

Cabinet 09 December 2020

Questions from Councillor Gant and responses from Councillor Hollingsworth, Cabinet Member for Planning & Housing Delivery

Q1. Does the City Council expect to have a role in deciding how Neighbourhood CIL from the Diamond Place development is spent?

Answer:

Diamond Place is within the Summertown and St Margaret's Neighbourhood Plan area, which has an adopted Neighbourhood Plan and is an unparished area. The CIL Regulations for this circumstance specify that CIL receipts are held by the City Council and Neighbourhood forums are advised twice a year on the amount of CIL funds held. Suggestions regarding expenditure of CIL should go directly to the relevant Neighbourhood Forum. Forums undertake consultations and make decisions on how they would like to spend the receipts in line with their NCP and the CIL regulations. Council officers can provide advice and guidance to assist particularly when it is being done for the first time. The formal request to draw down the money then comes to the City Council who need to ensure that the projects/schemes meet the requirements of the regulations and procurement regulations.

In summary the City Council could, as any other individual or organisation could, make suggestions to the Forum for possible schemes, and would advise if a scheme proposed by the Forum either didn't need the requirements of CIL or the appropriate procurement regulations, but the Forum would make decisions on how the Neighbourhood CIL should be spent.

Q2. In relation to paragraph 44 of the Budget report in the papers for this meeting of the City Council Cabinet, are the potential spending items referred to be funded from Neighbourhood CIL, and if so how is the process of agreeing spend with the communities in which the CIL was generated to be carried out?

Answer

In line with the regulations we are consulting on the use of Neighbourhood CIL which has been generated from schemes in areas which are not within a parished area or Neighbourhood plan area as part of the budget process. We have also added a note on the CIL webpage with a link to the consultation, issued a press release and sent an email to the local ward councillors for these areas, residents associations and any other relevant bodies which are held on the planning consultation database.

Q3. Is the Cabinet aware of the exchange at yesterday's meeting of the County Council between Cllr Paul Buckley (Wolvercote and Summertown division) and the Leader, Cllr Ian Hudspeth, and the subsequent supplementary and reply, and does the Cabinet have any comment or views on the matter?

Answer

Yes. The exchange, and subsequent coverage of it in the local media, is a helpful lesson in the altered balance between certainty and flexibility that has arisen in the shift from the s106 system to a largely CIL system, the consequences of which are perhaps not widely understood or appreciated.

Before CIL was introduced the main way that developments funded infrastructure was via a Section 106 agreement, a costed shopping list of specific things that the development would need to pay for in order to overcome objections to it getting planning permission. This provided certainty, but was highly inflexible and made it difficult to do things like pool receipts from different schemes to put to a single project.

CIL was introduced as a way to be more flexible, and was amended in 2013 to allow more flexible local input into what the funds were used for. Instead of a fixed shopping list of items to be paid for directly by a development, CIL acts effectively as a development tax which raises money which can be applied to a broad range of things at the discretion of the local council. What is often overlooked is that while local Councils could decide what to fund via the new CIL system, and what to fund using the Section 106 system, they could NOT use both for the same thing. In other words, once a Council puts something on the list of projects that CIL COULD be used for then that Council CANNOT use a S106 agreement for that project.

Oxford City Council decided to keep using S106 for social housing, but otherwise to create a broad list of potential projects that could be funded by CIL (adopted as the Regulation 123 list in 2013). Under Education it lists extensions to primary schools, which is what it is proposed for Oxford North. In other words, because it is listed as a project that COULD be funded by CIL, it is NOT possible to fund it via the S106 route. Flexibility has taken the place of certainty in the system.

This means that Oxfordshire County Council, which is both the Highways Authority and the Education Authority, will want to make proposals for using CIL for both contributions to the highways network and to the local primary school. While the final decision for the allocation of the CIL funds will rest with the City Council I have no doubt that the County Council's proposals will carry substantial weight.

As with the Diamond Place scheme and the Summertown and St Margaret's Forum, 25% of the CIL receipt from Oxford North goes to the Wolvercote Forum, and as outlined in the answer to Question 1, they can spend it as they like subject to the regulations. The City Council cannot tell them how to spend it; while it is open to both the City Council and the County Council to make suggestions to the Forum, the Forum is in no way bound to follow those suggestions in allocating its funds.

In summary, under the old S106 system the Oxford North Scheme would have had to pay a fixed sum for a list of things which might have included expanding the local primary school(s) - the money would have been ring-fenced, but could not have been applied to anything else. The new more flexible CIL system means that a pot of money will be received, and can be applied to a broader range of projects; in other words, greater flexibility but at the expense of certainty, just as intended by the 2013 reforms to the CIL regulations.

While I have not been an enthusiastic cheerleader for the efforts of the Coalition Government (2010-15), in this one instance I'm inclined to be positive about the intention of their reforms to the CIL system. I have no doubt that Cllrs Gant, Buckley and Hudspeth feel the same given that their parties formed that Government, whatever the consequences of those changes locally.

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