



ADUR & WORTHING COUNCILS

Joint Strategic Committee
9 January 2018
Agenda Item 7

Key Decision: No

Ward(s) Affected: All

Adur Infrastructure Contributions - the Way Forward

Report by the Director for the Economy

Executive Summary

1. Purpose

- 1.1. On 24th July 2017 the Adur Planning Committee considered a report entitled 'Adur Infrastructure Contributions - the Way Forward'. The report discussed the current system for obtaining infrastructure contributions in the Adur Local Plan area (Adur District, minus the South Downs National Park); the work which had been undertaken so far on the Community Infrastructure Levy (CIL); and options for the future. The report recommended that no further work was undertaken on CIL, but that the current approach of using solely planning obligations should be maintained until there was greater certainty as to whether the Government would proceed to an alternative to CIL as outlined in the Expert Panel Report accompanying the recent Housing White Paper. (Please read Adur Planning Committee report for full details).
- 1.2. The Committee agreed to recommend that Option 2 of that report be taken forward, i.e. not to progress the proposed Community Infrastructure Levy (CIL) for Adur, but to maintain the current s106 regime until an alternative to CIL is introduced by the Government.

2. Recommendations

The Joint Strategic Committee is recommended to:

- 2.1. Consider the recommendation made by the Adur Planning Committee sitting on 24th July 2017 that Option 2 of that report be taken forward, i.e. not to progress the proposed Community Infrastructure Levy (CIL) for Adur, but to maintain the current s106 regime until an alternative to CIL is introduced by the Government.
- 2.2. Or alternatively that Option 1 is taken; that is, to continue with work to progress CIL and adopt prior to the introduction of any alternative approach to collecting infrastructure contributions by the Government.

3. The Current System: Infrastructure Contributions in Adur at Present

- 3.1. Delivering sustainable communities requires infrastructure and community facilities to support growth. At this point in time, contributions towards infrastructure in Adur are collected through section 106 agreements (also known as planning obligations). Whilst these agreements can provide an effective means to collect money from developers to support growth, there are restrictions on how s106 can be used.
- 3.2. Adur collects infrastructure contributions through s106s for a variety of infrastructure improvements. An Interim Planning Guidance document (July 2013) 'Planning Contributions for Infrastructure Provision' sets out the current approach, which has been reasonably effective in Adur in terms of securing appropriate infrastructure to support new development.
- 3.3. In addition to the restrictions referred to above, a 'pooling restriction' was introduced by Government in April 2015. This restricts local authorities from using more than five separate planning obligations for a specific project or item of infrastructure.

4. The Community Infrastructure Levy

- 4.1. The Community Infrastructure Levy (CIL) is a charge which local authorities in England can levy on most types of new development in

their areas when it is viable to do so and was introduced by the Planning Act 2008 and brought into law through the CIL Regulations 2010 (as amended). The levy can be used to provide infrastructure to support the development in an area in line with local authorities' Development Plans. CIL is not mandatory.

- 4.2. The Government's intention was that s106 agreements would continue to be used for affordable housing and any significant site specific requirements. CIL was intended to be a generally straightforward 'tariff' style approach (based on the development of additional floorspace) to collecting contributions towards the provision of infrastructure needed to support growth, which would largely replace existing s106 agreements. A number of amendments have been made to the CIL regulations since its introduction. There is a statutory process for the development of CIL.
- 4.3. Alongside the publication of the Housing White Paper earlier this year, the Government published 'A New Approach to Developer Contributions' by the CIL Review Group. This group was set up by the Government in November 2015, to assess the extent CIL is providing an effective mechanism for funding infrastructure, and to recommend changes to improve its operation in support of wider housing and growth objectives.
- 4.4. Many issues with CIL have been identified by the Review Group. These include the fact that the potential amount of CIL which can be raised has been adversely impacted by a number of exemptions introduced by the Government through amendments to the CIL regulations; that where CIL has been adopted, it has raised only a fraction of the receipts anticipated at inception of the regime and affected the level of affordable housing that can be delivered. Furthermore the report concluded that CIL has not resulted in infrastructure being provided when needed to support development (or affordable housing), and is particularly unsuited to larger developments.
- 4.5. The Review Group found that section 106s continue to be used to a greater extent than had been anticipated - particularly where they are required to ensure infrastructure is delivered on-site. As a result CIL is not appropriate for many strategic developments which need to deliver significant onsite infrastructure.

5. Issues for consideration

- 5.1. The CIL Review Group's report goes on to recommend a new approach to collecting developer contributions - a streamlined low-level tariff referred to as the Local Infrastructure Tariff (LIT). The Group's report states that a broad, low-level LIT would allow for a simplification of the regulations and streamlining of the process to set up and collect LIT - reducing the burden on local authority resources and the length of time taken to put measures in place.
- 5.2. Given the progress made on the Adur Local Plan, the report of the CIL Review team, findings from the operation of the Worthing CIL, and the opportunity to review the Adur Local Development Scheme (LDS), it is timely to consider how best to proceed with regards to the collection of infrastructure contributions in Adur.
- 5.3. The Adur Local Development Scheme 2016-2018 states that work on a Community Infrastructure Levy for the Adur Local Plan area will be progressed from 2017 onwards; anticipating submission of a Charging Schedule in December 2017, examination in February 2018, and adoption in May 2018. However this timetable is unlikely to be achieved. (The start was delayed due to work which needed to be submitted post-Examination hearings; and the White Paper was subsequently published, prompting a reconsideration of the appropriate way forward).
- 5.4. Some work to establish the potential parameters of a CIL for Adur has already been carried out. As part of the emerging Adur Local Plan evidence base, several iterations of a 'Whole Plan Viability and Community Infrastructure Levy Viability Study' were carried out for Adur DC by Nationwide CIL Consultants (NCS), the latest published in January 2017. This found that a limited number of sites were likely to generate CIL. (The report to Adur Planning Committee on 24th July considers key findings in more detail - see paragraphs 3.1 - 3.17 of that report).

6. Engagement and Communication

- 6.1. Two options were presented to Adur Planning Committee in the report of 24th July 2017 as follows.

- 6.1.1. Option 1: Continue with work to progress CIL and adopt prior to the introduction of any alternative approach to collecting infrastructure contributions by the Government.
- 6.1.2. Option 2: Not to progress CIL, but to maintain the current s106 regime until an alternative to CIL is introduced by Government.
- 6.2. The Committee agreed to recommend to the Executive Member for Regeneration that Option 2 of that report be taken forward, i.e. not to progress the proposed Community Infrastructure Levy (CIL) for Adur, but to maintain the current s106 regime until an alternative to CIL is introduced by the Government.
- 6.3. It is likely that some form of consultation would be carried out by Government should it introduce LIT, or an alternative scheme.

7. Financial Implications

- 7.1. If option 1 is progressed, resources will be required to undertake further viability work, and to progress the CIL Charging Schedule through the statutory procedures, including consultation and Examination. Based on experience at Worthing, it is likely that the Council would need to spend £30,000 - £40,000 to fund the initial viability work and the subsequent examination for a scheme which may only be in operation for a short time before it is replaced by LIT scheme.
- 7.2. If option 2 above is progressed, it should be noted that relevant s106 would be still collected prior to the introduction of LIT or a similar replacement. This would avoid the need to spend up to £40,000 on the development of a CIL scheme.

8. Legal Implications

- 8.1. Legal provisions for the progression of CIL are set out in the Community Infrastructure Levy Regulations 2010 (as amended). The basis for s106 contributions may be found in the Town and Country Planning Act 1990 (as amended). Legal provision for LIT (or an alternative) have not yet been published.

Background Papers

- Report to Adur Planning Committee 24th July 2017
<https://www.adur-worthing.gov.uk/media/media.145232.en.pdf>
- Minutes <https://www.adur-worthing.gov.uk/media/media.145445.en.pdf>
- CIL Regulations 2010 (as amended):
- Interim Planning Guidance document 'Planning Contributions for Infrastructure Provision' (Adur DC July 2013).
- 'Whole Plan Viability and Community Infrastructure Levy Viability Study' were carried out for Adur DC by Nationwide CIL Consultants (NCS), the latest published in January 2017.
- Adur Local Development Scheme 2016-2018.
- Housing White Paper 'Fixing Our Broken Housing Market' 7 February 2017 DCLG.
- 'A New Approach to Developer Contributions' by the CIL Review Group; published by DCLG 7th February 2017.

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Sustainability & Risk Assessment

1. Economic

- Delivering sustainable communities requires infrastructure and community facilities to support growth, including economic development.

2. Social

2.1 Social Value

- The proposals aim to facilitate the most effective way to deliver infrastructure required to support growth.

2.2 Equality Issues

- Infrastructure to be delivered is identified in the Infrastructure Delivery Plan 2016 which accompanies the Adur Local Plan. An Equalities and Health Impact Assessment was carried out to accompany the Local Plan.

2.3 Community Safety Issues (Section 17)

- No specific matters identified; however infrastructure (or the design of infrastructure) may be used to address crime and disorder issues

2.4 Human Rights Issues

No issues identified.

3. Environmental

- Infrastructure items may include facilities which make positive contributions to the environment; for example open spaces; equipment to monitor air pollution.

4. Governance

- Building/ commissioning infrastructure is key element of Platform 1 - Our Financial Economies - in Platforms for Our Places'.
- It is important that appropriate infrastructure is delivered in a timely manner, in accordance with the regulatory and legislative framework.