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**BRECKLAND COUNCIL**

**At a Meeting of the**

**CABINET**

**Held on Tuesday, 26 March 2013 at 9.30 am in  
Norfolk Room, The Conference Suite, Elizabeth House, Dereham**

**PRESENT**

Mr J.W. Nunn (Chairman)	Mr M.A. Kiddle-Morris
Mr M. A. Wassell (Vice-Chairman)	Mr I. Sherwood
Mrs L.S. Turner	Mr W.H.C. Smith

**Also Present**

Mr S.G. Bambridge	Mrs L.H. Monument
Mr J.P. Cowen	Mr M J Nairn
Mr P.J. Duigan	Mrs J A North
Mr T. J. Jermy	Mr M. S. Robinson
Mr A.P. Joel	Mr F.J. Sharpe
Mrs E. M. Jolly	Mrs P.A. Spencer
Mrs S.M. Matthews	

**In Attendance**

Dominic Chessum	- Joint Marketing & Communications Team Leader
Paul Jackson	- Planning Manager
Robert Walker	- Assistant Director of Commissioning
Julie Britton	- Senior Committee Officer
David Spencer	- Joint Deputy Planning Manager
Natalie Beal	- Planning Policy Officer (Capita Symonds for Breckland Council)
Stephen James	- PFI Monitoring & Strategic Sports Officer
Phil Mileham	- Planning Policy Team Leader (Capita Symonds for Breckland Council)
Martin Pendlebury	- Director of Planning & Business Manager*
Sarah Robertson	- Planning Policy Officer (Capita Symonds for Breckland Council)
Trevor Holden	- Interim Chief Executive

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**23/13 MINUTES (AGENDA ITEM 1)**

The Minutes of the meeting held on 12 February 2013 were agreed as a correct record and signed by the Chairman.

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**24/13 APOLOGIES (AGENDA ITEM 2)**

An apology for absence was received from Elizabeth Gould.

**25/13 NON-MEMBERS WISHING TO ADDRESS THE MEETING (AGENDA ITEM 5)**

Mesdames E Jolly, S Matthews, L Monument, J North and P Spencer and Messrs G Bambridge, P Cowen, P Duigan, T Jermy, A Joel, M Nairn, M Robinson and F Sharpe.

**26/13 LOCAL PLAN WORKING GROUP (AGENDA ITEM 7)**

The Executive Member for Internal Services had observed that this was the fifth revision of the timetable for the Local Plan.

**RESOLVED** that the Minutes of the Local Plan Working Group meeting held on 6 March 2013 be adopted.

**27/13 STATEMENT OF COMMUNITY INVOLVEMENT (SCI) (AGENDA ITEM 8)**

The Statement of Community Involvement (SCI) was a Council policy setting out how the community would be involved in the production of planning policy documents and determination of planning applications.

The Executive Member for Assets & Strategic Development reported that there had been many changes to planning regulations since the adoption of the previous SCI in 2006. There was also a new piece of legislation under the Localism Act called 'Duty to Co-operate' which required all Local Planning Authorities and other organisations to engage with each other on strategic planning matters.

The Chairman of the Overview & Scrutiny Commission said that this document had already been included on the Commission's Work Programme for the meeting on 6 June 2013. He stated that this 'Duty to Co-operate' was all very well but the efforts to persuade these statutory bodies to attend Overview & Scrutiny Commission's meetings to discuss planning matters such as infrastructure had not been successful. The Executive Member for Assets & Strategic Development totally agreed with the aforementioned comments but Council's now had a statutory duty to demonstrate that efforts had been made to consult. In response to a question about what could be done if all efforts to engage with these organisations failed, the Chief Executive stated that this area had not been tested in law therefore it would be interesting to see how this proceeds.

**Options**

- (1) Cabinet approves the content of the Statement of Community Involvement (SCI) for consultation between 2 April and 3<sup>rd</sup> May 2013;

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- (2) Cabinet approves the SCI but considers it should not be consulted on and should move to adoption at the next available Full Council meeting (23 May 2013);
- (3) Cabinet approves the SCI but requests a longer consultation period;  
or
- (4) Cabinet rejects the content of the SCI and requests further amendments and reconsideration.

**Reasons**

The Statement of Community Involvement meets the requirements of the regulations, and reflected existing practices as well as setting out clearly how the Council would engage with communities and stakeholders on development management decisions and planning policy. The SCI had been set out in a logical manner, with the use of plain English to make it accessible.

**RESOLVED** that:

- (1) the content of the Statement of Community Involvement be approved; and
- (2) authority to commence the public consultation between 2<sup>nd</sup> April and 3<sup>rd</sup> May 2013 be approved.

**28/13 BRECKLAND COMMUNITY INFRASTRUCTURE LEVY - PRELIMINARY DRAFT CHARGING SCHEDULE AND VIABILITY ASSESSMENT (AGENDA ITEM 9)**

The purpose of the report was for Members to consider the findings of the CIL viability assessment, and review the Preliminary Draft Charging Schedule and agree this for a period of public consultation.

As this had been a very complicated piece of calculation that the Planning Policy Team had put together, the Executive Member for Assets & Strategic Development had asked the Planning Policy Team to provide a small presentation to Members which described the viability of Community Infrastructure Levy (CIL).

The Planning Policy Team Leader presumed that everyone knew what CIL was; however, for those who did not, he explained that a CIL represented a tax on new development over 100sqm and was intended to produce a fairer system for the funding of community infrastructure than the existing use of Section 106 Agreements. Furthermore, the role and use of such Agreements was being scaled back through national planning regulations which would come into effect from April 2014. Due to these changes to the S106 process the production and implementation of a CIL for Breckland Council had become imperative.

The approach taken in the viability assessment was to consider a range of notional development scenarios that aimed to demonstrate whether there were variances in viability across the district for particular land uses. This approach was in accordance with best practice and had been

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adopted in other Local Authority CIL viability assessments that were further progressed through the process. The viability of the scenarios had been assessed using the residual valuation method.

The extent of any changes in viability across the District could warrant multiple zones or charges per different types of development. Some areas, for example in London, just one CIL was being charged. For Breckland, there was evidence that a single rate could not be introduced due to the viability differences between residential and other commercial developments. The variations across Breckland had been particularly notable for the approach to residential development which had been characterised by a number of different sales value areas. This had been confirmed in the latest viability assessment from a review of residential sales data supplied from the Council's Hometrack system. This had established that when looking solely at sales values there were, in effect, three residential zones in Breckland. The first zone included the market town of Attleborough and the majority of rural parishes within the District. These had the highest residential sales values within the District and consequently, proposals would result in a greater overall development value. The second residential sales value zone included the market towns of Dereham, Swaffham and Watton plus a number of the rural parishes to the west of Dereham. The third, was Thetford. Residential sales values within the town (for all property types) were lower than seen in the rest of the District.

From April 2014, local authorities would not be able to pool any more than five planning obligations for projects or specific types of infrastructure. Therefore, the implementation of CIL would provide that flexibility in the pooling and spending of monies from development and could be spent on any identified infrastructure need, unlike S106 Agreements which required a direct link between the development and any infrastructure project.

There would be CIL exemptions, all affordable housing, structures into which people did not go (for the purposes of inspecting or maintaining machinery), redevelopments that did not result in a net increase in floorspace and development for charitable purposes.

The Department for Communities and Local Government released guidance in January 2013 for Local Authorities on the level of CIL receipts which would be payable to the local community. Parishes without a Neighbourhood Plan would receive 15% of the CIL receipt which is capped at £100 per dwelling and for those who had adopted such a Plan would receive 25% of the CIL receipt and would not be capped. Currently, in Breckland, there were no adopted Neighbourhood Plans.

The Planning Policy Officer then took Members through the various scenarios via a presentation and highlighted the viability assessment's findings which had all been tested against Breckland's Policy requirements. These scenarios indicated that there were certain forms of development across the District that could support a CIL charge such as retail superstores outside town centre boundaries, residential care homes, holiday accommodation and hotels.

Councillor Monument queried the rate per square metre quoted in the table on page 55 of the agenda and the figure that had been shown on

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the presentation – the figures were different and she asked for an explanation. The Planning Policy Team Leader explained that this figure was about what the market was actually doing at the time, based on different percentages.

In concluding the presentation, the S106 Agreement slide was shown which highlighted that S106 monies could still be charged in the urban extensions of Attleborough and Thetford.

A draft Breckland Infrastructure list was then tabled at the meeting that brought together the infrastructure requirements of development in the Breckland District and indicated the estimated cost and how that item of infrastructure would be funded.

The Executive Member for Assets & Strategic Development drew Members' attention to paragraph 4.2 of the report that highlighted the level of funding arising from CIL based on the conclusions of the viability assessment. This highlighted a slight increase in the total infrastructure cost within the District to £233million. However, the main difference was the cost of infrastructure which the Council expected to come forward through S106 Agreements on the identified urban extensions (mentioned above) which had risen to £195million. Committed public and utility company funding of £15.2million had also been identified, leaving a funding gap of £22.3million for infrastructure. CIL could generate £9.09million gross based on the expected level of growth; therefore, there was likely to remain a funding gap of £13.21million. This funding gap could be increased due to a meaningful proportion of the money raised from CIL going to local parishes.

Referring to the 25% payable if a Parish had a Neighbourhood Plan in place, Councillor North asked if the same percentage amount would be payable if a S106 Agreement was entered into for the urban extension. In response, Members were informed that this would not be the case but if other developments in Attleborough came forward these could be charged CIL which would allow for the meaningful proportion to be passed to the community. The Executive Member for Assets & Strategic Development explained that the S106 monies were solely for infrastructure within the urban extension. For the proposed relief road it would be better to go down the S106 route. The 25% CIL monies were not ring-fenced but must still be used for infrastructure purposes within the town.

Councillor Bambridge raised a number of concerns. Firstly, in reference to the CIL charging zones in his Ward areas, he did not consider it to be fair that some areas could charge for CIL and others could not. Secondly, he felt it was wrong that some commercial development did not attract any CIL, and his last point was in relation to the way that this had all been calculated on notional schemes and felt that it should have been calculated on an historical scheme. The Executive Member for Assets & Strategic Development stated that the Inspectors were looking for CIL not to interfere with any development. He further advised that Breckland Council would likely fall foul of 'state aid' rules if the £60sqm was artificially reduced to zero. Councillor Bambridge said that he had no problem with the £60sqm it was the zero rate that he objected to.

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The Chairman picked up on the aforementioned point about different CIL rates in neighbouring villages and asked how Members would go about explaining this to their parishes. The Planning Policy Team Leader stated that the zones had been derived using information from Breckland's Hometrack system. Additional information could emerge and would be looked at through the consultation process. Picking up on the point about commercial rates, it was explained that *bumping along* on a low CIL would discourage the majority of commercial developments proposed in the district which was an approach not supported by the CIL Regulations. Councillor Bambridge asked if he was correct in thinking that if a CIL rate was set for an area it could, over time, be adjusted but if there was a zero CIL rate this could not. Members were informed that CIL rates would be reconsidered after a period of three years following implementation unless something major triggered an earlier review. There would have to be a complete review to change the figures.

The Vice-Chairman raised three points; the first was in relation to development costs, the second was how holiday accommodation had been defined, and the third was in relation to the charging zones in the parishes of Watton and Carbrooke. In response to the first point, the Planning Policy Team Leader explained how the development costs had been reached. Referring to the second point, it was noted that the definition of holiday accommodation were those proposals, subject to a legal agreement, limiting occupation, and in response to the final point, in relation to Carbrooke and Watton, Members were informed that it was very difficult to get meaningful data from much smaller areas from the hometrack system due to small sample sizes but with more evidence coming forward there could be further refinement.

The Joint Deputy Planning Manager advised that dialogue had been had with the development industry to inform the process.

Referring to the map on page 53 of the report which highlighted the fact that most of the CIL contribution would be coming from certain areas in Breckland, the Executive Member for Internal Services took this to imply that these areas would be paying for development in others. The Planning Policy Team Leader explained that CIL receipts could go into a single pot so parishes could ask for such monies if specific infrastructure needs had been identified even if CIL was not being levied on development in their area. It was reminded that CIL broke the link between where the development took place and where monies were spent. The Executive Member for Assets & Strategic Development reminded Members that the size of a development in rural areas would not be more than 10/15 houses and therefore could attract a S106. The Executive Member for Internal Services also asked what would happen if a development was on the border of a non CIL area and a chargeable CIL area. Members were informed that a line had to be drawn somewhere and were reminded of the evidence gathered from the Hometrack system. Members were further reminded of it being about fairness and movement of monies. The Joint Deputy Planning Manager stated that CIL was effectively a charge on land values.

The Chairman asked who paid for CIL. Members were informed that the developer would be liable for the charge but if the developer fell into liquidation, the liability would then fall to the landowner.

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A question was asked about whether there would be a requirement for extra staff. It was explained that under the CIL regime, Breckland Council would be the charging authority and could recoup up to 5% of the CIL revenues to cover the cost of administering CIL.

The Overview & Scrutiny Commission Chairman thought this was a very difficult document for everyone to understand and he felt that it was going to raise far more questions than anticipated. There were a number of issues that bothered him. Firstly, Breckland had always been encouraged to create a better environment for people to live and work but now, in his opinion, the quality of new developments would be reduced. Good quality materials cost more and the sensitivity analysis could have a serious effect on visual characteristics. Features such as ground water, rain water harvesting were going to be key for future designs. He also had concerns about developers' contingency levels being set at 2½% and the right of appeal that could stifle developments. He knew that these points could not be resolved forthwith but should be taken into perspective going forward. The Executive Member for Assets & Strategic Development agreed that many of the above points would be raised during the consultation process. The Planning Manager said that the consultation would be key and shared a number of the aforementioned concerns particularly about where the boundaries should be drawn; however, on occasion difficult decisions had to be made based on evidence. What alternative did Breckland have if it did not move forward with this? There had to be boundaries and unfortunately, some parishes would be disenfranchised but if anyone could come up with a better solution from the consultation he would be very interested.

Councillor Duigan thought that the whole CIL process was very complicated and would be difficult to explain to the public.

Councillor Jolly asked at what point CIL would be applied. She also asked about the review process. If there happened to be a change in property values, the basis that Breckland had based the CIL would become less defensible, particularly as a review would not be a quick process and the consequence could be that the white land areas depicted on the map could go up in value and the green areas could go down. The Planning Policy Team Leader explained that the payment of CIL would be triggered by a developer when given intent on a proposal. In response to the second question, Members were informed that CIL could be reviewed but that robust evidence would be needed to justify any amended rates in the future.

In response to a further question in relation to liability on cross-border developments, Members were informed that it would depend on where the main proportion of development lied.

Other questions asked related to whether CIL was charged on acreage or per square metre and if payment of CIL was expected within 60 days from commencement of development. It was noted that CIL was charged on the square metre and on net floor space; however, if a building was pulled down and rebuilt CIL would only be charged on any extra square metres gained above the original. In response to the latter, the Joint Deputy Planning Manager advised that a draft payment policy had been put

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forward but an incremental approach would perhaps be required for the collection of CIL. The Planning Policy Team Leader advised that the draft instalment policy may need to be revisited, depending on the outcome of the consultation process which could include lower initial payment thresholds. He reminded Members that there was a balance to be struck in terms of the impact on developers versus the desirability of generating funding into the CIL 'pot' to fund infrastructure in the early years after implementation.

Members were reminded that parish/town councils would be notified this week of a drop-in session on 23 April 2013. All would be invited to attend.

Councillor Monument highlighted the following anomalies within the CIL document:

- Pages 59 and 61 – date query
- Page 72 – section 4.11 – the sentence was incomplete and she suggested that the following words be added: .....*the CIL to be a fair policy.*
- Page 82, item 4 had subsection (b) twice.
- Page 82, item 5 – any formula should have an equals sign.
- Page 82 – suggestion to have a calculation as an example.
- Page 89 bottom of page – the word practise should be practice.

Referring to the aforementioned drop-in session, Councillor Monument did not think that the date provided gave the parishes enough time. Members were informed that the Planning Policy Team would ensure that all parishes would be contacted by the end of the week.

The Chairman asked if Members were happy that this document went out to consultation. It was agreed that the document needed to be more user friendly with worked up examples and a glossary needed to be added to the front. It was further agreed that further Member briefings were required.

The timelines were explained.

The Overview & Scrutiny Commission Chairman thought that the CIL document required a very clear timetable and needed to be tidied up and made more legible. If the Council was expecting a meaningful conversation then the document needed to be made much clearer with a simple summary so that everyone understood the context of this document.

The Chief Executive asked if all Members had been fully briefed, if not, the briefing sessions needed to be held before the consultation began so that Members could champion this for Breckland Council. He therefore felt that the publication of a timetable would be useful.

Changes to the recommendation were put forward and agreed.

**Options**

- (1) To consider the PDCS, Viability Assessment and Infrastructure funding paper and agree it to be released for consultation.



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- (2) Not to approve the PDCS, Viability Assessment and Infrastructure funding paper for consultation.

**Reasons**

It was recommended that Option 1 of the report be endorsed which would allow consultation to be carried out on the Preliminary Draft Charging Schedule. This option would allow the Council to further progress the implementation of a CIL for the District.

It was important to progress CIL to enable the Council to have a mechanism in place to secure funding from multiple development after 1<sup>st</sup> April 2014 (the date on which S106 agreements would be called back). However, once implemented the CIL Charging Schedule would need to be kept under review, and it was recommended that a post adoption timeframe of 3 years be used which would establish whether there were any significant changes in the development market or other events which could affect viability in the district.

Endorsing Option 2 of the report would have two impacts. The first could be to effectively cease the preparation of CIL and rely on S106 agreements (with limitations post April 2014). However, in agreeing option 2, the Council could delay the consultation on CIL in order to commission further research or evidence to cover a greater range of scenarios. Whilst this might be a reasonable option, it was considered that any further evidence could still conclude that other forms of development were not viable.

**RESOLVED** that subject to further Member briefing sessions being held prior to the public consultation, and subject to the approval of the Chief Executive and the Leader of the Council, the Preliminary Draft Charging Schedule, Viability Assessment, draft Infrastructure List and Infrastructure Funding Paper be agreed for public consultation.

**29/13 NEXT MEETING (AGENDA ITEM 10)**

The arrangements for the next meeting on Tuesday, 7 May 2013 at 9.30am in the Norfolk Room were noted.

**30/13 EXCLUSION OF PRESS AND PUBLIC (AGENDA ITEM 11)**

**RESOLVED** that under Section 100(A)(4) of the Local Government Act 1972, the press and the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of Schedule 12A to the Act.

**31/13 PFI BENCHMARKING (AGENDA ITEM 12)**

The PFI Monitoring & Strategic Sports Officer presented the report which sought delegated authority to accept or reject the Benchmark figures and to agree any changes to Service Specification and whether to go through

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the Market Test process as described in the report.

Members' questions were invited.

The Chief Executive asked for a slight amendment to the recommendation to accord with the general provisions of delegation.

**Options**

See report.

**Reasons**

To allow the Council to meet its contractual obligations as described in Schedule 18 Part 1 'Benchmarking Procedure' of the Project Agreement.

To establish if refinancing the agreement would deliver financial benefits.

**RESOLVED** that authority be delegated to the Deputy Chief Executive in consultation with the Executive Member for Localism, Community & Environmental Services for the decision to:

- (1) accept or reject the Benchmark figures;
- (2) agree any changes to Service Specification; and
- (3) whether to go through the Market Test process as described in the report.

The meeting closed at 11.10 am

CHAIRMAN