,000 on projects not identified in the Infrastructure Business Plan.

- 3) the allocations of CIL funds to those Infrastructure themes set out in Section 3 of the Cabinet report**
- 4) that funding is allocated to these themes for use in 2018/19 and 2019/20**
- 5) that submissions for CIL funds are encouraged from April 2017 using the CIL submission forms at Appendix 4.**
- 6) entry into the Memorandum of Understanding with Hertfordshire County Council as set out in Appendix 5 of the report to Cabinet**
- 7) that authority is delegated to the Assistant Director (Planning, Development and Regeneration) to:
 - (a) finalise the wording of the CIL submission bid form and associated guidance notes; and**
 - (b) finalise guidance notes for Town and Parish Councils and Ward Councillors.****

Reason for Decision

The report sets out proposals for the governance of the Community Infrastructure Levy (CIL) and seeks Council approval for them.

Implications

Financial

The cost of developing and implementing the Council's CIL Policies and Procedures was borne by the Local Development Framework (LDF) budget. We are now in the process of collecting CIL and have set aside 5% of CIL receipts to cover the costs above and on-going administration (including Software costs and subscriptions) The costs are expected to be cost-neutral in the long term. Further information is set out in Appendix 1.

The Council is responsible for collecting and allocating significant sums of money to the delivery of infrastructure and needs an appropriate framework for the consideration of such matters.

Value for money

The Council will be responsible for allocating CIL money for spend, and thus will have a responsibility to ensure the efficient use of funds. Requests for CIL funding will be expected to demonstrate that the infrastructure project offers value for money with such matters being considered through the submission of projects.

Staff

The Council now employs two full time officers to deal with the daily administration and management of CIL and S106. These officers will be responsible for the initial consideration of CIL project submissions, the evolution of the CIL Charging

Schedule, supporting policies and strategies together with the wider infrastructure planning function of the Council. Other Council staff will be involved in individual projects relating to the spending of CIL funds as the need arises. Where possible such matters have been incorporated into existing work practices (for example; Resident Services are working closely with Ward Councillors and Neighbourhood Action Groups over the allocation of Neighbourhood CIL)

Land

The Council has an adopted Payment in Kind policy which allows for land to be transferred to the Council upon which they can deliver infrastructure necessary to support growth. No requests have been made to date to pay CIL via this mechanism.

Risk Implications

CIL processes have recently been subject to an audit and officers are in the process of implementing a number of recommendations to ensure that the process for the collection of CIL funds is efficient and robust.

In relation to CIL expenditure, the Council will, where possible, oversee the delivery of infrastructure projects to ensure that they are delivered on budget and in accordance with the timescales agreed by the Infrastructure Advisory Group. The Council may withhold CIL funds until delivery targets or conditions have been met.

Equalities Implications.

The process for the submission and allocation of CIL funds should be open, fair and equitable for all applicants. The application process has been designed to be inclusive.

Health & Safety Implications

There are no Health & Safety implications.

Corporate Objectives

Affordable Housing

Some forms of affordable housing may claim exemption from the payment of CIL. It is not anticipated that CIL funds would be used to fund the provision of affordable housing although CIL funds could be utilised on infrastructure which would facilitate the delivery of housing sites.

Safe and Clean Environment

Open space and green infrastructure improvements have been identified as possible recipients of CIL funding within the Council's Regulation 123 List. Such works would contribute to a safe and clean environment.

Building Community Capacity

CIL revenues may be used on social enterprise and local community infrastructure which supports those in the most deprived areas. Local communities should feel empowered to carry out improvements within their neighbourhood by the delegated of a proportion of CIL funding to them under Regulation 59 of the CIL Regulations

Dacorum Delivers

The purpose of this report is to explain how the Council will make decisions on the spending CIL receipts upon new items of infrastructure. Key stages in this process include determining which infrastructure projects are capable of delivery and on-going management to ensure that our infrastructure priorities are delivered in accordance with an agreed timetable.

Monitoring Officer/S.151 Officer Comments

Monitoring Officer

Robust governance procedures are essential to ensure that CIL funds can be allocated to appropriate infrastructure in a timely and efficient manner and that spend is properly monitored.

This report, the annexed procedural guidance and associated documents demonstrate that an effective system of governance has been developed, however, the procedures should be kept under continuous review to ensure that they remain up to date and effective.

Deputy Section 151 Officer

The costs of CIL are factored into the Medium Term Financial Strategy and the income will be reviewed to ensure the forecast and actual income collected is monitored in line with Financial Regulations.

The costs of projects will need to be submitted through the budget setting process and will require all the necessary approvals to be built into the ongoing capital programme.

Advice

C Taylor explained that the report set out a range of governance procedures. She noted that there would be a member development session in March 2017 to understand the CIL arrangements.

Councillor Elliot asked if the council received any CIL money before work begun or was it claimed once the development was completed.

R Freeman replied that the council was not releasing any money which had not already been collected.

Councillor Marshall asked if these procedures were already in place.

C Taylor explained that procedures already existed and the council had already begun collecting CIL money. Increased work will be carried out with wards and CIL applications and they would be prioritised accordingly. She suggested that the money be left to accrue and therefore could be used for jobs which would have a big impact.

M Gaynor said it was important to allocate accordingly to ward councillors as well as town and parish councillors. He noted that the money should be used for infrastructure and capital and not for items which include ongoing running costs, for example litter bins.

Councillor Marshall felt that Town and Parish councils would have the mechanisms to keep records of CIL payments; however unparished wards would not have such information so how would they keep this information up to date.

R Freeman said reports are submitted to town and parish councils bi-annually and therefore this information could also be provided to ward councillors.

Councillor Harden asked how CIL money is shown in the budget papers.

J Deane said that this and S106 money is held separately to the council's budget. It would show on the statement of accounts but not in budget monitoring papers.

Councillor Tindall added that it should also be shown as treasury management.

J Deane confirmed this would be the case.

Councillor Tindall explained that town and parish council's will receive 25% and wards 15%, he asked where the difference of 10% went and why the values differed? R Freeman replied that the CIL was required to give 15% to wards; however this would be increased for areas with a neighbourhood plan in place.

Councillor Williams asked to what degree councillors are obliged to take infrastructure plans into consideration.

M Gaynor suggested that money is allocated to those areas of communities seeking the benefits.

Councillor Williams added that other organisations are now aware of this scheme however the message they are being given is incorrect.

M Gaynor agreed they were receiving the wrong message and it was not the same as a grant process, which is the impression being given.

Voting

None.

CA/118/15 ENTERPRISE ZONE

Decision

- (1) the Council to progress to formal designation of the Enterprise Zone on 1st April 2017 subject to recommendation 3.
- (2) the Council enters into the Memorandum of Understanding (MOU), set out as Appendix 1 of the report, and delegates authority to the Corporate Director (Housing and Regeneration) to sign the MOU
- (3) a further report to be brought before the designation of the Enterprise Zone in April 2017 setting out an analysis of the final business plan and any other matters relating to the viability of the proposal
- (4) That authority be delegated to the Corporate Director (Housing and Regeneration) in consultation with the Corporate Director (Finance and Operations) and the Portfolio

Holder for Finance and Resources to vary the terms of the MOU following completion subject to such variations being agreed with the other Enterprise Zone parties.

Reason for Decision

To inform Cabinet about the progress made on the Hertfordshire Enviro-Tech Enterprise Zone and to consider the requirement to agree the Memorandum of Understanding that will guide its eventual operation.

Implications

Financial

The immediate financial impact on the Council will largely be officer time in supporting the Enterprise Zone Board and contributing the operational sub-groups. This will be delivered within existing budgets.

If the Enterprise Zone is designated in April 2017 then all the Business rates growth will be retained within the zone and capable of use for infrastructure and other interventions to resolve transport deficiencies in and around Maylands in order to achieve economic growth. Once the infrastructure needs are met then there will be sharing of the retained income for use by the accountable bodies and Hertfordshire Local Enterprise Partnership, which will include Dacorum Borough Council.

Value for Money

Value for Money considerations are set out above.

Risk Implications

A risk assessment is attached as Appendix 2 to the report.

There is a risk that will need to be considered in the context of the St Albans Local Plan which, if stopped following the recent hearing on the meeting of its Duty to Cooperate, may well render the EZ unviable in terms of its ability to deliver the required level of resources for the infrastructure required in the Maylands and East of Hemel Hempstead area. If still an issue this matter will be considered in a further report to Cabinet before designation.

Health & Safety Implications

None applicable

Equalities Implications

No specific equalities impact assessment has been carried out at this point but will be factored into the business plan and actions of the EZ Board.

Corporate Objectives

Ensuring economic growth.

Monitoring Officer/S.151 Officer Comments

Monitoring Officer:

The Enterprise Zone (EZ) will commence on 1 April 2017 unless specific intervention is made by the local authorities, the LEP or the Secretary of State prior to that date.

The Memorandum of Understanding sets out the key objectives and commitments of the parties to work together in setting up and operating the EZ, but does not in itself designate the area which is approved by central government.

The MOU provides the framework for governance and future decision making but does not fetter the Council's own decision making processes in relation to agreements on key issues such as the use of the proportion of retained rates and borrowing to support investment, which will be subject to agreement between the parties and further internal authorisation.

Under the Enterprise Zone business rate discount scheme, the billing authority is the aid administrator for State Aid purposes and so is responsible for ensuring the rules are met and that the De Minimis allowances are not exceeded (currently 200,000 euro in a three year rolling period)

Further Monitoring Officer comments are contained in the Legal Structure and the Memorandum of Understanding section of the report.

S.151 Officer

The key decision facing the Council is whether the benefits of the transport infrastructure likely to be delivered if the EZ goes ahead outweigh the growth-related additional income the Council is likely to receive if the EZ does not go ahead.

This decision incorporates cash flows over a 25 year time horizon, and is affected by numerous variables over which there is currently much uncertainty, not least the implementation of a new Business Rates Scheme in 2020, on which Government has yet to release any detail.

In partnership with Hertfordshire County Council, St Albans and District Council and the LEP, Dacorum has commissioned specialist financial due diligence in order to inform Members' decision-making. The report is due for completion in January 2017, and it is recommended that a further report is brought to Members to consider the detailed financial position in February 2017.

The fact that this financial report would come to Members for consideration after the decision on whether to progress with the MoU does not fetter Members' discretion on the more fundamental decision as to whether to progress with the EZ. The MoU provides for all Accountable Bodies to apply for withdrawal from the EZ partnership, which enables Members to formalise a decision to progress with the EZ after the MoU has been signed.

Advice

M Gaynor explained that DBC has had a successful bid with St Albans District Council (SADC) to enter an enterprise zone for the Maylands area of Hemel Hempstead and East Hemel. Work has been progressing nicely and all accountable bodies were to sign up to a memo of understanding. He suggested that there would be a report back to members around February/March 2017 to analyse the business plan and determine if it's viable.

The risk related to SADC's local plan as two thirds of the enterprise zone was within the SADC area. The inspector has found that SADC did not meet their duty to cooperate obligations and therefore it was unclear as to whether or not SADC would be signing the memo of understanding. If there is a significant delay with the SADC plan then the enterprise zone would depend entirely on DBC resources.

J Deane added that the business case would show all costs and benefits for the next 25 years. If SADC were to pull out of the enterprise zone then DBC would still be generating significant business rates.

M Gaynor reassured members that if Cabinet agree for the council to sign the memo of understanding it would be dealt with in a sensitive manner and the viability would be checked.

Councillor Williams felt that Cabinet should support the recommendations and illustrate to the DCLG that DBC are still interested in the enterprise zone regardless of the position of other authorities.

M Gaynor added that DBC needed clarity from SADC regarding their part in the enterprise zone.

Councillor Marshall asked if the start date had to be 1 April 2017.

M Gaynor confirmed that DCLG had indicated the start date based on when the memo of understanding had been signed.

Councillor Marshall asked what would happen if one party withdrew from signing the memo of understanding, would there be any cost implications.

M Gaynor said they could apply to the Secretary of State to withdraw.

J Deane added that it would be tricky if someone pulled out as people would already have been benefiting from the business rates generated.

S Marshall explained that the secretary of state was aware of the situation and LEP would monitor it too. She suggested an update on these issues is brought to Cabinet in the future.

Voting

None.

CA/119/15 NEW BUILD UPDATE AND STATIONERS PLACE CONTRACT AWARD

This item was deferred to the meeting on 13 December 2016

Councillor Sutton thanked C Taylor and her team for organising the wonderful event in the town centre over the weekend which saw the Christmas lights switch on.

The Meeting ended at 8.25 pm