

APPENDIX 5 – MEMORANDUM OF UNDERSTANDING BETWEEN DBC AND HCC

The parties to this memorandum of understanding (MoU). are:

(1) **Dacorum Borough Council**

(2) **Hertfordshire County Council**

1. BACKGROUND

- 1.1 Dacorum Borough Council (the Council) and Hertfordshire County Council (the County Council) have agreed to work together on the arrangements for the allocation and transfer of Community Infrastructure Levy (CIL) monies collected by the Council. This Memorandum of Understanding (MoU) sets out the joint approach and the officers and committees responsible for the allocation of the Council's CIL monies and its payment to Hertfordshire County Council and other infrastructure providers.
- 1.2 The CIL provides for funding the improvement, replacement, operation or maintenance of infrastructure which includes (but not exclusively), roads and other transport facilities, flood defences, schools, medical facilities and open spaces, as set out in Section 59 of the Community Infrastructure Levy Regulations 2010 (as amended), (the Regulations).
- 1.3 This MoU is entered into pursuant to the powers contained in Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all other enabling powers.
- 1.4 The parties wish to record the basis on which they will collaborate with each other, as follows.
 - (a) the key objectives;
 - (b) the principles of collaboration;
 - (c) the governance structures the parties will put in place; and
 - (d) the respective roles and responsibilities of the parties

2. KEY OBJECTIVES

- 2.1 The parties shall undertake to achieve the key objectives.

Key objectives are:

- For effective liaison between the Council and infrastructure providers, including the County Council, to ensure that recommendations and decisions are transparent, effective and evidence based.

- To ensure relevant CIL monies are transferred to the County Council in accordance with decisions made by the Council in line with the Governance Structure Diagram

3. PRINCIPLES OF COLLABORATION AND THE ROLES AND RESPONSIBILITIES OF THE PARTIES

3.1 The parties agree to adopt the following principles:

- (a) to work together to prepare and identify short term and long term infrastructure assessments to inform the preparation of the Infrastructure Business Plan (IBP) and Infrastructure Delivery Plan (IDP). The IDP provides key evidence on the infrastructure needs required to deliver the Core Strategy and together with the Councils CIL Regulation 123 list will be a reference point for the allocation of CIL funding;
- (b) to work with other infrastructure providers and partners of the Council to facilitate the expedient delivery of appropriate infrastructure;
- (c) to adhere to the Council's governance structure diagram to ensure that activities are delivered and actions taken as required;
- (d) to communicate openly about major concerns, issues or opportunities relating to the CIL governance;
- (e) to learn, develop and seek to achieve full potential. Share information, experience, materials and skills to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;
- (f) to adopt a positive outlook. Behave in a positive, proactive manner;
- (g) to adhere to statutory requirements under the CIL Regulations and develop best practice for the administration of CIL;
- (h) to respond to CIL enquiries and provide comments on complaints regards the allocation and administration of CIL within prescribed timetables (see section 6 of this memorandum);
- (i) to deploy appropriate resources, both financial and human, to prepare and consider project submissions to the Infrastructure Advisory Group (IAG) and fulfil the roles of a IAG member as set out in the Terms of Reference. Work together to identify infrastructure priorities and appropriate delivery mechanisms;
- (j) to deploy appropriate resources, both financial and human, to deliver those projects incorporated in the Infrastructure Business Plan (IBP) IBP;

- (j) to explore opportunities and position themselves to maximise funding for infrastructure projects from a wide range of sources;
- (k) to review, and inform any updates to, the Regulation 123 list to reflect works undertaken on the IDP, IBP and where appropriate bids for CIL funding;
- (l) to share their experience and provide feedback on CIL Governance regimes operating within Hertfordshire through the Hertfordshire Planning Group or other more appropriate mechanisms; and
- (m) to act in good faith to support achievement of the Key Objectives and compliance with these Principles.

4. CIL GOVERNANCE

4.1 Overview

The Council's governance structure diagram shows the structure for the allocation of CIL monies collected by the Council.

4.2 Guiding principles

The following principles will facilitate decision making and the process for the transfer of the CIL funds. The IAG will:

- (a) provide strategic oversight and direction;
- (b) be based on clearly defined roles and responsibilities at organisation, group and, where necessary, individual level;
- (c) make evidence based decisions or recommendations, to inform the infrastructure business plan;
- (d) conduct themselves in accordance with the IAG Terms of Reference;
- (e) provide coherent, timely and efficient decision-making and recommendations; and
- (f) act in accordance with the CIL governance arrangements, as set out in this MoU.

5 INFRASTRUCTURE ADVISORY GROUP

5.1 To facilitate the key objectives, the Council's IAG, will be responsible for developing the annual IBP. The IBP will identify the spending priorities for CIL on a short, medium and long term basis and will be informed by the IDP and bids for the use of CIL funds.

5.2 Infrastructure providers will be invited to bid for use of CIL funds by the Council. Project submissions will be submitted via an agreed proforma, and

considered, by the IAG in accordance with the bid timetable. The IAG will review these project submissions over the year before drawing conclusions on which projects should be allocated CIL funding for the following financial year.

- 5.3 The IAG will recommend the allocation of CIL income via the IBP to the Council's Cabinet and ultimately Full Council for approval. The role of the committee meetings are to consider the recommendations of the IAG and make final decisions regarding the allocation of CIL monies in accordance with the Council's constitution.
- 5.4 The IAG may recommend the inclusion of a contingency fund within the IBP to be allocated by the IAG to infrastructure items required to facilitate the delivery of development sites or for urgent delivery of infrastructure items. Such spending decisions shall be approved by the Chair of the IAG.
- 5.5 If an infrastructure provider does not wish to pursue a project which has been allocated funds via the IBP, the IAG will review the allocation of the agreed funds at its earliest convenience and may reallocate such funds as set out in paragraph 5.4.
- 5.6 Processes for the transfer of CIL funds are outside the scope of the MoU and will be set out alongside the Council's governance procedures.

6 REPORTING

- 6.1 The County Council will provide the Council with quarterly updates on the progress of projects within the IBP unless otherwise agreed through any agreement covering the transfer of CIL funds
- 6.2 The County Council and the Council will share information to enable each other to respond to CIL enquiries within 10 working days of receipt.

7 ESCALATION

- 7.1 If either party has any issues, concerns or complaints about the CIL Governance, or any matter in this MoU, that party shall notify the other party and they shall then seek to resolve the issue by a process of consultation.
- 7.2 If the County Council have any issues with the recommendations of the IAG they should notify the Council as soon as possible. There will follow a resolution meeting between the Council's Portfolio Holder for Planning and Regeneration and the County Council's Executive Member for Resources and Transformation or their appointed representatives with support from relevant officers. The outcome of this meeting will be reported to Cabinet who will make a recommendation to Council on how CIL funds should be allocated.

7.3 Any other party that does not agree with the recommendations of the IAG can make representations to the Council in accordance with the Council's policy on Public Participation and speak at any relevant committee meeting.

8 TERM AND TERMINATION

8.1 This MoU shall be reviewed annually by

- the Assistant Director (Planning Development and Regeneration for the Council
- Portfolio Holder for Planning and Regeneration for the Council
- Portfolio Holder for Resources for the County
- Assistant Director Property or Director for Resources at Hertfordshire County Council

8.2 This MoU shall commence on the date of signature by both parties and will continue in force until terminated in accordance with the terms of the MoU.

8.3 Either party may terminate this MoU by giving at least three months' notice in writing to the other party at any time, for any reason.

9 VARIATION

This MoU may only be varied through the annual review process as set out at 8.1 above.

10 STATUS

10.1 This MoU is not intended to be legally binding, and no legal obligations or legal rights shall arise between the parties from this MoU. The parties enter into the MoU intending to honour all their obligations.

10.2 Nothing in this MoU is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party as the agent of the other party, nor authorise either of the parties to make or enter into any commitments for or on behalf of the other party.

11 GOVERNING LAW AND JURISDICTION

11.1 This MoU shall be governed by and construed in accordance with English law and, without affecting the escalation procedure set out in 7, each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

Signed for and on behalf of Dacorum Borough Council

Signature:

Name:

Position:

Date:

Signed for and on behalf of Hertfordshire County Council

Signature:

Name: Owen Mapley

Position: Director of Resources

Date:

DRAFT

DRAFT