

FAREHAM

BOROUGH COUNCIL

AGENDA FOR THE EXECUTIVE

Date: Tuesday, 20 February 2018

Time: 5.00 pm

Venue: Collingwood Room - Civic Offices

Executive Members:

Councillor S D T Woodward, Policy and Resources (Executive Leader)

Councillor T M Cartwright, MBE, Health and Public Protection (Deputy Executive Leader)

Councillor Mrs K Mandry, Housing

Councillor Miss S M Bell, Leisure and Community

Councillor K D Evans, Planning and Development

Councillor Miss T G Harper, Streetscene

1. Apologies for Absence

2. Minutes (Pages 3 - 8)

To confirm as a correct record the minutes of the meeting of the Executive held on 05 February 2018.

3. Executive Leader's Announcements

4. Declarations of Interest

To receive any declarations of interest from members in accordance with Standing Orders and the Council's Code of Conduct.

5. Petitions

6. Deputations

To receive any deputations, of which notice has been lodged.

7. Minutes / References from Other Committees

To receive any reference from the committees or panels held.

Matters for Decision in Public

Note: Where an urgent item of business is raised in accordance with Part 3 of the Constitution, it will be considered with the relevant service decisions as appropriate.

8. Planning and Development

Key Decision

**(1) Community Infrastructure Levy Review - Amended Regulation 123 List
(Pages 9 - 18)**

A report by the Director of Planning and Regulation.



P GRIMWOOD
Chief Executive Officer
www.fareham.gov.uk
12 February 2018

**For further information please contact:
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FAREHAM

BOROUGH COUNCIL

Minutes of the Executive

(to be confirmed at the next meeting)

Date: Monday, 5 February 2018

Venue: Collingwood Room - Civic Offices

Present:

S D T Woodward, Policy and Resources (Executive Leader)
T M Cartwright, MBE, Health and Public Protection (Deputy
Executive Leader)
Mrs K Mandry, Housing
Miss S M Bell, Leisure and Community
K D Evans, Planning and Development
Miss T G Harper, Streetscene

Also in attendance:

Mrs S M Bayford, Chairman of Scrutiny Board
Mrs P M Bryant, Chairman of Licensing and Regulatory Affairs Committee
Mrs C L A Hockley, Chairman of Leisure and Community Policy, Development and
Review Panel
A Mandry, Chairman of Planning and Development Policy Development and Review
Panel
J S Forrest, For Item 10(4)
L Keeble, For Item 8(1)
Mrs K K Trott, For Item 9(1)



1. APOLOGIES FOR ABSENCE

There were no apologies given for this meeting.

2. MINUTES

RESOLVED that the minutes of the Executive meeting held on 08 January 2018 be confirmed and signed as a correct record.

3. EXECUTIVE LEADER'S ANNOUNCEMENTS

The Executive Leader announced that recently he, together with other Councillors and Officers, met the Right to Build Task Force with Richard Bacon MP, Ambassador of the Task Force and Mario Wolf, Task Force Director.

The Executive Leader stated that since its launch last year, the Right to Build Task Force has been working with local authorities, landowners and others to bring forward custom, self-build and community-led housing opportunities with an emphasis on scale and housing affordability. It offers subsidised support for local authorities and community groups, to enable them to meet the demand for custom and self-build space. One of the Task Force's key objectives is to provide more affordable homes for those in housing need and to work with Councils to help deliver these.

The Executive Leader stated that the Council is working with the Task Force to deliver more affordable housing and offer home ownership options which will suit a variety of modern needs. This includes offering space at Welborne Garden Village where people can design and build their own homes. It also means bringing forward a policy, which is included within the draft Local Plan, stating that all housing sites of over 100 outside Welborne will see at least 5% plots for self-build homes.

Residents who have lived or worked in the Borough for at least two years and are interested in building their own homes in the Fareham area, can sign up to the Council's register at http://www.fareham.gov.uk/planning/local_plan/selfbuild.aspx.

The Executive Leader advised the meeting that a Press release had been made today which, it was hoped, would lead to interested residents coming forward. At the recent meeting with the Task Force Ambassador there was an indication that the potential expected interest was in the region of 1,700 interested parties.

4. DECLARATIONS OF INTEREST

There were no declarations of interest made at this meeting.

5. PETITIONS

There were no petitions submitted at this meeting.

6. DEPUTATIONS

There were no deputations made at this meeting.

7. MINUTES / REFERENCES FROM OTHER COMMITTEES

Scrutiny Board – 11 January 2018

Minute 7 – Medium Term Finance Strategy, Capital Programme, Revenue Budget and Council Tax 2018/19

The Board considered a report by the Director of Finance and Resources on the Medium-Term Finance Strategy, Capital Programme, Revenue Budget and Council Tax 2018/19.

RESOLVED that the Scrutiny Board recommend that the Executive notes the Board's endorsement of the Medium-Term Finance Strategy, Capital Programme, Revenue Budget and Council Tax 2018/19 at its meeting on 05 February 2018.

A report on this item is at 10(1) of the agenda.

Minute 8 – Housing Revenue Account Budget and Capital Plans 2018/19

The Board considered a report by the Director of Finance and Resources on the Housing Revenue Account Budget and Capital Plans 2018/19.

Members were circulated a tabled item which provided some minor amendments to the draft Executive report, these changes will be reflected in the report to the Executive on 05 February 2018.

RESOLVED that the Board recommends that the Executive notes the Board's endorsement of the Housing Revenue Account Budget and Capital Plans 2018/19 at its meeting on 05 February 2018.

A report on this item is at 10(2) of the agenda.

Minute 9 - Members' Allowances Scheme Review

The Board considered a report by the Head of Democratic Services on a review of the Members' Allowances Scheme following the Independent Remuneration Panel on 09 November 2017.

The Board received a tabled item giving examples of the financial implications to the Scheme of Members' Allowances if the recommendations from the Independent Remuneration Panel were to be endorsed.

RESOLVED that the Board recommends to the Executive that the following points of recommendation from the Independent Remuneration Panel be considered:

- (a) point 6.3 – not to index link the scheme for Members' Allowances to that applicable to staff, with the exception of the Designated Independent

- Person whom Members feel should be considered as a member of staff;
- (b) point 6.3 – not to accept the proposed 2% increase in the Basic Allowance and the Special Responsibility Allowance;
 - (c) point 6.4 - to consider a bigger point increase for the Mayor's allowance; and
 - (d) point 6.6 – to consider whether the change to the Opposition Leader's Allowance is appropriate.

A report on this item is at 10(4) of the agenda.

8. LEISURE AND COMMUNITY

- (1) Proposed Funding Arrangements for Citizen Advice Fareham 2018-2020

At the invitation of the Executive Leader, Councillor L Keeble addressed the Executive on this item.

Members were provided with a tabled item correction in respect of Appendix A – Service Level Agreement which made a correction at paragraph 4.1 showing that CAF will continue to deliver an outreach service at Lockswood Community Centre on a Wednesday, rather than a Tuesday.

RESOLVED that the Executive approves a new two-year Service Level Agreement with Citizen Advice Fareham commencing on 01 April 2018 until 31 March 2020, as set out at Appendix A to the report.

- (2) One Community Contract Extension

RESOLVED that the Executive:

- (a) approves a one year extension to the existing contract with One Community which expires on 31 March 2018, with the option to extend for a further year beyond 31 March 2019; and
- (b) agrees that delegated authority be given to the Executive Member for Leisure and Community to extend the contract for a further year.

9. PLANNING AND DEVELOPMENT

- (1) Welborne Garden Village

At the invitation of the Executive Leader, Councillor Mrs K K Trott addressed the Executive on this item.

RESOLVED that the Executive:

- (a) delegates authority to the Director of Planning and Regulation, following consultation with the Executive Member for Planning and Development as appropriate, to procure the strategies and studies required to

progress Welborne in line with the Government's Garden Village principles; and

- (b) approves the expenditure in relation to (a) above from grant funding provided by Homes England, together with any subsequent unforeseen capacity requirements agreed and funded by them as necessary.

10. POLICY AND RESOURCES

- (1) Finance Strategy, Capital Programme, Revenue Budget and Council Tax 2018/19

RESOLVED that the Executive approves and recommends to the meeting of the Council to be held on 23 February 2018:

- (a) the capital programme and financing of £55,081,000;
- (b) an overall revised revenue budget for 2017/18 of £8,616,700;
- (c) a revenue budget for 2018/19 of £8,440,500;
- (d) the surplus in the spending reserve remains in the reserve to cover the anticipated future funding shortfalls as set out in paragraphs 18-21; and
- (e) a council tax for Fareham Borough Council for 2018/19 of £155.22 per band D property, which represents a £5.00 increase when compared to the current year and is within referendum limits.

- (2) Housing Revenue Account Budget and Capital Plans 2018/19

RESOLVED that the Executive agrees:

- (a) that rents be approved for Council Dwellings, as set out in paragraph 13 of the Report, with effect from 02 April 2018;
- (b) an increase of 4.3% in rents for Council garages with effect from 02 April 2018;
- (c) the revised budget for 2017/18;
- (d) the base budget for 2018/19;
- (e) the capital programme and financing for 2017/18 to 2021/22 and;
- (f) that the Housing Revenue Account Budget and Capital Plans 2018/19 be submitted to Council for approval.

- (3) Treasury Management Strategy & Prudential Indicators 2018-19

RESOLVED that the Executive:

- (a) endorses the draft Treasury Management Strategy and Prudential indicators for 2018/19, attached as Appendix A to the report; and

(b) agrees to submit the report to Council for approval.

(4) Members' Allowances

At the invitation of the Executive Leader, Councillor J Forrest addressed the Executive on this item.

Having debated this item and considered the Independent Remuneration Panel recommendations, as set out at paragraphs 7 -14 in the Executive briefing paper, along with the comments and recommendations made by the Scrutiny Board at paragraphs 16(a) - (d), it was RESOLVED that the Executive recommend to Council:

- (a) that consideration is given to the recommendations made by the Independent Remuneration Panel, in conjunction with the recommendations made by the Scrutiny Board;
- (b) that specific consideration is given to the annual increase, index linked, to the remuneration made to the Designated Independent Person; and
- (c) agree those recommendations with a view to the adoption of a revised Members' Allowances Scheme commencing 01 April 2018.

(The meeting started at 6.00 pm
and ended at 7.00 pm).

FAREHAM

BOROUGH COUNCIL

Report to the Executive for Decision 20 February 2018

Portfolio:	Planning and Development
Subject:	Community Infrastructure Levy Review – Amended Regulation 123 List
Report of:	Director of Planning and Regulation
Corporate Priority:	Providing housing choices Protect and enhance the environment Strong, safe, inclusive and healthy communities Maintain and extend prosperity Leisure opportunities for health and fun Dynamic, prudent and progressive Council

Purpose:

This report seeks Executive approval to amend the Council's Community Infrastructure Levy (CIL) Regulation 123 List.

Executive summary:

Under Regulation 123 of the Community Infrastructure Regulations 2010 (as amended) this Council has published a list of those projects or types of infrastructure that it intends to fund, or may fund, through the levy.

It is proposed to amend the Council's published Regulation 123 List by removing education facilities from it. This would enable financial contributions towards education facilities to be secured through Section 106 planning obligations, when the Education Authority has clearly demonstrated the need for such contributions and subject to them satisfying Regulations 122 and 123 of the Community Infrastructure Regulations 2010 (as amended).

Recommendation

It is recommended that the Executive approves the amended Regulation 123 List for publication, with effect from 1 March 2018.

Reason:

To ensure that specific infrastructure projects in connection with education facilities can be secured by way of planning obligations to make certain schemes acceptable in planning terms.

Cost of proposals:

The costs can be met within existing budgets.

Appendices: **A:** The Council's amended CIL Regulation 123 List.

Background papers: Community Infrastructure Levy Regulations 2010 (as amended)

Reference papers: None

FAREHAM

BOROUGH COUNCIL

Executive Briefing Paper

Date:	20 February 2018
Subject:	Community Infrastructure Levy – Amended Regulation 123 List (for consultation)
Briefing by:	Director of Planning and Regulation
Portfolio:	Planning and Development

INTRODUCTION

1. Last year, Hampshire County Council (in its capacity as the Education Authority), raised comments in respect of some large-scale planning applications outside the Welborne Plan boundary area and the need to ensure appropriate education infrastructure. As a result, Officers reviewed the CIL Regulation 123 List in late 2017 to ensure that it reflected the current need for infrastructure to be secured by way of a planning obligation to make certain schemes acceptable in planning terms.
2. Having undertaken that review, Officers considered that the current CIL Regulation 123 List should be amended by the removal of education facilities as highlighted in Appendix A. Officers have also taken the opportunity to remove some of the infrastructure projects/types on the Regulation 123 List which have already been completed.
3. On 13 December 2017, the Executive Member for Planning and Development approved consultation on the proposed changes to the amended CIL Regulation 123 List. That consultation ran from 4 January to 1 February 2018 and resulted in a total of seventeen representations being received.
4. The following report summarises the representations received in response to the consultation. Following this, Officers have considered the matters raised in the representations before making a recommendation

SUMMARY OF REPRESENTATIONS RECEIVED IN RESPONSE TO CONSULTATION

5. A total of seventeen representations were received in relation to the consultation. The large majority of these representations either raised no comments or made comments on the Regulation 123 List which was outside the scope of the consultation. The representations received are set out in greater detail below.
6. New Forest District Council, the Environment Agency, Historic England and the Equality and Human Rights Commission raised no comments on the proposed change.

7. The Woodland Trust, David Lock Associates (on behalf of Buckland Development Limited) and the Fareham and Gosport and South Eastern Hampshire Clinical Commissioning Groups have requested changes to the Regulation 123 List which are beyond the scope of the consultation.
8. Six representations were received from residents. Of those six residents, one objected to the proposal but gave no reasons. One commented that the amendment is a device to provide a remedy for an anticipated shortfall in funding through flexing of Section 106 planning obligations and that CIL funding should be available through Council Taxation. Four representations received from residents supported the change.
9. The Fareham Society comments that the Officer report to the Executive Member for Planning and Development on 13 December 2017 did not set out any information on the advantages and disadvantages of the use of either CIL or S106 agreements and did not include any estimates of the likely level of contributions from either method. The report does not explain why the Regulation 123 List cannot be amended to exclude certain schools to enable S106 contributions to be sought, as well as CIL, as has been done in Winchester. The Society believes that information on the advantages and disadvantages of the use of either CIL or S106 agreements is essential before a fully informed response can be made to the consultation.
10. Barton Willmore (on behalf of Hallam Land Management) considers the change being proposed is fundamental. In their view, the proposal is in breach of the intention and general structure of the CIL Regulations and therefore there is a strong argument to suggest it would be unlawful.
11. Paragraph 98 of the Planning Practice Guidance (PPG) on CIL states that 'Charging authorities should not remove an item from the Regulation 123 list just so they can fund this item through a new section 106 agreement.' Barton Willmore considers the removal of education facilities from the Regulation 123 list would also have an effect on viability, which should be assessed prior to proceeding with the approach identified. The proposal would also, in their opinion, give the perception of 'double dipping'.
12. Persimmon Homes South Coast considers that there are principally two matters for consideration:
 - Firstly, the council has not set out a date for the adoption of the proposed changes nor has it provided any information on any transition arrangements. This creates uncertainty for schemes that are at the planning application phase or any land deals.
 - Secondly, the council is proposing financial contributions for education facilities in addition to the current CIL charge rate. This will in its view place an additional financial burden on development. This is a clear additional financial burden on development which is above and beyond the development costs assessed as part of the viability evidence which supported the current charging rate. As per the PPG, the council should therefore undertake a review of the CIL Charging Schedule in order to initiate this change to the current Regulation 123 List.
13. Persimmon Homes South Coast states that the rate of CIL was set at a level commensurate with identified infrastructure costs which included education

infrastructure. The removal of Education Facilities should therefore lead to a reduction in the CIL receipts required to fund the infrastructure identified and therefore the Council should undertake a review of CIL.

14. In its view, the preparation of the Fareham Local Plan 2036 provides the most justified and appropriate mechanism for reviewing the infrastructure required as a whole to support development and the accompanying level of CIL rate required in the context of new policy requirements and viability concerns cited in the Local Plan Viability Assessment supporting it.
15. Hampshire County Council supports the removal of education from the Regulation 123 List. This will allow the County Council to negotiate directly with developers to ensure that the impact of new housing on school places is appropriately mitigated and that funding is directly available to deliver additional school places when needed.
16. The County Council suggests other changes to the Regulation 123 list not subject of the consultation.

CONSIDERATION OF ISSUES

17. The representations made by Barton Wilmore and Persimmon Homes South Coast in response to the consultation are acknowledged and have been carefully considered by Officers.
18. This Authority is mindful of the advice contained within the National Planning Practice Guidance at Paragraph 98 in respect of amending the Regulation 123 List.
19. The guidance at paragraph 98 does not prohibit the removal of items from the Regulation 123 List. The guidance sets out that authorities may amend the Regulation 123 list without reviewing their charging schedule, subject to appropriate consultation. If any changes to the Regulation 123 list would have a very significant impact on the viability evidence that supported examination of the charging schedule, this should be made as part of a review of the charging schedule.
20. As set out in greater detail below, this Authority does not anticipate, (nor would it be appropriate), for the Education Authority to seek contributions from all new residential development.
21. The change proposed would not have implications for the level at which CIL is currently set, as there is a substantial continuing infrastructure need and a continuing funding gap (even with education removed from the Regulation 123 List).
22. The changes proposed to the Regulation 123 List would enable education facilities to be secured by way of Section 106 Planning Obligations to make certain schemes acceptable in planning terms.
23. If the Regulation 123 List is amended as proposed, Hampshire County Council (as the Education Authority) would be consulted on all planning applications for 10 dwellings or more. Hampshire County Council would then need to assess the impact of proposals upon existing education provision.
24. Any request for financial contributions would need to be justified by the County Council on a case by case basis. The justification from the County Council would need to show a clear link between the contribution sought and the development proposed and how the contribution would directly mitigate any impacts of the

proposed scheme. The County Council will therefore need to set out precisely the level of financial contribution they are seeking and where it would be spent. This Council will need to be satisfied that any obligation sought will comply with Regulations 122 and 123 of the Community Infrastructure Regulations 2010 (as amended).

25. Officers do not anticipate financial contributions being sought from every application for residential development. Furthermore, as stated above, Hampshire County Council will need to clearly demonstrate which schools' contributions are sought towards and why. The application of a 'tariff' based approach to contributions for all residential schemes of 10 units or more would not be appropriate, nor would it in the view of Officers represent proper justification.
26. Officers recognise that where Hampshire County Council seeks financial contributions towards education this could have implications for the viability of individual schemes. In these instances, it would be open to applicants to submit a viability assessment to demonstrate what level of contribution a site is able to withstand if they believed that viability would be unacceptably affected.
27. In some cases, the implications of making contributions towards education facilities may mean that the level of other contributions and/ or affordable housing provision is impacted. Where this is the case these matters will need to be weighed up by the decision maker in considering individual proposals. In many instances, the decision maker will be this Council's Planning Committee.
28. The request that a full review of CIL should take place alongside the progression of the draft local plan 2036 is also noted. As a result of the current number of planning applications for new residential development within the Borough, and the concerns raised in respect of education provision, Officers consider it appropriate to bring forward this change at this time. Officers are confident that the measures described above will ensure that development is not unreasonably delayed or stalled as a result of the need to fund this important infrastructure through Section 106 planning obligations.
29. The reference to 'double dipping' is also acknowledged. Even if the changes to the Regulation 123 List proposed are approved, it would still be open to this Council to provide funding for education facilities through CIL. Should funding towards education facilities be made from CIL, it is clear that CIL cannot be used to fund the same projects as those where contributions have been secured through Section 106 planning obligations.
30. Having carefully considered all the representations received, Officers are satisfied that the proposed changes accord with the relevant Regulations and guidance contained within the National Planning Practice Guidance, and recommend that the amended Regulation 123 List is approved and implemented with effect from 1 March 2018.

RISK ASSESSMENT

31. If the Council was not to amend the CIL 123 List, the Council would not be able to collect developer contributions separately towards education facilities; the Council would be entirely reliant on CIL receipts being sufficient to meet these education needs and to make development acceptable in planning terms.

32. The effect of removing the infrastructure type from the list does not preclude CIL receipts from being spent on educational facilities; it simply allows the Local Planning Authority to secure funding through planning obligations.

FINANCIAL IMPLICATIONS

33. The costs can be met within existing budgets, but part or all of which may be recovered in due course under the provision of the Community Infrastructure Levy arrangements.

CONCLUSION

34. It is recommended for the reasons set out in the above report that the CIL amended Regulation 123 List should be published and is effective from 1 March 2018.

Enquiries:

35. For further information on this report please contact Lee Smith, Head of Development Management on 01329 824427.

The Council's current CIL Regulation 123 list, valid with effect from 1 March 2018.

Coldeast Hospital site/ Western Wards:

- Provision and laying out of the cemetery (excluding acquisition of land) and;
- Provision and laying out of the allotments (excluding acquisition of land).

Community Centres:

- Provision of new facilities, and improvements to existing facilities, excluding any provision required due to Welborne.

Open Space:

- Provision and facilities for addressing open space deficiencies in terms of quantity, quality or accessibility, excluding on-site provision of local open space and children's play equipment, and excluding any provision required due to Welborne.

Playing fields and sports pitches:

- Excluding any provision required due to Welborne.

Transport infrastructure and facilities:

- Excluding specific improvements needed to make the development acceptable in planning terms. These can include (but are not limited to) highways crossovers to access the site and local road junctions, deceleration and turning lanes, measures to facilitate pedestrian and cyclist access, lighting and street furniture needed to mitigate the impact of a particular development. They may also include mitigation works remote from the development site where the need for such works is identified in a Transport Assessment and;
- Excluding all transport infrastructure required due to Welborne.

Public realm in Fareham Town Centre:

- Environmental improvements including hard and soft landscaping, signage, seating, cycle racks and permanent multi-functional structures in Fareham town centre.

