

Subject:	Exceptional request for conditional Community Infrastructure Levy (CIL) expenditure		
Date of Meeting:	1 July 2021		
Report of:	Executive Director of Environment, Economy and Culture		
Contact Officer:	Name:	Liz Hobden	Tel: 01273 292504
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Ward(s) affected:	All [If not All, insert affected wards]		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 Toad's Hole Valley is allocated for development in the City Plan Part One. There is a current outline application for redevelopment of the site which is policy compliant. It relies on extensive infrastructure contributions, including on and off-site highways works, to mitigate direct impacts of the development on the highways network and trunk road to the north (A27).
- 1.2 Improvements required to Devil's Dyke Roundabout on the A27, details yet to be finalised, lie outside the boundary of the site and as a result these now fall under the Community Infrastructure Levy regime (CIL started in Oct 2020). Highways England requires certainty that these works will be funded and carried for them to support the planning application which is due to go to Planning Committee in the Autumn.
- 1.3 The purpose of this report is to seek agreement to ring-fence expenditure of up to £2m of Community Infrastructure Levy from the Toad's Hole Valley CIL receipt (total payment estimated £6.9m), subject to the planning application being approved by Planning Committee, to satisfy Highways England that the impact of the new development on the trunk road junction will be suitably mitigated.

2. RECOMMENDATIONS:

- 2.1 Should Planning Committee approve the Toads Hole Valley planning application (ref. BH2018/03633) that P&R Committee agrees to ring-fence up to £2M of the CIL receipts for trunk road junction works to be carried out at the Devil's Dyke Roundabout as required by Highways England.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Community Infrastructure Levy (CIL) charging schedule was adopted at Council in June 2020 and was launched in October 2020. CIL is a tariff on new development that goes towards funding citywide (70-80%) and neighbourhood (15-25%) infrastructure. Section 106 contributions remain in place for onsite and direct mitigation including for affordable housing. In June 2021 the arrangements for CIL Governance were agreed at TECC Committee, where it was agreed that decisions on citywide CIL spend should be made by P&R Committee.

- 3.2 The pending outline planning application at Toad's Hole Valley (submitted at the end of 2018) to create 880 homes (with 40% affordable housing) and associated uses and infrastructure (BH2018/03633) is largely compliant with policy DA7 of the City Plan Part One. It was not possible, however, for the application to be determined prior to the implementation of CIL largely due to delays in negotiations on transport matters and with Highways England. Consequently, officers have had to renegotiate the draft S106 agreement as the development will now also be liable for an estimated £6.9M CIL payment. This results in some of the enabling highway improvements being ineligible for inclusion in the revised S106, including improving vehicle capacity, pedestrian and cycle crossings at the A27/Dyke Road Avenue junction. The more immediate highway works that will be required along King George VI Avenue will be addressed via S106.
- 3.3 Highways England has advised that the council will need to guarantee funding for the required trunk road junction works at the Devil's Dyke Roundabout (yet to be specified) prior to determining the planning application. These works are needed not only to support Toad's Hole Valley, but to support wider development in the west of the city. The funding for these works will need to be provided through the CIL payment from the developer. Agreement is therefore sought to ring-fence up to £2M from the CIL citywide infrastructure fund for these works and enable the council to confirm this funding commitment to Highways England. Officers are satisfied that this meets the criteria set for successful bid for citywide CIL expenditure in the Governance report agreed by TECC Committee in June.
- 3.4 Agreement to this payment by P&R Committee would not prejudice the decision of the Planning Committee on the outline application for Toad's Hole Valley. The application will be determined by the Planning Committee on its merits, with the Committee being legally required to take all material planning considerations into account whether in favour of the application or otherwise. However, should Highways England's concerns regarding the planning application be overcome this could help to unlock a permission for this strategic housing and mixed-use development site that will contribute towards meet city's housing needs (which have recently increased) and include 40 percent affordable housing. It will also help to unlock other strategic sites in the west of the city.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The alternative option is to delay the decision on CIL expenditure towards junction improvements at the trunk road roundabout. The likely consequence will be for Highways England to object to the Toad's Hole Valley application. It is considered that an earlier decision and support from Highways England (a statutory consultee) is preferred. Delays in making this decision will reduce the city's ability to meet its challenging housing needs.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 The principle of A27 junction improvements including those at Devils Dyke Roundabout were first identified as necessary in the Strategic Transport Assessment (STA) that supported the City Plan Part One. This work was led and supported by the Highway Authority including proposals arising out of the STA.

- 5.2 The proposals at Toad's Hole Valley has been subject to several rounds of consultation at pre planning-application stage and during the life of the current application. There will be further updates to the transport, road safety audit work and mitigation measures that will include proposed alterations to the Devil's Dyke Roundabout to increase capacity. This will be subject to a further round of consultation with Highways England, stakeholders and local residents.

6. CONCLUSION

- 6.1 The report sets out the background to the Community Infrastructure Levy and the implications this has for securing measures to mitigate the impact of the proposed strategic development at Toad's Hole Valley on the A27 trunk road junction. It is therefore recommended that P&R Committee agrees, in its role to govern citywide CIL expenditure, to ring-fence up to £2m (from the £6.9m THV CIL contribution) towards agreed improvements to the Devil's Dyke Roundabout subject to the outline application being agreed by Planning Committee.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The estimated Community Infrastructure Levy (CIL) related to the Toads Hole Valley planning application is £6.9m. The recommendation is to ring fence £2.0m of this levy payment to fund trunk road junction works at Devils Dyke roundabout should the planning application be successful. The council is not creating a financial liability through this approval as the works would only commence should the planning application be approved and enacted at which point CIL payments would be required.

Finance Officer Consulted: James Hengeveld

Date: 10/06/21

Legal Implications:

As noted in the report, should the Committee agree the recommendation to ring-fence part of the CIL receipt, this will not prejudice Planning Committee's determination of the planning application which will be on the basis of the merits of the application having taken all material planning considerations into account.

Lawyer Consulted:

Name Hilary Woodward

Date: 9/6/21

Equalities Implications:

- 7.2 The application for Toad's Hole Valley has been subject to equalities consideration through an equalities impact assessment undertaken on City Plan Part One policies, against which the application is assessed. The proposed trunk road junction works include measures to improve access to the Downs by pedestrians and cycles.

Sustainability Implications:

- 7.3 The current application at THV proposes a sustainable and diverse neighbourhood including a mixture of land uses including employment and housing (including 40% affordable housing) plus new local services including shops, a community centre and a doctors' surgery (plus land for a secondary school). Active and sustainable modes of transport will be promoted including an enhanced/new bus service to serve site, travel plan incentives, significant new walking/cycling linkages including along King George VI Avenue and to South Downs and adjoining neighbourhoods. An Energy Strategy for whole site will be secured to reduce carbon emissions which will prioritise use of renewable energy, PVs, solar thermal, air source heat pumps, ground source heat pumps, electrical vehicle charging and water efficiency. A feasibility study for future District Heating Network will also be secured and appropriate future-proofing measures.

Mitigation and enhancement of biodiversity, including on and off-site habitat enhancement for dormice and reptiles will be secured. Significant enhancement of the Site of Nature Conservation Importance within THV is proposed, including public access to it. Significant open space will be secured, including landscaped areas, ecological buffer zones, children's play areas, sports areas and parkland. Sustainable drainage systems will be secured throughout the site. Food growing areas including allotments and a community orchard are proposed. Use of green living roofs and rainwater harvesting will be secured. Tree planting will be secured within new streets in the development and along King George VI Avenue and in landscaping.

Brexit Implications:

- 7.4 None

Corporate / Citywide Implications:

- 7.5 Delivery of a successful development scheme at Toad's Hole Valley will contribute to delivering several corporate and citywide priorities including 880 new homes of which 350 will be affordable. New employment space and a site identified for a secondary school. It will include community facilities, new open space, and allotments, improved bus services to the area and improvements to the adjacent local wildlife site

SUPPORTING DOCUMENTATION

Appendices:

1. None

Background Documents

1. City Plan Part One
2. Infrastructure Delivery Plan
3. Outline Planning Application for Toad's Hole Valley, BH2018/03633
4. CIL Governance Report to TECC Committee June 21

