

# NON EXEMPT

## HAVANT BOROUGH COUNCIL

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### CABINET

## HAVANT BOROUGH COMMUNITY INFRASTRUCTURE LEVY: AMENDMENT TO THE HAVANT BOROUGH CIL POLICY

Report by Shared Service Manager (Planning Policy)

FOR DECISION

Cabinet Lead: Planning & Built Environment

Key Decision: No

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### 1.0 Purpose of Report

1.1 The purpose of this report is to request that in accordance with the CIL Regulations 2010 (as amended) Havant Borough Council allows CIL payments to be made through the provision of a specific type of infrastructure, as an alternative to CIL financial payments.

### 2.0 Recommendation

2.1 That approval is given for Havant Borough Council to allow the provision of an infrastructure payment in respect of the CIL due, as set out in Appendix 1 of this report. At this stage, infrastructure payments are limited to the provision of a community building in the Denvilles area.

### 3.0 Summary

3.1 The CIL Regulations 2010 allow collecting authorities to accept land as part of the CIL payment due in respect of a development. The 2014 regulations extended this provision (Regulation 73 A & B) to allow payment through the provision of infrastructure. If a Council wishes to accept infrastructure payments in its area, it must issue a document stating this.

3.2 In considering planning application reference APP/14/00767 (Land at Nursery Fields, Denvilles, Havant) the Development Management Committee agreed the justification set out for a community building in the Denvilles area.

3.3 The planning application is CIL liable and the applicant has made a request to provide a community building in lieu of a financial CIL payment, subject to the appropriate mechanisms being in place. The Development

## NON EXEMPT

Management Committee agreed this approach on the 27<sup>th</sup> November 2014. The purpose of this report is to agree the appropriate policy (Appendix 1) to meet the requirements of the CIL Regulations and to allow the provision of community building in lieu of a CIL financial payment.

### 4.0 Subject of Report

- 4.1 The Council adopted a CIL Charging Schedule in February 2013 and has been collecting financial payments since August 2013. No requests have yet been made from developers for payments to be made through the provision of land.
- 4.2 It is acknowledged that in some cases it might be beneficial for the Council to accept the provision of infrastructure in lieu of financial payments. Examples may include a community facility or a cycle path. However, it should be noted that there are criteria for the payment of CIL in this way and if an item of infrastructure is required to make a development acceptable (e.g. some flood alleviation measures) then it cannot be provided in this way; a Section 106 agreement would need to be used.
- 4.2 Regulation 73B specifies the measures a Council must take to allow infrastructure payments in its area; namely to issue a document giving notice of its willingness to accept payments. The document attached at Appendix 1 complies with the requirements of Regulation 73B and it is proposed to adopt this as policy, to publish it on the Council's website and to make it available at the Public Service Plaza.
- 4.3 While the Council can agree to the principle of infrastructure payments, there is nothing in the regulations which states that having issued the document, the Council must accept an infrastructure payment in lieu of a financial CIL payment. The acceptance of infrastructure would therefore involve a process of negotiation between the Council and the developer.
- 4.4 The document at Appendix 1 relates solely to the provision of infrastructure payments and at this stage, is restricted to the provision of a community building in the Denvilles area. Land payments are addressed under a separate regulation and there is no requirement for the Council to issue a document stating its acceptance of land payments.
- 4.5 Paragraphs 7.4 to 7.7 of the Development Management Committee Report (APP/14/00767) set out the justification for a community building in this location, to support the planned development and provide a much needed community facility in the area. Paragraph 7.47 confirms the applicants request to provide a community building in lieu of CIL financial payments and this was agreed, by the Development Management Committee, subject to the requirements set out in the CIL Regulations.
- 4.6 The CIL Regulations allow Councils to accept infrastructure payments in lieu of CIL financial payments across a range of applications, provided the CIL liability is in excess of £50,000. The Council has not yet had the opportunity to fully consider the implications of such a policy but accepts the merits of an infrastructure payment (community building) in relation to

## NON EXEMPT

the application at Nursery Fields. Consequently, the wording of the policy at Appendix 1 allows only a community building in the Denvilles area to be provided as an infrastructure payment at this stage, giving the Council an opportunity to consider the implications of a wider policy in due course. Any revisions to the policy will be published in accordance with CIL Regulation 73B(2).

### 5.0 Implications

- 5.1 **Resources:** The CIL Charging Schedule clearly sets out the rates a developer will be expected to pay. Infrastructure payments should equal this amount. A specific agreement will be required in relation to this policy and will be dealt with as part of the existing legal process.
- 5.2 **Legal:** CIL payments are largely administered by the Council's planning team. However, there are a number of criteria for allowing infrastructure payments and to ensure these are met, legal advice should be sought. Where planning applications are complex, there are often more detailed legal requirements. As this application is of a more complex nature, legal sources will have already been allocated.
- 5.3 **Strategy:** Infrastructure payments will help deliver the key priorities set out in the Corporate Strategy in respect of health and wellbeing, community support and housing and infrastructure.
- 5.4 **Risks:** In allowing infrastructure payments, there is a risk that developers will seek this form of payment rather than CIL payments, on a regular basis. This could significantly increase administrative burdens and slow down the planning process.
- 5.5 The requirement for this policy is as a result of decisions made at Development Management Committee regarding the Nursery Fields application. To manage risk, the policy is intentionally restrictive, only allowing a community building in the Denvilles area to be provided in lieu of a CIL financial payment, at this stage. The Council will need to consider the resources, risks and benefits of a wider policy in the future, which could allow alternative types of infrastructure payment for a wider range of planning applications.
- 5.6 **Communications:** Information regarding infrastructure payments will be published on the Council's website and made available at the Council offices.

### Supporting Information:

Report to Development Management Committee on 27<sup>th</sup> November 2014  
Application ref APP/14/007767: Land at Nursery Fields, Denvilles, Havant  
<http://havant.moderngov.co.uk/documents/s9272/Committee%20Report%20Copseys%20APP-14-00767.pdf>

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## **Appendix 1: Havant Borough Council Infrastructure Payments**

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Agreed and signed off by:

Legal Services: 5 December 2014

Relevant Executive Head: 5 December 2014

HR: Not appropriate

Finance: 5 December 2014

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# NON EXEMPT

## Appendix 1

### Payments In Kind And Infrastructure Payments

As specified in the CIL Regulations, where appropriate Havant Borough Council may agree to accept infrastructure payments as all or part of the payment of the CIL owed.

As specified in Regulation 73 an agreement to accept infrastructure as payment in kind would be where the value of CIL paid would be equal to the agreed value of the land and buildings acquired in kind (as determined by an independent person).

In accordance with the criteria set out in CIL Regulations 73A and 73B Havant Borough Council will consider, where appropriate, accepting infrastructure payments in accordance with the details below. Criteria include:

- the amount of CIL payable for a development must be greater than £50,000
- the person from whom infrastructure is acquired has assumed liability to pay CIL
- an agreement to make an infrastructure payment must be entered into before the development is commenced.

The Council will, subject to regulatory requirements, consider infrastructure payments in the form of a community building in the Denvilles area, in accordance with the details set out in planning application reference APP/14/00767.

The infrastructure payment policy will take effect on the 10<sup>th</sup> December 2014.

The Council is not obliged to accept any offer of payment in kind by land, buildings or infrastructure.