

HERTFORDSHIRE COUNTY COUNCIL

**AUDIT COMMITTEE
WEDNESDAY, 1 MARCH 2017 AT 10.00 AM**

Agenda Item No:

6

RISK FOCUS REPORT - CIL

Report of the Director of Resources

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Executive Member:- Christopher Hayward, Resources & Performance

1. Purpose of report

- 1.1 To provide further information regarding the risk and associated controls recorded on the Hertfordshire County Council Corporate Risk Register relating to the introduction of the Community Infrastructure Levy (CIL) and the value of developer contributions to Hertfordshire County Council infrastructure requirements arising from such developments, risk reference PROP0022.

2. Summary

- 2.1 The Audit Committee has requested a report on the above risk, the assessment and rating of this risk and the controls in place to minimise or avoid its occurrence. These are summarised in Appendix 1 along with a description of the risk and its possible consequences.
- 2.2 The Community Infrastructure Levy Regulations 2010 (as amended) was introduced to simplify the developer contributions mechanism by encouraging a move away from S106 agreements. Most authorities seek to secure CIL from smaller developments and retain S106 for larger development sites which generally have greater infrastructure needs and require more detailed negotiations. To date only four Hertfordshire authorities have adopted a CIL and each has taken a different stance to implementation and delivery. The remaining six may implement the regime over the course of the next two years subject to the approval of their emerging Local Plans.
- 2.3 The impact of CIL is difficult to assess as a whole as each implementing authority is taking different approaches. However, it is clear that there will be a slowing down of financial resources to the County Council to support essential infrastructure.

3. Recommendation

- 3.1 The Audit Committee is invited to note and comment on the information provided within this report.

4. Background

- 4.1 This risk was first recorded in April 2014 when it became clear that in order to encourage the adoption of CIL changes the use of S106 obligations was also to be introduced.
- 4.2 To recap:- The CIL mechanism is a flat rate tax based on a price per m² of developed land. It can be collected from every development into a single pot and the collecting authority has an indefinite amount of time to determine how and when it will be spent.
- 4.3 A total of five S106 obligations may be attributed to a single project. Prior to this change Hertfordshire County Council were able to enter into an unlimited number of S106 obligations per project.
- 4.4 The mitigations (controls) to the risk recorded in April 2014 included:-
- i. Additional staff to deliver to the new legislative requirements
 - ii. Information & 'training' sessions for Members as to the changes in developer contribution legislation and what it meant for the Authority
 - iii. The identification of any alternative income streams that might become available
 - iv. To maintain an open dialogue with central government to inform and influence policy making decisions
 - v. To establish relationships with parish and town councils to achieve the most effective use of CIL across all levels of local government
 - vi. To work with District councils in introducing the new regulations and understanding how they affect essential Hertfordshire County Council infrastructure delivery

It should be noted that at this time the number of District Authorities preparing to adopt the regulations was unknown.

- 4.5 To date, only four Hertfordshire authorities have introduced CIL. They are:
- Hertsmere Borough Council
 - Dacorum Borough Council
 - Watford Borough Council

- Three Rivers District Council

The remainder have determined they will introduce the regime as part of the adoption of the next iteration of their Local Plan between 2017 - 2020.

5. Supporting information

- 5.1 The Corporate Risk is owned within the Resources Directorate by the Assistant Director, Property.
- 5.2 Controls are coordinated by staff within the Development Services team of Property. They are intended to reduce the impact of a reduction in the agreement and delivery of developer contributions towards Hertfordshire County Council infrastructure requirements delivered to support additional development.
- 5.3 All of the controls as set out in the Appendix 1 to the report have been reported through the quarterly Corporate Risk Review Process as In Progress.
- 5.4 Key achievements to date include:

Staffing

- 5.4.1 Additional posts in Property and Highways were included in the 2015/16 budget. Recruitment proved difficult but a mix of agency and permanent staff has been delivered.
- 5.4.2 The team leads on the delivery of Local Infrastructure Documents (LIDs). There are key documents intended to outline the infrastructure priorities for Hertfordshire County Council (on behalf of both Property and Transport teams) for each of the Local Planning Authorities that have adopted CIL. Completion of LIDs for the CIL areas has taken precedence to support any future CIL bid work; the team is currently working towards an approval process to ensure Members are aware of the needs in their respective areas.

Collaboration with District Partners

- 5.4.3 Regardless of the adoption of CIL by the districts, work has continued to ensure that a workable CIL structure exists within which the County Council can work effectively with each of the partner districts. Of the four local authorities that have adopted CIL: two have formalised the process of bidding for CIL money; one has identified that most CIL monies will go to fund existing infrastructure projects within the borough; and the remaining authority has received a minimal receipt to date deferring any agreement to their governance structure as a result.

- 5.4.4 Watford Borough Council have identified that most CIL monies will be directed to the Croxley Rail Link project.
- 5.4.5 Three Rivers District Council has only received £40k to date and is deferring their governance process until funding reaches a more meaningful (in terms of delivering actual projects) level.
- 5.4.6 Dacorum Borough Council has worked with all partners, Hertfordshire County Council, Town and Parish Councils and delivered a memorandum of understanding within which all bidding partners must work. They have determined that they will open their bidding process when the accrued value of CIL monies collected is greater than £2m, which is anticipated to be in 2017/18.
- 5.4.7 Hertsmere Borough Council has opened its bidding process and Hertfordshire County Council has made 3 bids within that process. To date none of those bids has been successful as work to develop the final projects is completed by County Council services.

Member Updates & Information

- 5.4.8 Property provided a seminar to update all Members on the process and the adoption of the legislation in Hertfordshire. An update to the Executive Member Resources was provided in Autumn 2016.

Interaction with central government to influence future policy

- 5.4.9 Property have responded to all government papers on the subject and are awaiting the outcomes a White Paper on Housing which may include changes to CIL regulations.

Establishing relationships with Parish & Town Councils

- 5.4.10 Information & guidance notes have been drafted to inform the lower tiers of local government of how CIL and S106 can be used to deliver infrastructure. These are in the process of being approved prior to despatch.

Managing the effect of the S106 'Pooling Rule'

- 5.4.11 As identified earlier, included in the CIL regulations were new rules regarding the use of existing and new S106 monies. The new regulations determined that up to five S106 contributions could be identified and used to support a specific scheme. Prior to this any S106 contribution that supported use within the required area could have been used. The work to identify the most appropriate five contributions for schemes has proved difficult and in some instances has provided less than the anticipated and previously available funding.

5.4.12 The Development Services team monitors the number of obligations sought and works consistently with services to support their management of this process. An all services workshop is planned for 8 March 2017. Lead by the Development Services team, the workshop will assist officers dealing with the pooling restriction in problem solving, and offering advice on best practice.

5.4.13 In addition, the team will be delivering an open lunchtime learning seminar on 23 February 2017 which is open to all County Council officers explaining how the S106 and CIL processes operate.

Appendix 1.

CORPORATE RISK REGISTER		
Risk Number	Risk Owner	Department
PROP0022	Angela Bucksey	Resources
Date risk first included on risk register	Risk treatment (response) to manage the risk	Executive Member
06/08/2014	Reduce	Christopher Hayward
<p>Description of the risk As a result of changes to the way in which development contributions will be collected from new developments through use of Community Infrastructure Levy (CIL) and Section 106 contributions, and the delay in introduction of the new arrangements across all district authorities, there is a risk that there may be insufficient money to support infrastructure needs derived from new housing developments etc</p> <p>Consequences of the risk The implementation of the CIL regime and the constriction of the number of S106 agreements applicable to a single infrastructure project may reduce the value of developer contributions to Hertfordshire County Council infrastructure required to meet our regulatory responsibilities.</p>		
<p>Current controls</p> <p>PROP0022/002 Engage additional staff resource to drive forward work with Districts on Local Plans</p> <p>PROP0022/003 To work effectively with District planners to communicate and identify the required infrastructure</p> <p>PROP0022/004 Provide regular updates to Members/stakeholders working with Districts to secure support for successful implementation of CIL</p> <p>PROP0022/005 Identification of possible alternative funding sources and interaction with fund bidding processes</p> <p>PROP0022/006 Develop & maintain dialogue with central government departments as necessary to inform and influence policy and funding decisions</p> <p>PROP0022/007 Establish working relationships with Parish & Town Councils as necessary to achieve effective use of CIL funding</p> <p>PROP0022/008 Work with Districts to bring forward their Local Plans CIL charging and support Hertfordshire County Council Infrastructure requirements</p>		
Current Risk score based on effectiveness of current controls		

Probability score:	Impact score:	Overall score:
4 - Likely	8 –High	32 - Severe
Reason for inclusion on Corporate Register		
The risk met the corporate risk criteria; in particular there are significant financial implications.		
Direction of travel (overall risk score for previous three quarters)		
32	32	32
Target risk score		
Probability score:	Impact score:	Overall score:
3 – Possible	4 – Medium	12 – Significant