



DRAFT PORTFOLIO HOLDER DECISION NOTICE

PROPOSED INDIVIDUAL DECISION BY THE PORTFOLIO HOLDER FOR FINANCE AND ORGANISATIONAL DEVELOPMENT

TOPIC – PROPOSED EXEMPTION TO CONTRACTS PROCEDURE RULES

PROCEDURAL INFORMATION

The Access to Information Procedure Rules – Part 4, Section 22 of the Council's Constitution provides for a decision to be made by an individual member of Cabinet.

In accordance with the Procedure Rules, the Chief Operating Officer, the Chief Executive and the Chief Finance Officer are consulted together with Chairman and Vice Chairman of The Overview and Scrutiny Committee and any other relevant overview and scrutiny committee. In addition, all Members are notified.

If five or more Members from those informed so request, the Leader may require the matter to be referred to Cabinet for determination.

If you wish to make representation on this proposed Decision please contact the relevant Portfolio Holder and the following Democratic Services Officer by 5.00pm on 20 August 2013.

Contact Officers:

Case Officer: Steve Opacic (Head of Strategic Planning), tel 01962 848 101, email sopacic@winchester.gov.uk

Democratic Services Officer: Nancy Graham tel 01962 848 235 email ngraham@winchester.gov.uk

SUMMARY

- The Council appointed a consultant (Local Planning Ltd) in March 2012 to progress the development of the Council's Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule. The appointment was made under the Council's Contracts Procedure Rules which allow contracts under £10,000 to be let to suitable consultants without seeking a number of quotes. The consultant's task was completed successfully and the Preliminary Draft Charging Schedule was completed and published for consultation in December 2012.
- In view of the successful performance of the consultant and the knowledge of Winchester's Community Infrastructure Levy and associated issues that they

had built up, the consultant was re-appointed in February 2013 to progress the Charging Schedule through the remaining consultation and examination stages, to adoption in late 2013. At that stage it was fully expected that even the combined fees for both appointments would be contained within the £10,000 limit. However, during 2013 there have been changes to Government advice which have necessitated significant additional work prior to the CIL Charging Schedule being submitted for examination, as well as the need for an additional Member training event and a Parish Councils briefing. Consequently the consultant's fees have now, through no fault of their own, grown to exceed a cumulative total of £10,000 and, by the end of the examination process and final adoption, may reach about £15,000.

- In view of the critical stage that has been reached with the Charging Schedule, which was submitted for public examination in July, there would have been substantial disruption to the CIL programme if the consultant's work had been curtailed once the £10,000 limit was reached or indeed if this happened now, in the run-up to examination. Given that the consultant has developed the Winchester Charging Schedule from its inception to the current stage, and their corresponding knowledge of the Schedule, evidence and comments on them, the most efficient and cost effective way forward in the current circumstances is to retain the services of the consultant as contracted in February.
- Because the cumulative cost of the two contracts would exceed the £10,000 figure in the Council's Contracts Procedure Rules, this report seeks the Portfolio Holder's authority to progress this course of action. It is recommended that this is the most cost effective way to progress the CIL Charging Schedule without delays to the process. This is important given the income that will accrue to the Council once CIL is in place. In addition, the costs of establishing and operating CIL can be recouped, up to a limit of 5% of annual CIL income, so it is likely that all or most of the consultant's costs can be recovered in due course.

PROPOSED DECISION

1. That a direction under Contract Procedure Rule 2.4a be made and the Head of Strategic Planning be authorised to continue to appoint Local Planning Ltd to progress the Council's CIL Charging Schedule on the basis of the consultants brief agreed in February 2013.

REASON FOR THE PROPOSED DECISION AND OTHER ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

The Community Infrastructure Levy (CIL) is a new charge on specific types of development which was introduced to replace 'tariff-based' developer contributions currently collected through S106 obligations. Authorities had until March 2014 to

introduce the Levy before the ability to use S106 for tariff-based contributions was withdrawn. The City Council therefore developed a programme to enable CIL to be introduced in early 2014. Due to the lack of capacity and specialist knowledge on this topic within the Council, a consultant (Local Planning Ltd) was appointed in March 2012 to progress the development of the Council's Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule.

The appointment was made under the Council's Contracts Procedure Rules which allow contracts under £10,000 to be let to suitable consultants without seeking a number of quotes. The consultant's task was completed successfully and the Preliminary Draft Charging Schedule was published for consultation in December 2012.

There remained various stages between the Preliminary Draft Charging Schedule and the adoption of CIL so, having been satisfied with the consultant's suitability and performance, officers re-appointed the consultant in February 2013 to progress the Charging Schedule to adoption in late 2013. Having already undertaken substantial work to develop and consult on the Preliminary Draft Charging Schedule (the fees for which totalled approximately £6,200), it was expected that the remaining stages would be comparatively modest in terms of fees. It was, therefore, fully anticipated that even the combined fees for both appointments would be contained within the £10,000 figure.

However, there have been various changes to Government advice and regulations on CIL during 2013, which have not only necessitated work to ensure that the new requirements are met, but also significant additional work prior to the CIL Charging Schedule being submitted for examination. This has been mainly involved with the new requirement for the Council to set out evidence in relation to its collection and use of S106 contributions and a 'draft list' of how it plans to spend CIL contributions. The consultant has also been involved in providing the additional Member training event requested by full Council in March, as well as a Parish Councils' briefing.

Consequently the consultant's fees (which are based on an hourly rate) have now exceeded a cumulative total of £10,000. In view of the critical stage that had been reached with the Charging Schedule, which was approved by Council and submitted for public examination in July, there would have been a substantial disruption to the CIL programme if the consultant's work had been curtailed once the £10,000 limit was reached. Similarly, with the Charging Schedule now being examined and the possibility of a hearing in September, it would not make sense to change consultants even if a suitably experienced consultant could be found at a comparable price. It is estimated that the cumulative cost of completing both contracts, including the remaining stages of the examination process and adoption, may reach about £15,000.

As this would exceed the £10,000 figure in the Council's Contracts Procedure Rules, this report seeks the Portfolio Holder's authority to progress this course of action. The alternative would be to curtail the contract and seek either an alternative consultant or attempt to progress the work in-house. The consultant has developed

the Winchester Charging Schedule from its inception to the current stage and now has an extensive knowledge of the Schedule, accompanying evidence, and the issues raised by the comments on it. A new consultant would have to undertake work to gather this knowledge, resulting in additional costs and delay. It is not realistic for in-house staff to progress this work instead, as capacity is already extremely limited within the Strategic Planning team and the lack of capacity and relevant experience were the main reasons why consultants were appointed originally.

Therefore, it is recommended that the most efficient and cost effective way to progress CIL without delays in the current circumstances is to retain the services of the consultant as contracted in February. Although the Government has recently announced that it is likely to extend the period during which tariff-based contributions can be sought through S106, the modest extra cost savings that may be achieved by delaying the process now would very soon be offset by the potential CIL income that would be lost by delaying the introduction of CIL.

RESOURCE IMPLICATIONS:

The most efficient and cost effective way to progress CIL without delays is to retain the services of the consultant as recommended. Even if modest cost savings could be made by appointing a new consultant or undertaking the work in-house (which is unlikely), delaying the process would result in a far higher level of CIL income being lost. The costs of establishing and operating CIL can be recouped, up to a limit of 5% of annual CIL income, so it is likely that all or most of the consultant's costs can be recovered in due course. The additional costs involved can be accommodated within the existing Strategic Planning budget/LDF Reserve.

CONSULTATION UNDERTAKEN ON THE PROPOSED DECISION

The Corporate Management Team, Head of Finance and the Portfolio Holders for Built Environment and Finance & Organisational Development have been consulted regarding this decision.

FURTHER ALTERNATIVE OPTIONS CONSIDERED AND REJECTED FOLLOWING PUBLICATION OF THE DRAFT PORTFOLIO HOLDER DECISION NOTICE

n/a

DECLARATION OF INTERESTS BY THE DECISION MAKER OR A MEMBER OR OFFICER CONSULTED

N/A

DISPENSATION GRANTED BY THE STANDARDS COMMITTEE

N/A

Approved by: (signature)

Date of Decision

**Councillor Godfrey – Portfolio Holder for Finance & Organisational
Development**