

## **Note to the Inspector on the delivery of housing and infrastructure including the use of prudential borrowing to facilitate this**

### **Request from Inspector:**

*To provide a note on delivery issues around infrastructure and how prudential borrowing will assist cash flow as part of delivery.*

Further to the above, the scope of this note has been extended to cover various issues relating to the delivery of the Garden Suburbs and related infrastructure that were raised during the stage 2 hearings.

### **Response from Calderdale Council:**

#### **Introduction**

- 1.0 The Council's work pursuant to the refresh of the Infrastructure Delivery Plan during 2020 provided us with a clear understanding of the points in time that key items of infrastructure will need to be delivered. As set out in the IDP, the two primary schools in Brighouse and Rastrick need to open in time for the 2024/25 academic year; and the various transport interventions pursuant to the A641 Corridor Improvement Programme need to be completed by 2025<sup>1</sup>.
- 2.0 The Council has worked closely with the representatives of the landowner consortiums for the two Garden Suburb sites (in both cases the lead consultant is ID Planning) as these are the most significant contributors to housing supply in Southeast Calderdale. Based on this work we have a clear understanding of the expected housing delivery trajectory and the economic viability of the sites<sup>2</sup>.
- 3.0 As outlined above, the key items of infrastructure need to be delivered by 2025, whereas the housing is delivered at a steadier rate across the life of the Plan. As such, over £50m<sup>3</sup> worth of infrastructure needs to be funded early in the life of the Local Plan, which necessitates the use of prudential borrowing to ensure that it is delivered by the necessary dates. The Council will recover this investment through financial contributions from developers. The proposed mechanism for this is explained below.

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<sup>1</sup> It should be noted though that the Inspector has advised that the commencement of the two Garden Suburbs should be pushed back to two years in order to provide for a less ambitious lead-in time. This could have the effect of reducing the urgency of additional school place provision; however, the Council considers that it is prudent to continue planning for a 2024/25 opening date.

<sup>2</sup> Noting though that the Council is as indicated above reconsidering the commencement date of the Garden Suburbs.

<sup>3</sup> Infrastructure has been costed very conservatively. The final sum will be dependent on further feasibility work and also the extent to which the Thornhills spine road is accounted for as a capital construction cost for developers or a financial contribution towards delivery by the Council.

## Potential approaches to developer financial contributions

- 4.0 The Council needs to establish an approach to securing financial contributions from developers that reconciles the following requirements:
- Infrastructure being delivered at the right time
  - Developers making a fair and proportionate contribution to the cost of infrastructure
  - Satisfying the requirements of public funding regimes that will provide complimentary funding such as the West Yorkshire Plus Transport Fund
  - Undue burdens not being placed on public resources, developers or house purchasers
  - Landowners not being disincentivized from releasing land for development on account of unfeasible upfront costs
  - An adequate supply of housing land being maintained in order to ensure that the Council can meet its identified housing requirements during the Plan period; and maintain a five-year supply of housing land.
- 5.0 The Council considered the relative benefits of funding this infrastructure through Section 106 obligations or Community Infrastructure Levy. We have also had regard to relatively recent changes to the regulations covering the use of CIL and Section 106.
- 6.0 An amendment was made to the original Community Infrastructure Levy Regulations 2010 on 1 September 2019 (*Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 (Amendment Regulations)*). Notably this amendment post-dates the publication of the Council's Draft Local Plan and Draft CIL Charging Schedule in August 2018. It also post-dates the Stage 1 Local Plan hearings in June 2019.
- 7.0 To drive the uptake of CIL the government introduced the so-called restrictions on the consideration of planning obligations in determining planning applications on 1 April 2015. This had the effect that a planning obligation could not constitute a reason for a local planning authority granting planning permission where the obligation would provide for the funding of infrastructure which was already on the authority's Regulation 123 list of infrastructure to be funded by CIL receipts.
- 8.0 Lifting the restriction now gives charging authorities more flexibility to fund infrastructure. A criticism directed at CIL was that while it worked well on smaller developments, it failed to fund infrastructure relating to

the larger, more strategic sites. Lifting the restriction sought to address this.

9.0 The Council still intends to progress CIL to adoption; however, in the context of the specific issues of key transport and education infrastructure in the Brighouse Local Plan area, the Section 106 obligations route was chosen for the following reasons:

- The Council has identified specific infrastructure projects that need to be delivered in Southeast Calderdale, linked to the delivery of strategic housing allocations, rather than a more generalised burden on infrastructure (that CIL lends itself to);
- The Council needs to provide certainty over the availability and viability of infrastructure funding at the stage of examining the deliverability of the allocations, rather than deferring the issue to a later CIL examination;
- The Council needs to start securing financial contributions to infrastructure as soon as the Plan is adopted – mindful that adoption of CIL could take 12-18 months after the adoption of the Local Plan, and then could not be applied retrospectively
- The use of Section 106 allows the charging rate to be set to meet the identified costs – i.e. charge follows infrastructure rather than infrastructure being dictated by the charge.

10.0 The considerations set out above led the Council to progress the 'roof-tax' approach that is outlined in the IDP (the roof tax mechanism is an established approach to forward funding developer contributions and the delivery of associated critical infrastructure - for example, the East Leeds Orbital Road scheme linked to the East Leeds Extension).

11.0 The roof tax would be charged at a per dwelling rate that is paid in instalments for any given phase of development (say occupation of 25%, 50% and 75% of units within a phase). The payments would be secured through a Section 106 agreement signed prior to planning permission being granted for the relevant phase.

12.0 Notwithstanding the above, the Council has, at the request of the Inspector considered the amount of CIL that could be generated by the Garden Suburbs. By necessity this has been a 'high-level' exercise because there are very good reasons set out above why the Council has decided against this option.

### Illustrative Woodhouse CIL calculation:

A	Draft CIL charging schedule = £40psm for dwellings and £5psm for other uses (for the purposes of this calculation the Council will exclude education floorspace as this funding effectively neutralises itself).
B	Average floor area of dwellings = 99.5sqm <sup>4</sup> 99.5 x £40.00 = £3,980 per dwelling
C	1,260 dwellings x average CIL contribution of £3,980 = notional residential CIL contribution of £5,015,800
D	Notional 1000sqm other uses (excluding education) x £5.00 = £5,000
E	'c' + 'd' = <b>£5,020,800</b>

### Illustrative Thornhills CIL calculation:

A	Using same assumptions as Woodhouse
B	Using same assumptions as Woodhouse
C	1,998 dwellings x average CIL contribution of £3,980 = notional residential CIL contribution of £7,952,040
D	Notional 1000sqm other uses (excluding education) x £5.00 = £5000
E	'c' + 'd' = <b>£7,957,040</b>

13.0 In theory the above illustration could be repeated for the wider Brighouse Local Plan area for which the Council has identified a need to contribute to the delivery of new schools and/or expansion of existing secondary schools. The Council does not however regard this as necessary, given that the Inspector's request was focussed on the delivery of the Garden Suburbs, rather than development in the wider Brighouse area.

14.0 The Council has set out below initial calculations showing the potential receipts from the selected Section 106 obligation option:

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<sup>4</sup> An illustrative average floor area has been calculated using information provided by Bellway

### Illustrative Section 106 obligation calculation for Woodhouse:

			Note
A	Transport contribution	£4,150	The secondary school contribution accounts for approximately 50% of row B. In the event of the current secondary free-school bid being successful, B would be reduced in proportion to whatever external public funding is received. This would have consequential impacts on rows C and E. Row B could also be affected by a current feasibility exercise (RIBA stage 2 concept design).
B	Education contribution	£9,000	
C	Borrowing costs	£350	
D	Sub-total	£13,500	
E	Project management/admin contribution	@3% of D = £400	
F	Total per dwelling	£13,900	
G	F x 1,260 dwellings	<b>£17,514,000</b>	

### Illustrative Section 106 obligation calculation for Thornhills:

			Note
A	Transport contribution	£2,000	As per Woodhouse GS
B	Education contribution	£9,000	
C	Borrowing costs	£500	
D	Sub-total	£11,500	
E	Project management/admin contribution	@3% of D = £350	
F	Total per dwelling	£11,850	
G	F x 1,998 dwellings	<b>£23,676,300</b>	

### Illustrative Section 106 obligation calculation for other residential development in the Brighouse Local Plan area:

			Note
A	Education contribution	£9,000	As per Woodhouse GS
B	Borrowing costs	£500	
C	Sub-total	£9,500	
D	Project management/admin contribution	@3% of C = £300	
E	<b>TOTAL</b>	£9,800	
F	E x 1,925 dwellings <sup>5</sup>	<b>£18,865,000</b>	

15.0 Whilst the above calculations are illustrative, they demonstrate that the roof-tax approach will provide greater certainty around the funding of infrastructure. Although it might be argued that this indicates that there would be greater head room for CIL than previously anticipated, this could not be formally determined until a separate examination is held after the

<sup>5</sup> The residual planned number of dwellings in the Local Plan area minus dwellings that already have planning permission.

adoption of the Local Plan (and of course no funds would be generated between adoption of the Local Plan and adoption of CIL).

- 16.0 Work is currently continuing to further refine infrastructure costs. Activity in relation to the specific issue of the Thornhills spine road is addressed below; however, as explained during the stage 2 hearings, the Council is pursuing an approach of early contractor engagement from 2021 in order to provide us with additional reassurance around costs and buildability.
- 17.0 It is also relevant to note at this point that the RIBA Stage 2 concept design commission for the two Garden Suburb primary schools is expected to report back towards the end of January 2021. Early feedback from consultants suggests that the costs of delivering these schools is likely to be less than the cautious estimates set out in the tables above.

### **Delivery of Thornhills spine road**

- 18.0 The above tables are consistent with the Infrastructure Delivery Plan 2020 and the presentation of evidence in the existing Avison Young viability appraisal (see Appendix 5 to the Council's matter 8 hearing statement examination library reference HS 8.1). Delivery of the Thornhills Garden Suburb spine road requires explanation because this is likely to generate a need for prudential borrowing.
- 19.0 Whilst the Woodhouse Garden Suburb spine road is logically delivered in its entirety by the developers, the road at Thornhills has been approached as comprising two elements: section 'A', serving parcel 'A' south of the Thornhills Beck and section 'B' serving parcel 'B' north of the Beck. The masterplanning has demonstrated that parcel 'B' could accommodate approximately 200 houses. Given the smaller quantum of development in parcel 'B', it is doubtful that spine road section 'B' is deliverable if it is left to developers to build on site.
- 20.0 The section 'B' spine road north of the Beck is therefore most appropriately delivered by the Council as part of the wider A641 CIP programme, although it would be developer rather than West Yorkshire Plus Transport Fund (Growth Deal) funded. This will ensure that there is a properly resourced and programmed project to deliver section 'B' within the relevant timeframe. The Thornhills spine road delivery assumptions are therefore as follows:
- 1) Spine Road Section 'A' can be delivered by the developers of the development of 1778 dwellings in Parcel 'A' as it progresses. There is sufficient critical mass within the development of parcel 'A' to fund its delivery.
  - 2) Given the limited number of dwellings to be developed in Parcel 'B', a mechanism is required to ensure delivery of the Section 'B' spine road. It is important that all development within the allocation (as a

whole) contributes equably to the delivery of the entire spine road given that the development as a whole will benefit from it. Accordingly, the developers of the 1778 dwellings in Parcel 'A' should fairly contribute towards delivery of the whole spine road as should the developers of the 200 dwellings in Parcel 'B'.

In order to ensure that all developers make an equal and proportionate contribution to the delivery of the spine road, the proposed calculation is therefore as follows:

- Identify the contribution that parcel 'B' should make to spine road section 'A' as follows:
  - (1) Identify a cost per dwelling for section 'A' of the spine road, i.e.;  
  
Cost of spine road section 'A' divided by 1,998 dwellings = cost per dwelling (across the whole allocation)
  - (2) Multiply the cost per dwelling by the 200 dwellings in parcel 'B' (Parcel B's Contribution to Section 'A').
- Identify cost of spine road section 'B'. Against that cost, the developer of Parcel 'B' pays Parcel B's Contribution to Section A (through the roof-tax) leaving a residual cost for the delivery of spine road section 'B'.
- The residual cost for spine road section 'B' is then divided by 1,998 dwellings to identify the roof tax contribution per dwelling.

21.0 The Thornhills GS spine road has been very cautiously (i.e. robustly) costed at £12m by WSP: WSP quadrupled the standard cost assumptions for road construction to take account of the more complex character of this site.

22.0 The cost of constructing the spine road has been included as a development cost in the Avison Young viability appraisal. So, irrespective of the funding mechanism, the Council is fully confident that the development of the allocation as a whole is viable. In the case of parcel 'A' developers, the contribution would take the form of capital works on site within their phase (to deliver section 'A' of the spine road) and a financial contribution towards the delivery of section 'B'. For the developers of parcel 'B' there would be a financial contribution to the construction of sections 'A' (as set out above) and section 'B' (again, as set out above).

23.0 Therefore, in addition to the roof tax contribution towards off-site transport improvements, Thornhills will make a roof tax contribution to spine road delivery.

- 24.0 The cost of delivery of the spine road as a whole will thereby be shared equally (on a per dwelling basis) across the whole allocation.
- 25.0 Since the close of the stage 2 hearings, Council officers have met again with the professional team that has previously been appointed to prepare the A641 CIP scheme Outline Business Case. SWECO and Bentley Project Management are currently prioritising further detailed costing work for the Thornhills GS spine road – in particular, they have been asked to advise the Council on the proportionate cost split between spine road sections 'A' and 'B'.

### **Potential main modification to Local Plan**

- 26.0 As requested during the stage 2 hearings, the Council is proposing a potential main modification to the Local Plan to insert an additional policy and supporting text as a pre-cursor to the adoption of a Supplementary Planning Document (mindful of the advice at Paragraph: 008 Reference ID: 61-008-20190315 of the Planning Practice Guidance, relating to formulaic approaches to planning obligations). The suggested wording of the supporting text and policy is set out below:

#### ***Funding and delivery of infrastructure***

*It is important that new infrastructure is delivered in a timely manner so that development does not impose an unacceptable burden on existing facilities. In order to ensure timely delivery of infrastructure it is also important that there is certainty around the mechanisms by which it will be funded.*

*Within the Brighouse Local Plan Area specific transport and education infrastructure schemes have been identified that must be delivered at the appropriate point in the Plan period to mitigate the impacts of development. These infrastructure schemes include two number two form of entry primary schools; additional secondary school places; and transport interventions comprising elements of the A641 Corridor Improvement Programme. The Local Plan evidence base has estimated that development contributions towards the above infrastructure will be approximately £50.7m. These costs will be divided amongst the developments on allocated and windfall sites within the Brighouse Local Plan Area during the life of the Plan (note: the A641 critical interventions will be divided amongst the two Garden Suburbs whereas the developer contributions for the education requirements will be divided amongst ALL housing developments including allocated and windfall sites).*

*The mechanism for delivering these contributions will be through planning obligations, secured through legal agreements at the stage of individual planning applications.*

*The following policy will therefore apply:*

*Applications will be permitted where mechanisms are in place to ensure that the impact of the development on infrastructure can be satisfactorily mitigated.*

*In applying this policy regard will be had to the Council's Infrastructure Delivery Plan and any current Supplementary Planning Documents.*

- 27.0 It is also considered that additional information should be added to the specific considerations set out in Appendix 1 to the Local Plan to make it clear that each dwelling within the Thornhills Garden Suburb will be expected to make an equal and proportionate contribution to the delivery of the spine road.

### **Proposed supplementary Planning Document**

- 28.0 A report was considered by the Council's Cabinet on 7 December 2020 seeking endorsement for a programme of SPD preparation and consultation (and consequential changes to the Local Development Scheme). Amongst the ten SPDs is *Planning obligations to fund the delivery of infrastructure*. This report was endorsed subject to approval by the Full Council.
- 29.0 The proposed SPD will provide information and guidance to explain how the new policy (and its supporting text) identified above will be implemented at the planning application stage. It is intended to consult on the SPD early in 2021 and bring it forward for adoption by the Council in parallel to the Local Plan. This will ensure that it is a material consideration in the determination of the applications for the first phases of the Garden Suburbs (which are expected to be submitted soon after the close of the Local Plan hearings and determined soon after the Local Plan is adopted).

### **The use of prudential borrowing**

- 30.0 It is necessary to prudentially borrow because most dwellings will be built after the infrastructure has been required to be delivered on the ground. In relation to council borrowing, House of Commons Library Briefing Paper Number 05797 (1 May 2020) provides some helpful background information:

*"Expenditure for new roads, school buildings, libraries or residential homes is an example of what is called 'capital' expenditure. Such expenditure implies that the object of expenditure has a long life: it is an asset. Such items are usually very expensive: they involve a heavy outlay, and for that reason they tend to be financed largely from borrowed money (and so repaid over a long period)" (Tony Byrne, Local Government in Britain, Penguin, 2000, p.336; cited in <file:///C:/Users/pd02/Downloads/SN05797.pdf>).*

*"Under part 1 chapter 1 of the Local Government Act 2003, a local authority may borrow for any purpose relevant to its functions or for "the prudent management of its financial affairs". The total amount that a local authority may borrow is governed by the requirements of CIPFA's Prudential Code for Capital Finance in Local Authorities; and by the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (SI 2003/3146), as amended. Each authority must set a total borrowing limit for itself in accordance with the principles of the Prudential Code. The borrowing limit will be related to the revenue streams available to the local authority, with which it can repay the debt. Authorities are prevented by law from using their property as collateral for loans" (<file:///C:/Users/pd02/Downloads/SN05797.pdf>).*

31.0 In a recent paper on [future lending terms](#) for prudential borrowing, HM Treasury Stated that:

*1.3 The government supports local investment in part by offering low cost loans to LAs through the Public Works Loan Board (PWLB). The PWLB is the main lender to local government, accounting for around two thirds of LA debt.*

...

*1.8 The government has also announced it will introduce a new infrastructure bank for the UK. The bank will be able to lend local and mayoral authorities for key regional infrastructure projects. It will also be able to provide advice and support to these authorities on developing, financing, and delivering high priority local projects.*

*1.12 At the beginning of this consultation process the government announced the intention to cut the interest rate on new loans from the PWLB, subject to market conditions, once a workable system could be designed and implemented to ensure that this support would not be diverted into debt for-yield activity.*

*1.13 Following close work with local authorities and sector representatives to develop these reforms, the government is now able to lower the interest rate of PWLB lending by 100bps for all*

*new Standard Rate and Certainty Rate loans arranged from 9am on 26 November 2020."*

- 32.0 The above statements reflect the Government's strong commitment to infrastructure investment expressed through the 2020 Spending Review:

*"SR20 announces the next phase of the government's infrastructure revolution with £100 billion of capital expenditure next year, to kickstart growth and support jobs...*

*...Infrastructure investment is a key part of this and SR20 targets investment to support regional cities as engines of growth through the Transforming Cities Fund and intra-city transport settlements; rejuvenate towns and communities in need in England through the Towns Fund; and ensure each place is well connected through increased investment in road, rail and broadband."*<sup>6</sup>

- 33.0 In the above context, the Council's strategy of investing in infrastructure in order to support economic and housing growth is consistent with the Government's most recent announcements.
- 34.0 The total final amount of prudential borrowing will depend on a number of factors including whether the current Trinity MAT Free School bid is successful and if so how much capital funding it secures (a decision is still awaited at the current time); and the refined infrastructure build costs once further design work has been completed as outlined earlier. Mindful of these caveats, the required prudential borrowing is cautiously estimated to be in the range of £37m to £55m.

### **Financial considerations for the Council**

- 35.0 Whilst matters relating to the Council's financial and capital programme governance are outside the remit of the Local Plan examination, the question of prudential borrowing is linked to the deliverability of the Local Plan. As stated in the IDP, the Council commissioned Bentley Project Management to carry out a cashflow exercise to model the quantum and points in time that the Council would need to draw down loans and the adjustments that would need to be made to the roof-tax figures to account for the Council's borrowing costs. Through charging the roof-tax at a rate that is inclusive of the interest charged on the Council's borrowings, the Council would seek to ensure that it has the revenue stream to repay the debt without placing an additional burden on public finances.
- 36.0 The Bentley PM work also provides an understanding of when loans would need to be drawn down and for how much. In relation to this, roof tax

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<sup>6</sup> Note: Brighthouse will benefit from TCF and Towns Fund programmes

payments to the Council would commence as soon as houses start being delivered.

- 37.0 Formal decisions on borrowing to forward fund infrastructure cannot be taken by the Council in advance of Local Plan adoption; however, the Council's Cabinet have been briefed on these issues and are fully aware of the broad costs of infrastructure provision and its fundamental importance to the delivery of the Local Plan. As indicated above, Cabinet has also endorsed the principle of preparing a Supplementary Planning Document to guide the delivery of a roof-tax approach to infrastructure funding.

### **Testing of viability**

- 38.0 As stated above, bespoke viability assessments were carried out for the Garden Suburbs by Avison Young (see Appendix 5 to the Council's matter 8 statement – HS8.1). The Avison Young assessment was shared with Bentley Project Management, and the Council has had regard to the potential impact of adding borrowing costs to the roof tax rates (see tables above). The addition of borrowing costs of £350-£500 per dwelling will not materially impact on the viability and therefore also the deliverability of either Garden Suburb.

### **Conclusion**

- 39.0 The Council considers that the use of Section 106 Agreements to fund the delivery of infrastructure through a 'roof-tax' mechanism is best suited to the circumstances in the Brighthouse Local Plan area. This approach has various advantages over the use of Community Infrastructure Levy, not least in terms of the surety that it provides the Council and developers around deliverability.
- 40.0 In the case of both Garden Suburbs the roof-tax would fund on-site delivery of a school and off-site transport improvements. Additionally, part of the Thornhills spine road would be funded by roof-tax. The latter will not further affect the viability of the GS because the full cost of constructing the road has already been factored into the financial appraisal as a development cost.
- 41.0 The Government sees infrastructure investment as a priority for the country and have recently reaffirmed their commitment through the announcement of several policy measures during the autumn of 2020.
- 42.0 Prudential borrowing is necessary in order to deliver the development identified in the Local Plan in a manner that is aligned with the provision of essential infrastructure. This is because the financial receipts from the roof-tax are expected to be received throughout the life of the Plan (i.e. to 2032/33) in line with the housing trajectory, whilst the education and transport infrastructure needs to be provided by 2025.

43.0 The Head of Finance (the Council's Section 151 Officer) has been consulted on the proposed approach to funding of the infrastructure and will be working with our officers and consultants to develop the roof tax at a level which is both viable and affordable and reflects the risks involved, before this is presented to Council for approval.