



WOKINGHAM BOROUGH COUNCIL

A Meeting of an **INDIVIDUAL EXECUTIVE MEMBER DECISION** will be held at the Civic Offices, Shute End, Wokingham on **WEDNESDAY 9 DECEMBER 2015 AT 3.05 PM**

A handwritten signature in black ink, appearing to read 'Andy Couldrick', written in a cursive style.

Andy Couldrick
Chief Executive
Published on 1 December 2015

This meeting will be filmed for inclusion on the Council's website.

Please note that other people may film, record, tweet or blog from this meeting. The use of these images or recordings is not under the Council's control.

Our Vision

A great place to live, an even better place to do business

Our Priorities

Improve educational attainment and focus on every child achieving their potential

Invest in regenerating towns and villages, support social and economic prosperity, whilst encouraging business growth

Ensure strong sustainable communities that are vibrant and supported by well designed development

Tackle traffic congestion in specific areas of the Borough

Improve the customer experience when accessing Council services

The Underpinning Principles

Offer excellent value for your Council Tax

Provide affordable homes

Look after the vulnerable

Improve health, wellbeing and quality of life

Maintain and improve the waste collection, recycling and fuel efficiency

Deliver quality in all that we do

For consideration by

John Kaiser, Executive Member for Planning and Highways

Officers Present

Brendan Troy, Community Infrastructure Delivery

Colm Ó Caomhánaigh, Democratic Services

IMD NO. 2015	WARD	SUBJECT
IMD43	None Specific	DRAFT PAYMENT IN KIND OF LAND OR INFRASTRUCTURE IN LIEU OF CIL POLICY To recommend the adoption of an operational policy that allows the Council to accept payment in kind of land or infrastructure in lieu of CIL.

5 - 12

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Agenda Item IMD43

INDIVIDUAL EXECUTIVE MEMBER DECISION REFERENCE IMD: 2015/43

TITLE	Draft Payment in Kind of Land or Infrastructure in lieu of CIL Policy
DECISION TO BE MADE BY	John Kaiser, Executive Member for Planning and Highways
DATE AND TIME	9 December 2015 at 3.05pm
WARD	Borough Wide
DIRECTOR	Heather Thwaites, Director of Environment
REPORT TO BE PUBLISHED ON	1 December 2015
VENUE	Room SF2, Wokingham Borough Council Offices, Shute End, Wokingham

OUTCOME / BENEFITS TO THE COMMUNITY

The Community Infrastructure Levy (CIL) is the mechanism that will ensure that future developments contribute towards the infrastructure that is needed to support growth. A CIL payment in kind mechanism can lead to cost and efficiency benefits in the delivery of that infrastructure.

There are also likely to be some efficiencies for the delivery programme by enabling developers to deliver pieces of infrastructure which are time critical; thus sharing the infrastructure delivery load with the Council.

RECOMMENDATION

The Executive Member for Planning and Highways:

- 1) adopts the Draft Payment in Kind of Land or Infrastructure in Lieu of CIL Policy on behalf of the Council; and
- 2) publishes the Policy.

SUMMARY OF REPORT

A policy statement has been prepared outlining an approach to "Payments in Kind in lieu of CIL", namely through the transfer of land or completed infrastructure to the Council in lieu of a cash payment of the Levy amount due. The policy has been drafted to allow the Council sufficient flexibility in considering these types of payment at its discretion on a case-by-case basis.

Background

Subject to relevant conditions, and at its discretion, a CIL Charging Authority may enter into an agreement for a land of infrastructure payment to discharge part or all of a CIL liability.

Wokingham Borough Council implemented its CIL Charging Schedule on 6th April 2015. To allow for more flexible operation of the CIL in Wokingham and also to enable developers, users and the Council to have more certainty about the timescale over which certain infrastructure items can be delivered it is now recommended that the Council publish a statement that it will consider requests for payment in kind of land or infrastructure in lieu of CIL at its discretion.

Analysis of Issues

There may be circumstances where a CIL charging authority and the person liable for the Community Infrastructure levy will wish land and/or infrastructure to be provided, instead of money, to satisfy a charge arising from the levy. For example, where an authority has already planned to invest levy receipts in a project there may be time, cost and efficiency benefits in accepting completed infrastructure from the party liable for payment of the levy.

In order to use this payment in kind mechanism and comply with the CIL Regulations, the Council must publish a policy statement on its website. The policy simply reflects the processes and procedures for payment in kind as outlined in the CIL Regulations. The key points being that payment in kind is discretionary; any agreement must be subject to an independent valuation; and, any item of infrastructure to be provided in kind must be on the Council's Regulation 123 List of Infrastructure that can be funded by CIL.

The Draft Payment in Kind Policy (Appendix A) outlines a flexible approach to considering proposals for payments in kind on an individual basis. The Policy outlines the basic conditions under which a proposal for a payment in kind will be considered. This flexible approach provides clarity to developers whilst allowing the Council to retain control over whether or not it accepts these payments on a case-by-case basis.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	Nil		
Next Financial Year (Year 2)	Nil		
Following Financial Year (Year 3)	Nil		

Other financial information relevant to the Recommendation/Decision

It is envisaged that costs associated with the independent valuation of land or infrastructure would be considered as part of the in lieu payment. Any administration costs related to the operation of the policy could be accommodated using the 5% of CIL revenue that can be used to administer the levy, in line with the Regulations.

Cross-Council Implications (how does this decision impact on other Council services, including property and priorities?)

N/A

SUMMARY OF CONSULTATION RESPONSES

Director – Finance and Resources	No comment
Monitoring Officer	No comment.
Leader of the Council	'I fully support the addition of this flexibility in CIL Payment.'

List of Background Papers

Appendix A – Draft Payment in Kind of Land or Infrastructure in lieu of CIL Policy

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Date 30/11/2015	Version No. 1

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WOKINGHAM
BOROUGH COUNCIL

Wokingham Borough Council Community Infrastructure Levy

Discretionary Payment in Kind of Land or Infrastructure in Lieu of CIL Policy

January 2016

Draft Community Infrastructure Levy Payment in Kind of Land or Infrastructure in lieu of CIL Policy

In accordance with Regulations 73, 73A, 73B and 74 of the Community Infrastructure Levy Regulations 2010 (as amended), Wokingham Borough Council, as the charging authority for the area, will allow the consideration of payment of CIL by land payments or infrastructure payments. This will be effective from 01/01/2016.

Paying CIL in the form of land

In certain circumstances it will be possible to pay some or the entire CIL amount in the form of land. This will be dependent on certain conditions:

1. The Council agree to the transfer of land as part or whole payment of the CIL.
2. The land can be used to provide infrastructure to support the development of the area.
3. The applicant must have assumed liability to pay CIL.
4. The value of the land to be transferred must have been determined by a suitably qualified independent person agreed by the Council. The valuation must represent a fair market value for the land on the day it was valued. The valuation will be funded by the developer but shall be considered as part of the capital cost of the land for the purposes of the in lieu payment.
5. Where the payment of CIL by land provision is considered acceptable the Council will enter into an agreement with the liable party(ies) prior to the development commencing. The Council must be satisfied that the criteria in Regulation 73 have been met.
6. The agreement cannot form part of a planning obligation within a S106 Agreement.

Paying CIL in the form of infrastructure

In certain circumstances it will be possible to pay some or the entire CIL amount in the form of infrastructure. This will be dependent on certain conditions:

1. The infrastructure to be provided must be related to the provision of those projects listed in the Council's Regulation 123 list.
2. The applicant must have assumed liability to pay CIL.
3. The value of the infrastructure to be transferred must have been determined by a suitably qualified independent person agreed by the Council who will ascertain the cost to the provider including any design related costs. The valuation must represent a fair market value for the infrastructure on the day it was valued. The valuation will be funded by the developer but shall be considered as part of the capital cost of the infrastructure for the purposes of the in lieu payment.
4. Where the payment of CIL by infrastructure provision is considered acceptable the Council will enter into an agreement with the liable party(ies) prior to the development commencing. This agreement must include the information specified in Regulation 73A.
5. The agreement cannot form part of a planning obligation within a S106 Agreement.

The Council is not obliged to accept any offer of payment in kind by land or infrastructure. Please see the Community Infrastructure Levy Regulations 2010 (as amended), for the full details relating to payment in kind.

Before submission of an application liable parties are encouraged to discuss proposals with the Council to establish if the principle of 'payment in kind' is suitable. Please contact - developer.contributions@wokingham.gov.uk.

Where the Council accepts land and/or infrastructure as 'payment in kind', the equivalent Neighbourhood Fund: -

- 25% where there is a formal Neighbourhood Plan or within a Neighbourhood Development Order; or,
- 15% where there is no Neighbourhood Plan, capped at a maximum of £100 per council tax dwelling,

must still be paid to the local community as a financial payment.

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