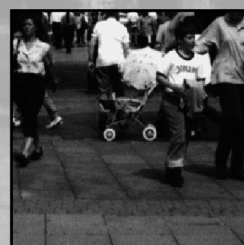
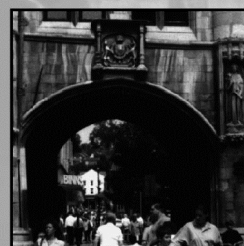


CITY OF  
*Lincoln*  
COUNCIL

---

# Council Summons

---



---

For the meeting to be held on  
**Tuesday, 5 December 2017**

---

This page is intentionally blank.

## **CITY OF LINCOLN COUNCIL**

Sir/Madam,

You are hereby summoned to attend the meeting of the COUNCIL of the City of Lincoln to be held at The Guildhall on Tuesday, 5 December 2017 at 6.30 pm.



Chief Executive and Town Clerk

Angela Andrews

### **A G E N D A**

<b>SECTION A</b>	<b>Page(s)</b>
1. Confirmation of Minutes - 26 September 2017	<b>5 - 8</b>
2. Declarations of Interest	
Please note that, in accordance with the Members' Code of Conduct, when declaring interests members must disclose the existence and nature of the interest, and whether it is a disclosable pecuniary interest (DPI) or personal and/or pecuniary.	
3. Receive Any Questions under Council Procedure Rule 11 from Members of the Public and Provide Answers thereon	
4. Receive Any Questions under Council Procedure Rule 12 from Members and Provide Answers thereon	
5. Receive Reports under Council Procedure Rule 2 (vi) from Members	
(a) Chair of the Performance Scrutiny Committee	<b>9 - 14</b>
(b) Portfolio Holder for Planning and Economic Regeneration	<b>15 - 16</b>
6. To Consider the Following Recommendations of the Executive and Committees of the Council	
(a) Community Infrastructure Levy	<b>17 - 56</b>
(b) Review of the Housing Appeals Panel Procedures	<b>57 - 76</b>
(c) Amendment to Minimum Revenue Provision Policy	<b>77 - 80</b>

(d) Procurement Policies **81 - 120**

The agenda for this meeting of Council was published on 27 November 2017, which is the same date that the Executive is scheduled to consider a report on Procurement Policies. A copy of the Executive report is therefore attached.

A extract of the minutes from the meeting of the Executive in relation to this item will be published and circulated via a supplement as soon as practicable after the meeting.

(e) Brownfield Land Register **121 - 126**

The agenda for this meeting of Council was published on 27 November 2017, which is the same date that the Executive is scheduled to consider a report on the Brownfield Land Register. A copy of the Executive report is therefore attached.

A extract of the minutes from the meeting of the Executive in relation to this item will be published and circulated via a supplement as soon as practicable after the meeting.

7. Report of the Returning Officer **127 - 128**

8. Proposed amendments to the Constitution **129 - 158**

9. Proposed amendments to committee membership **159 - 160**



**Present:** Councillor Chris Burke (*in the Chair*),  
Councillor Yvonne Bodger, Councillor Kathleen Brothwell,  
Councillor Bob Bushell, Councillor Thomas Dyer,  
Councillor Gary Hewson, Councillor Ronald Hills,  
Councillor Andy Kerry, Councillor Jackie Kirk, Councillor  
Jane Loffhagen, Councillor Adrianna McNulty, Councillor  
Ric Metcalfe, Councillor Neil Murray, Councillor  
Donald Nannestad, Councillor Fay Smith, Councillor  
Tony Speakman, Councillor Edmund Strengiel, Councillor  
Ralph Toofany, Councillor Naomi Tweddle, Councillor  
Keith Weaver, Councillor Peter West and Councillor  
Lorraine Woolley

**Apologies for Absence:** Councillor Biff Bean, Councillor Sue Burke, Councillor  
Gill Clayton-Hewson, Councillor Geoff Ellis, Councillor  
Paul Gowen, Councillor Jim Hanrahan, Councillor  
Rosanne Kirk, Councillor Helena Mair, Councillor  
Liz Maxwell and Councillor Pat Vaughan

**17. Confirmation of Minutes - 27 June 2017**

RESOLVED that the minutes of the meeting held on 27 June 2017 be confirmed.

**18. Declarations of Interest**

Councillors Donald Nannestad and Ralph Toofany declared Disclosable Pecuniary Interests in minute number 22(a) as the report made reference to investment in allotments and both Members currently leased allotments at the site referred to in the report. A dispensation had been granted to all members who had a Disclosable Pecuniary Interest for any license to occupy land in the area of the authority for a month or longer. In view of this, Councillors Nannestad and Toofany remained in the meeting during consideration of the item.

**19. Mayoral Announcements**

The Mayor reported that he had attended 31 engagements in the last 30 days.

The Mayor welcomed the City Sheriff to the meeting, who was observing from the public gallery, and thanked her and her consort for the huge amount of work they had undertaken so far for the mayoralty and on behalf of the City Council.

**20. Receive Any Questions under Council Procedure Rule 11 from Members of the Public and Provide Answers thereon**

The following question had been received by members of the public:

**Matty Armstrong**

“I would like to know if there would be funding available for a determined group of skaters wanting to build a community skate park in Lincoln, or if there was anything the Council could do to help with the project.”

Mr Armstrong was not in attendance to put his question to the Council. The Portfolio Holder therefore agreed to provide a written response to the question.

**21. Receive Any Questions under Council Procedure Rule 12 from Members and Provide Answers thereon**

No questions from members were received.

**22. Receive Reports under Council Procedure Rule 2 (vi) from Members  
(a) Portfolio Holder for Corporate Management and Customer Services**

Councillor Eddie Strengiel declared a Personal Interest in this item as Chairman of Birchwood Big.

Councillor Ric Metcalfe, Leader of the Council and Portfolio Holder for Corporate Management and Customer Services, presented Council with a report on the work of his portfolio.

It was noted that the report had been drafted a couple of months ago, but Councillor Metcalfe provided the following highlights by way of an update:

- the Government's intentions about the future structure of local government, future policy on public sector pay and whether there would be any relaxation on continued reduction in public expenditure would be made clearer as part of the Autumn Statement due on 22 November 2017;
- a fairer funding review had been launched in respect of the financial support provided to local government. Lincolnshire local authorities were considering the launch of a fairer funding campaign, which would seek to achieve a better deal for Lincolnshire's Councils as part of that review;
- the question of business rates remained uncertain, with Government still working on how repatriation could work fairly. A provisional decision had been taken to submit a bid for a pilot which would involve all authorities in the Greater Lincolnshire area. An update report on this pilot scheme would be presented at a later date;
- the collapse of a devolution deal for Lincolnshire was disappointing. However, very recent discussions with the Department for Communities and Local Government and the Homes and Communities Agency had taken place regarding the possibility of a housing deal for the area;
- the County Council had indicated that it did not intend to undertake a consultation on the structure of local government in Lincolnshire at the current time.

Council noted the report.

**(b) Chair of the Ethics and Engagement Committee**

Councillor Adrianna McNulty, Vice-Chair of the Ethics and Engagement Committee, presented a report on behalf of the Chair of the Committee setting out an annual review of the Committee's work.

She took this opportunity to record the Committee's thanks to Chris Elkington, Independent Person, and Roger Vine, Reserve Independent Person, for their continued support.

Council noted the report.

**(c) Chair of the Policy Scrutiny Committee**

Councillor Jackie Kirk, Chair of the Policy Scrutiny Committee, presented a report with provided an update on the work of the Policy Scrutiny Committee.

Council noted the report.

**23. To Consider the Following Recommendations of the Executive and Committees of the Council**

**(a) Statement of Accounts 2016/17**

It was proposed by Councillor Ric Metcalfe, Leader of the Council, seconded by Councillor Donald Nannestad, Deputy Leader of the Council, debated and

RESOLVED that the Statement of Accounts for 2016/17 be approved.

**(b) City of Lincoln Council Annual Report 2016/17**

Councillor Ric Metcalfe, Leader of the Council, proposed that the Annual Report for 2016/17 be approved, stating that the document presented many positive features and demonstrated a significant year of achievements. He took this opportunity to thank all members who had contributed and the praised excellent support received from officers.

Councillor Donald Nannestad, Deputy Leader of the Council, seconded the proposal.

Debating the proposal and the content of the Annual Report for 2016/17, the following points were noted:

- the Annual Report referred to ongoing discussions with Network Rail in respect of the Western Growth Corridor. Clarification was sought in respect of the provision and necessity of a bridge or bridges and whether this aspect of the scheme would be paid for by Network Rail, the City Council, the County Council, the developer or from any other funding source. It was suggested that a lot of problems would be created in the south of the city if at least one bridge was not put in place as part of the scheme;
- reference to the city's unemployment rate being above the national average came across as negative in the Annual Report and did not portray an accurate representation of the fact that there were more employment opportunities available in the city.

Councillor Metcalfe said that the Western Growth Corridor represented a significant opportunity for the city's sustainable growth and would allow for more housing, more employment opportunities and improvements in leisure provision and facilities across Lincoln. The significance of the scheme and its impact on the city was quantified by the fact that the Western Growth Corridor consisted of a tenth of the city's land mass. It was therefore a very large area, close to the city centre and involved a mixture of greenfield and brownfield sites, re-development and re-design of major roads and links to the city centre, the crossing of railway lines and significant flood mitigation. The scheme was therefore very complex and the provision of a bridge or bridges was a small part of the necessary infrastructure implications associated with the project. Councillor Metcalfe

confirmed that the project team had a good understanding of the required infrastructure for the scheme.

In relation to unemployment rates, Councillor Metcalfe was of the view that the Annual Report did portray an optimistic reflection of the city's position but, equally, it had to be a realistic account.

RESOLVED that the Annual Report for 2016/17 be approved for adoption and publication.

**24. Amendments to Committee Membership**

It was proposed by Councillor Ric Metcalfe, Leader of the Council, seconded by Councillor Donald Nannestad, Deputy Leader of the Council, debated and

RESOLVED that Councillor Paul Gowen be appointed to the currently vacant position as a member of the Housing Scrutiny Committee and Naomi Twedde be appointed to the currently vacant position as a member of the Equality and Diversity Group, and be appointed as Chair of the Group.

**COUNCIL**

**5 DECEMBER 2017**

**REPORT UNDER RULE 2(VI) OF THE COUNCIL PROCEDURE RULES**

**Report by Councillor Gary Hewson, Chair of Performance Scrutiny Committee**

I have pleasure in presenting this evening a few paragraphs to try to give a flavour of the work the committee has been involved in during the past year. I don't think it would be possible in words to give justice to all the work that officers and members have put in, from officers preparing and presenting reports to members taking the opportunity to review and ask questions upon the information provided to them I know the temptation has sometimes drifted to speaking on Policy rather than Performance matters, however, overall this has been reigned in to a greater extent this year.

I would like to thank all the Portfolio Holders for improving on providing Committee with far more Performance Figures and Indicators relating to the workings of the Council they have ownership of

We hope we have in all our meetings been fair but if sometime a critical friend without fear or favour. Politically or Personally as I think we all realise it's not a bed of roses for local government at the moment but we all keep striving to get the best from what we have for the residents of Lincoln

As part of Performance Scrutiny Committee's remit, it has held regular 'portfolio under scrutiny' sessions where portfolio holders were invited to report on service achievements under their portfolio. Members were then able to ask questions about the performance of these service areas. The consideration of portfolio reports included the provision of a template for reports which places a focus upon providing performance information relating to the member's portfolio. By doing so, the Committee can focus on the performance of a portfolio with fewer diversions into detailed analysis of policy issues. It should be noted that moving forward I have asked that the Portfolio holder's agenda and the Councils Vision 2020 progress reports match together wherever possible.

A regular report was provided in the form of a Portfolio Performance overview presented by the Policy Unit to the relevant Performance Scrutiny Committee meeting with the purpose of bringing out key contextual benchmarking indicators about issues in the city overall related to the portfolio under scrutiny. This process helped promote effective scrutiny of the portfolio holder's report.

Performance Scrutiny Committee worked from a defined subset of the full IMPS data which was formally agreed by members and the Corporate Management Team as representing the key operational activities to be monitored by the Committee.

In addition to the regular scrutinising of portfolio holders, Performance Scrutiny Committee received quarterly reports on financial monitoring to provide members with a summary of actual income and expenditure compared to the revised budget and appropriate allocation of any surpluses to reserves.

Performance update reports were also scrutinised on a quarterly basis by Performance Scrutiny Committee to ensure regular monitoring of the Council's operational performance as a key component of the Local Performance Management Framework.

In addition, progress reports on strategic projects against their milestones were received on a quarterly basis as well as a summary of the projects delivered during the year to monitor that value for money was achieved.

A quarterly review of the Strategic Risk Register was presented to Performance Scrutiny Committee, detailing any changes in risk levels over the previous quarter.

A report on Treasury Management and Actual Prudential Indicators was also received as a requirement of the Council's reporting procedures under regulations issued under the Local Government Act 2003.

Members were also provided with an annual report detailing progress made by the Central Lincolnshire Joint Strategic Planning Committee.

Income and arrears monitoring reports provided updates to members on the position with regards to amounts of monies owed to the City Council as at 1st April.

Revenues and Benefits performance updates provided members with an update on performance in the Revenues and Benefits Shared Service.

The Lincoln City Profile 2016 was presented to Performance Scrutiny Committee in October 2016, which acted as the evidence base behind the development of the City of Lincoln Council's strategic priorities in the new Vision 2020. It also provides information to help the council continue to target resources where they are needed most. The latest 2017 version has also now been presented to all Committees, providing a current look at the cities challenges and successes.

Members were also updated on progress with projects identified under the Towards Financial Sustainability strand of the 2014-2017 delivery plan, the last delivery element of the old Strategic Plan, as well as an update on the Year four TFS savings Programme.

Members took part in the Budget Review Process for the scrutiny of the proposed budget and Council Tax for the 2017/16 financial year and the Medium Term Financial Strategy 2017-2022. undertaken in two separate stages; firstly, all members were invited to a briefing session to afford them the opportunity to gain a greater understanding and awareness of the Council's financial position, thus aiding further scrutiny of the budget and in the case of the opposition party if desired the preparation of an alternative budget. This was followed by a more traditional scrutiny process undertaken to review in more detail the Medium Term Financial Strategy and the robustness of the proposed budget options and Council Tax for the 2017/18 financial year. This was undertaken in a committee format as the Budget Review Group with the appropriate governance arrangements in place. We are about to seek

names for this year's Budget Review Group to carry out the same scrutiny of the 2018-2013 MTFS proposals.

### Channel Shift Update

Members received a presentation on channel shift, an initiative to encourage customers with access to the internet to move towards electronic interaction. This would improve customer satisfaction, provide good value for money and contribute towards the councils' savings programme. The initiative has now been renamed "Customer Experience", and we will continue to monitor progress of it as part of the TFS Programme.

### The Work of the Private Housing Team

Members were updated on the activity of the Private Housing team based on a review of the financial year 2015/16 and relating to matters reported through the IMPS performance system – the internal database for monitoring performance as well as government databases, comparing available figures with previous year's performance.

### County Council Rejection Rates for Recycling

Members were presented with a report at the request of the Committee to provide an update on the current position with regards to 'contamination' within the recycling waste stream. The County Council's recycling contractor was reporting that the amount of contamination being found across Lincolnshire, and in Lincoln's recycling materials was rising and as a result the recycling rate for the city was falling.

Members offered feedback and noted positive actions and initiatives ongoing to improve performance.

### Christmas Market 2016

It was noted that looking across financial losses in previous Christmas markets the council seemed to be moving in the right direction to bring down costs. It was also felt that the situation would need to be reviewed year on year, however it recognised the wider picture to the market having continued success and its benefits to the City's economy.

Members received a Christmas Market Stalls/Budget: Brief Pre-Event Report at its meeting held on 6 October 2016. Income from stalls was projected to be on budget including the 8% year on year increase in stallholder fees/income target. Overall at that stage at Quarter 2 there was an operational surplus of £7k projected due to a small underspend on expenditure budgets.

On 19 January 2017 an Interim Christmas Market Outturn report was welcomed by members detailing positive progress made in the financial position of the market which generated income for local shops to help sustain their business prospects over the remainder of the year.

Performance Scrutiny Committee received the final outturn report on the Christmas Market 2016 at its meeting in July 2017. Members were extremely satisfied and requested their thanks and praise to be given to the team for a job well done. It was the first time that the Christmas Market had managed to pay for itself and all in all it was an excellent event.

#### What Affects Wage Rates in the Lincoln Economy and Can We Influence Them

A report was given by Kate Ellis, Strategic Director, Major Developments on what factors affect wage rates in the Lincoln Economy and how we could influence them due to the following issue: The average Lincoln annual salary in 2015 decreased by £1,304 to £18,054 from the 2014 level. Figures from November 2015-November 2016 showed a worsening position.

#### Update- Transport Hub

Kate Ellis, Strategic Director, Major Developments gave a verbal update on progress with the Lincoln Transport Hub development, which was progressing well and to schedule.

#### Lincoln Anti-Poverty Action Plan 2014-2017

Members were updated on the key actions delivered in the Lincoln Anti-Poverty Action Plan 2014/17, and briefed on the success of the Lincoln Against Poverty Conference 2017.

#### Key Changes 2017/18 Looking Forward

The City of Lincoln Council launched its Vision 2020 Strategic Plan for the 2017/18 to 2019/20.

Vision 2020 contains four strategic priorities detailing how we aim to deliver Lincoln's ambitious future, as well as a strand focusing on high performing services. .

These projects will be reported to Performance Scrutiny Committee at a rate of one strategic priority per quarter each financial year, to enable a specific detailed focus on one topic area at a time, whilst ensuring all four strategic priorities are reported within a one-year period.

These reports will replace the Strategic Project reports presented in 2016/17, members may still request ad hoc reviews to be presented to the committee at their discretion as and when they feel necessary.

#### Housing Scrutiny Sub Committee

The Housing Scrutiny Sub-Committee, is Chaired by myself as part of Performance Scrutiny It was established in 2008 to increase engagement between backbench Members and Tenant Advisory Panel representatives. The Sub-Committee has continued to meet and tenants on the Committee consider that it has helped them



have their say when scrutinising housing matters. The Committee met six times during 2016/17.

The Committee considered many reports, including reports on the following topics:

- Tenant Involvement and Empowerment Strategy 2014-17
- Lincoln Tenants Panel Annual Report
- Annual Report to Tenants and Leaseholders 2015/16
- Improvements in ASB Case Management 2015/16
- New Build Strategy and Progress
- Housing Repairs and Maintenance Policy and Rechargeable Repairs Policy
- Housing Investment Programme.
- Home! Magazine Editions 2017-Article Planning

The Committee also effectively scrutinised Housing performance on a quarterly basis and received regular updates on the progress of the Lincoln Tenants Panel.

In summing up, thank you to all those on the Committee, both members and Officers who have helped make my role as Chair a pleasure to have performed this year. I can't let this opportunity pass without giving a special thanks to my Vice Chair Councillor Tony Speakman who has put so much of his self into this committee and helped and supported me in all matters where we have strived to get a better understanding of the workings of the Council to the benefit of the Committee. As a team we have always held pre meetings to go through agendas with officers to help members by providing questions they may like to follow up at the meetings, indeed these meetings have been known to last nearly as long as the Committee itself

I would also like to thank Eric Jenkinson who as recently stepped down as the Chair of the Tenants Panel for all his work as Chair of the Panel and on various Tenants Service Panels. He has helped those in Council Housing in various ways, too many to mention. In my role as Chair of Housing Scrutiny it has been a pleasure to work alongside him.

I wish Tony (Councillor Speakman) well when he leaves the Council next May and Eric (Jenkinson) well in his retirement moving forward.

**Councillor Gary Hewson**  
**Chair of Performance Scrutiny Committee**

This page is intentionally blank.

**COUNCIL**

**5 DECEMBER 2017**

**REPORT UNDER RULE 2(VI) OF THE COUNCIL PROCEDURE RULES**

**Report by Councillor Neil Murray, Portfolio Holder for Planning Policy and Economic Regeneration**

**ECONOMIC REGENERATION AND PLANNING POLICY.**

Economic Regeneration remains pivotal amongst the council's main objectives. We have made great progress on major projects and are delivering on longstanding ambitions.

**WESTERN GROWTH CORRIDOR**

We have had to delay a planning application for the Western Growth Corridor to do more work on the Highway aspects of the proposals. The project remains vitally important if we are to build the houses people need to live in and if we are to have better leisure facilities in Lincoln fit for the 21st century.

**PARKING IN LINCOLN/TRANSPORT HUB**

The Central Lincoln car park is now open. This gives greater choice to shoppers and commuters coming into Lincoln and replaces a tired and out of date facility. It also helps to regenerate the whole area along with the bus station and the works by the Co-op in the Sincil Street/Cornhill area.

**REGENERATION IN PARK WARD**

A good deal of work has gone into creating a better future for the Sincil Bank part of Park ward. I am hoping that residents will support a number of projects which different bodies have come up with.

**RESIDENTS PARKING**

Part of the problem with the Sincil Bank area is that road surfaces are in a very poor condition and, at the moment, the area is used as a free car park by commuters and shoppers. I hope the Highway Authority will work with us to improve the parking and street surface situation. The area needs an uplift in the way it looks and how it is perceived by others. I was pleased to see that the Highway Authority has recently made a start by resurfacing Chelmsford Street.

**CHRISTMAS MARKET**

This time last year I was looking forward to a successful Christmas Market and I was not disappointed. It was an excellent event because of the huge amount of good work done by our staff over the course of a year. I am confident we can maintain that high standard of event again this year. Costs will be higher this year but I hope people will enjoy the market and the Christmas season.

## HERITAGE

Work is continuing on the council's new Heritage database. We are the first English local authority to adopt the ARCADE system which will provide the public with online access to heritage data, including records of historic buildings, archaeological discoveries, historic maps and a library of photographs and reports. Our officers are working with the Los Angeles based Getty Conservation Institute and Heritage England and it is hoped that the service will be available to the public next summer.

Our conservation areas have not been reviewed for some considerable time and we will be looking at conservation area "character zones". A fresh look will better inform the planning process and recognise how the city has changed over time.

The Council has been successful in enforcing planning law in relation to an historic building and we are trying to bring another into occupation. It is important we do this to protect our historic environment and respect the law. We could do so much more but are hampered by the Austerity programme of Central Government which prevents us doing more to look after our historic environment.

**Councillor Neil Murray**

**November 2017**

**Executive Member for Planning Policy and Economic Regeneration**

**SUBJECT: COMMUNITY INFRASTRUCTURE LEVY**

**DIRECTORATE: COMMUNITIES AND ENVIRONMENT**

**REPORT AUTHOR: TOBY FORBES TURNER, PRINCIPAL PLANNING OFFICER**

## **1. Purpose of Report**

1.1 To advise Council on the current programme in respect of progressing Community Infrastructure Levy (CIL) adoption by the Authority namely:

- Recommend that Council approve the modifications as set out in the City of Lincoln Council CIL Examination Report (Appendix 1) to the Draft Charging Schedule;
- Recommend that Council Incorporate those modifications into the City of Lincoln Council CIL Charging Schedule;
- Recommend that Council adopt the amended City of Lincoln Council CIL Charging Schedule (Appendix 2);
- Recommend that the supporting policies in Appendix 3 (Regulation 123 List, Instalments and In-Kind policies) be approved by Council;
- Recommend to Council that the CIL Charging Schedule be implemented by the City of Lincoln Council on a date as soon as is practicable on or after 1 January 2018.
- Recommend that Council incorporate this additional function within its Constitution.

## **2. Executive Summary**

2.1 Further to previous reports to both Policy Scrutiny and Executive Committees on the City Council's CIL programme, Council are requested to consider the requirements on what is effectively the final stages of CIL process-namely adoption of CIL.

2.2 Following the Examination hearing into the City Council's CIL Draft Charging Schedule which took place on Friday 3<sup>rd</sup> March 2017, the CIL Examiner produced his report on 24<sup>th</sup> May 2017 (see Appendix 1) which concluded that subject to the recommended modifications the *"The City of Lincoln Council draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area"*.

- 2.3 Following the CIL Examiner's report and subject to member approval, the City Council is therefore in a position to adopt a CIL Charging Schedule.

### 3. Background

- 3.1 The Authority has duties and responsibilities as Charging and Collecting Authority in the setting of a District Community Infrastructure Levy (CIL) as set out in the Community Infrastructure Levy Regulations 2010 (as amended).
- 3.2 By way of reminder, the City Council has been in the process of progressing with CIL since 2013 with the following Executive committee decisions having been taken as follows:

Committee	Date	Report Recommendation
Executive	15 April 2013	<ul style="list-style-type: none"><li>• Approve Preliminary Draft Charging Schedule, draft instalments policy</li><li>• Agree continued partnership approach to CIL</li><li>• Endorse partnership approach to 123 list</li></ul>
Executive	25 Sept 2013	<ul style="list-style-type: none"><li>• Approve Draft Charging Schedule (DCS) and draft 123 list for public consultation</li><li>• Approval that officers continue to develop 123 list and CIL in partnership</li><li>• Approval for Joint CIL exam with NKDC &amp; WLDC</li></ul>
Executive	28 Sept 2015	<ul style="list-style-type: none"><li>• Withdraw previous DCS and associated documents (as previously agreed at 23<sup>rd</sup> Sept 2013 Exec)</li><li>• Approve new PDCS, charging zones, in kind policy, payments and draft 123 list</li></ul>
Executive	14 March 2016	<ul style="list-style-type: none"><li>• Approve DCS and associated documents (draft 123 list, draft instalments policy, draft in kind payment policy) for formal consultation in April/May 2016</li><li>• Grant delegated authority to the DCE for minor amendments to DCS and docs if required prior to consultation</li></ul>
Executive	April 2016	<ul style="list-style-type: none"><li>• Approve City of Lincoln DCS for consultation May 2016 and associated documents, 123 list, instalments, in kind payment</li><li>• Approve aligned CIL with NKDC &amp; WLDC</li></ul>

Executive	26 September 2016	<ul style="list-style-type: none"> <li>That authority be delegated to the Chief Executive to authorise specified officers to attend at any examination hearing into the CIL Draft Charging Schedule to make representations on behalf of the Authority to support the progress of the CIL Draft Charging Schedule through the examination process</li> </ul>
-----------	-------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

- 3.3 The Examination hearing into the City of Lincoln Council CIL Draft Charging Schedule took place on 3<sup>rd</sup> March 2017. At the hearing session, the CIL Examiner explored a list of mandatory questions to satisfy himself that the CIL rates proposed met legislative requirements and are set at a viable rate. His findings, which he presented in a non-technical summary at the start of the City of Lincoln CIL Examination report were:

*“This report concludes that subject to recommended modifications the City of Lincoln Council draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area.*

*In summary 5 modifications are recommended to the Draft Charging Schedule as follows:*

- Provide additional inset maps at a larger scale showing the location of the sustainable urban extensions;*
- Amend the rate for new residential development in Zone 1 to £25 per square metre;*
- Amend the rate for new residential development in Zone 2 to £20 per square metre;*
- Amend the description of Zone 2 to read “Developments at Western Growth Corridor and North East Quadrant sustainable urban extensions”; and*
- Add a column for apartments and deleting the text “Applicable to whole district” from the header.*

*Subject to these modifications the Council is able to demonstrate that it has sufficient, appropriate evidence to support the Schedule. The Schedule will strike an appropriate balance between the desirability of funding necessary infrastructure whilst ensuring that it does not put at risk the viability of development in the area as set out in the Central Lincolnshire Local Plan.”*

- 3.4 The recommended revised CIL charging rates are therefore as follows:

For Residential Development

Zone 1:	Lincoln Strategy Area	£25 per square metre
Zone 2:	SUE's (WGC & NEQ)	£20 per square metre

## For Convenience Retail

£40 per square metre

- 3.5 The modifications to the CIL proposed rates were not unexpected and are in line with those that were recommended by the CIL Viability Study Consultants. It is therefore recommended that the modifications above are incorporated into the CIL Charging Schedule in order to meet the legislative requirements of section 212 of the Planning Act (2008) and thus allowing the Charging Schedule to be Adopted.
- 3.6 Members should note that the Examiner's report is not binding. However, the CIL Charging Schedule will not be legally compliant without the recommended modifications being incorporated.
- 3.7 Following the Examiners report, officers in liaison with colleagues from West Lindsey, North Kesteven and Lincolnshire County Council have produced some indicative projected CIL income figures based on the revised CIL rates. These figures are based on many assumptions including forward projecting housing delivery rates and therefore they should not be taken out of context e.g. development rates taking place over the next 18 years which could be higher or lower than assumed.
- 3.8 For the City it is estimated that CIL income will be in the region of £7.9M (up to 2036) which equates to approximately £440,000 per year. The majority of that £440,000 will be used to contribute to agreed Central Lincolnshire Strategic Infrastructure priorities, the Lincoln Eastern Bypass and secondary education to support the planned Growth (Regulation 123 List). CIL Regulations allow charging authorities to use up to a maximum of 5% of the funds from CIL to recover the costs of administering the levy.
- 3.9 CIL regulations (Reg 59A) require that 15% of CIL receipts (25% where there is a neighbourhood plan in place) are passed onto local council's e.g. Parish or Town Councils. Where there are no local council's as in the City, CIL Regulation 59F requires the Local Authority to use 15% of CIL to support the development of the relevant area by funding the *"the provision, improvement, replacement, operation or maintenance of infrastructure"* or *"anything else that is concerned with addressing the demands that development places on an area"*.
- 3.10 For the City, officer's estimate that in the region of £1.18M (up to 2036) will be generated from CIL income which will be available to distribute to support local infrastructure work. A decision needs to be made about how in practical terms the funds are distributed in the City and a report with options on how funds could be managed and spent will be presented to Executive in early 2018.
- 3.11 Looking at how other Local Authorities in a similar position to the City have dealt with the process, Sheffield City Council has decided to allocate local CIL income to individual Wards and made use of Local Area Partnerships as a mechanism for making decisions on how to spend the funds. In Camden following consultation with local communities, ward members produced Local CIL Priority Lists for each ward which guided future spending of local CIL funds. A decision on administration



options for the community proportion will be subject to a further Report to Members.

- 3.12 The CIL recommendations were approved by Executive at their meeting on 30 October 2017 (see Appendix 4) and CIL went before Policy Scrutiny Committee at their meeting on 10<sup>th</sup> October 2017 (see Appendix 5). Planning Committee also considered the CIL paper at their meeting on 11<sup>th</sup> October (see Appendix 6).

#### 4.0 **Implementation of CIL**

- 4.1 Subject to Council adopting CIL, it is required to;

- Set a formal implementation date;
- Publish the charging schedule and Examiner's report on its website and in Council Offices and Local Access points; and
- Give notice to the public, including press advertisement, other authorities and CIL consultation respondents of its intention to commence charging CIL and where the Charging Schedule information can be inspected.

- 4.2 The Charging Schedule can be implemented as soon as practicable following adoption. However there are a number of issues for Members to consider.

- 4.3 Firstly, administrative and procedural processes will need to be implemented before CIL can be accurately and legally collected. Much of this is around the accurate notification, calculation, collection, distribution and monitoring of CIL. Implementation of CIL will fall to officers within the Development Management Team as it makes practical sense to align CIL charging, collection, monitoring and enforcement with Development Management functions. Members should note there will be a need to review the Constitution and a CIL Enforcement Policy will need to be produced.

- 4.4 Secondly there will be a number of submitted planning applications with S106 agreements in draft stage that will become liable to pay a CIL charge at implementation, even though the application was submitted before the CIL regime was in place. This could be considered unreasonable by applicants, if sufficient time is not given between adoption and implementation. Also there is a risk that it could lead to a flurry of rushed applications being submitted 'last minute' to beat the CIL implementation deadline.

- 4.5 Thirdly, CIL has been developed with the other Central Lincolnshire Charging Authorities (North Kesteven and West Lindsey District Councils). It would therefore seem appropriate to work to as closely an aligned implementation date as possible across the three Central Lincolnshire Charging Authorities if possible. North Kesteven adopted CIL in July 2017 and West Lindsey are targeting adoption for Nov 2017. The City's CIL report recommending adoption will be going before Executive on 30<sup>th</sup> October then Full Council on 5<sup>th</sup> December 2017.

- 4.6 It is suggested that a reasonable period of notice between adoption and implementation is considered, which would mean implementation is likely to be in January 2018. This will allow sufficient time for advertising and notification of developers about to submit a planning application. The 13 week lead in time will

also allow major planning applications, particularly for those where the process of S106 negotiations have commenced, to be determined. However, the final implementation date will be influenced by the desire to be aligned with the other Central Lincolnshire Charging Authorities as much as possible.

- 4.7 Finally, it is worth bearing in mind that the government commissioned an independent review of CIL in November 2015 *“to assess the extent to which CIL does or can provide an effective mechanism for funding infrastructure, and to recommend changes that would improve its operation in support of the government’s wider housing and growth objectives”*. The review was informed by the research undertaken by Three Dragons / University of Reading and a consultation questionnaire. The research examined the amount of revenue CIL is raising, the types of development that are paying CIL, impacts on viability and the operation of the neighbourhood share of CIL.
- 4.8 The independent review group submitted their report to ministers in October 2016 and considered four possible options going forward-do nothing, abolition, minor reform of CIL and more extensive reform. The panel favoured the option of more extensive reform and specifically recommended that CIL should be replaced with a hybrid system of a broad and low level ‘Local Infrastructure Tariff (LIT) and Section 106 for larger developments.
- 4.9 Government are set to announce how they intend to reform CIL in the forthcoming Autumn Statement due in November 2017 and clearly this will have implications for all Local Authorities including the City and members will be kept informed on the situation and identify what action may need to be taken.

## **5. Strategic Priorities**

### **5.1 Let’s drive economic growth**

The Central Lincolnshire Local Plan is a ‘growth led’ plan providing a positive planning framework to promote and support sustainable growth of the City and its local economy with CIL being a key component in the provision of funds to provide infrastructure to support growth.

### **5.2 Let’s reduce inequality**

The Local Plan objectives support the reduction of poverty and disadvantage. In line with Regulation the authority will be required to pass a ‘meaningful’ proportion of CIL receipts to suitable neighbourhood groups for use on infrastructure identified as important by the local community. Where there are no established Local Councils, District Councils are asked to spend this in consultation with local communities.

### **5.3 Let’s deliver quality housing**

Growth and development of the general housing market is a positive step in increasing the supply of all forms housing. The CIL Regulations provide for full relief from the CIL charge for any part of a development which is affordable housing (and includes social and affordable rent and shared ownership).

#### 5.4 Let's enhance our remarkable place

Implementation of CIL will help support the development of the City and ensure contributions toward infrastructure can be used to improve Lincoln as a place.

### 6. **Organisational Impacts**

#### 6.1 Finance (including whole life costs where applicable)

The agreement of projects within the Regulation 123 list will remove the ability to raise Section 106 funding for these projects. Section 106 agreements will continue to be used for direct mitigation of site-specific impacts while CIL income will be used to fund the delivery of larger strategic items as identified on the Regulation 123 list.

#### 6.2 Legal Implications including Procurement Rules

Subject to adoption and the implementation date, CIL becomes a mandatory charge on all eligible development. The Council has; and will need to, comply with the 2008 Planning Act and 2010 CIL Regulations (as amended), in the implementation, collection, monitoring and distribution of CIL, and amend the Constitution to include this function.

#### 6.3 Land, property and accommodation

CIL will be applicable on all eligible development once adopted.

#### 6.4 Human Resources

The recommendations in this report, if approved, will require time officer time to implement which is able to be resourced in the current structure.

#### 6.5 Equality, Diversity & Human Rights

Equality implications have been carefully considered. Whilst a full assessment has not been carried out the introduction of CIL helps to support and deliver sustainable growth and development in the city. It is therefore promoting equal access to housing and employment and has no negative impact on those who exhibit a protected characteristic.

### 7. **Risk Implications**

#### 7.1 (i) Options Explored

A not adopting CIL option has been considered through the Central Lincolnshire Strategic Group (CLSG) and the recommendation to not proceed with this option agreed, on the basis that such would significantly weaken the ability to support the infrastructure needs resulting from the planned Growth in the Central Lincolnshire, particular in respect of delivery of the Eastern Bypass and Secondary School provision.

7.2 (ii) Key risks associated with the preferred approach

The key risk of implementing a CIL charge is the potential negative impact such may have on development delivery. The current charge rates have been set in the context of a comprehensive viability assessment and developer consultation and are viewed as viable in the current market. These rates have subsequently been found appropriate and proportionate by the CIL Examiner. Rates of development will be monitored and reported annually in the Authority Monitoring Report post adoption of CIL, and any review of the CIL charge considered if required.

## 8. Recommendations

Council is recommended to:

- Approve the modifications as set out in the City of Lincoln Council CIL Examination Report (Appendix 1) to the Draft Charging Schedule;
- Incorporate those modifications into the City of Lincoln Council CIL Charging Schedule;
- Adopt the amended City of Lincoln Council CIL Charging Schedule (Appendix 2);
- Approve the supporting policies in Appendix 3 (Regulation 123 List, Instalments and In-Kind policies);
- Implement the CIL Charging Schedule on a date as soon as is practicable on or after 1 January 2018.
- Incorporate this additional function within its Constitution.

**Is this a key decision?**

Yes

**Do the exempt information categories apply?**

No

**Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply?**

No

**How many appendices does the report contain?**

6

**List of Background Papers:**

None

**Lead Officer:**

Toby Forbes Turner, Principal Planning Policy Officer  
Telephone (01522) 873804

---

# Report to the City of Lincoln Council

**by Matthew Birkinshaw BA(Hons) MSc MRTPI**

**an Examiner appointed by the Council**

**Date: 24 May 2017**

---

PLANNING ACT 2008 (AS AMENDED)

Section 212(2)

## **REPORT ON THE EXAMINATION OF THE DRAFT CITY OF LINCOLN COUNCIL COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE**

Draft Charging Schedule submitted for Examination on 15 July 2016

Examination Hearing held on 3 March 2017

File Ref: PINS/M2515/429/3

## **Non-Technical Summary**

This report concludes that subject to recommended modifications the City of Lincoln Council draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area.

In summary 5 modifications are recommended to the Draft Charging Schedule as follows:

- Provide additional inset maps at a larger scale showing the location of the sustainable urban extensions;
- Amend the rate for new residential development in Zone 1 to £25 per square metre;
- Amend the rate for new residential development in Zone 2 to £20 per square metre;
- Amend the description of Zone 2 to read "*Developments at Western Growth Corridor and North East Quadrant sustainable urban extensions*"; and
- Add a column for apartments and deleting the text "*Applicable to whole district*" from the header.

Subject to these modifications the Council is able to demonstrate that it has sufficient, appropriate evidence to support the Schedule. The Schedule will strike an appropriate balance between the desirability of funding necessary infrastructure whilst ensuring that it does not put at risk the viability of development in the area as set out in the Central Lincolnshire Local Plan.

## Introduction

1. This report contains my assessment of the City of Lincoln's draft Community Infrastructure Levy ('CIL') Charging Schedule in terms of Section 212 of the Planning Act 2008 (as amended). It considers whether or not the Schedule is compliant in legal terms, and then whether it is economically viable, as well as reasonable, realistic and consistent with national planning policy and guidance.<sup>1</sup>
2. To comply with the relevant legislation the local charging authority has to submit a charging schedule which sets an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development in the area.
3. The starting point for the examination is the draft Charging Schedule ('DCS') submitted on 15 July 2016. A hearing was held on 3 March 2017 to examine the Council's evidence and the rates proposed.
4. As submitted the DCS proposes two Zones with two different rates for new residential development. Zone 1 covers the City of Lincoln administrative boundary, which also forms part of the Lincoln Strategy Area ('LSA') as defined in the *Central Lincolnshire Local Plan* ('CLLP'). Within Zone 1 a rate of £30 per square metre is proposed. Excluded from this area, and falling within Zone 2 are the Western Growth Corridor and North East Quadrant Sustainable Urban Extensions ('SUEs'). A rate of £25 per square metre is proposed for the SUEs.
5. Across both zones the DCS proposes a rate of £40 per square metre for convenience retail, whilst all other uses, including apartments are nil rated.
6. The City of Lincoln DCS has been prepared alongside the schedules for West Lindsey District Council and North Kesteven District Council. Although each one has been examined individually, the three local authorities have worked collaboratively and share the same evidence base<sup>2</sup>.

## Assessment of Compliance with the Act and Regulations

7. The Council consulted on the initial DCS for a period of four weeks from 19 May 2016 to 16 June 2016 as required by the Regulations. The draft Regulation 123 List, draft Instalments Policy and draft Payments In-Kind Policy were also published as part of this consultation, in addition to the relevant evidence-based documents<sup>3</sup>. Following this consultation the Council has provided a Statement of Representations as required by regulation 19(1)(b) of the Community Infrastructure Levy Regulations (2010) (as amended).
8. Regulation 12(2)(c) also requires that where a charging authority sets differential rates a map must be produced which meets certain criteria. This includes identifying the location and boundaries of the different zones.

---

<sup>1</sup> As set out in the National Planning Policy Framework and the National Planning Practice Guidance

<sup>2</sup> Document GEN101

<sup>3</sup> Documents CITY001 – CITY005 and GEN101 – GEN103

9. The clarity of each zone is discussed below. However, for the purpose of the Regulations the Council has produced a map which distinguishes between different zones. This is based on an ordnance survey base, contains grid lines and meets the requirements of Regulation 12(2)(c).

**Is the DCS supported by background documents containing appropriate available evidence?**

*Infrastructure Planning Evidence*

10. Examination of the CLLP has recently been completed and the Plan was adopted on 24 April 2017. It is a joint Local Plan which covers the local planning authority areas of the City of Lincoln Council, West Lindsey District Council and North Kesteven District Council. It has been prepared by the Central Lincolnshire Joint Strategic Planning Committee in a formal partnership between the three authorities and Lincolnshire County Council. The plan sets out the main areas of growth that will need to be supported by new infrastructure across Central Lincolnshire and provides an appropriate basis for CIL in the three local planning authority areas.
11. The Infrastructure Delivery Plan<sup>4</sup> ('IDP') sets out the relevant infrastructure required to support the amount and location of development identified in the CLLP. In summary, it states that the greatest need for investment relates to the provision of the Lincoln Eastern Bypass ('LEB') and secondary/6<sup>th</sup> form education.
12. The LEB has been identified by the Council as a key piece of infrastructure that will help facilitate the delivery of growth in Central Lincolnshire. In particular, it will allow sites such as the NEQ to come forward and deliver significant new housing close to Lincoln City Centre. The socio-economic advantages of the by-pass will also be wider, as it will provide benefits to existing residents and businesses throughout Lincoln, North Kesteven and West Lindsey. Assessing the funding gap and the contribution that CIL will make to the shortfall as a whole (rather than a requirement for each charging authority) is therefore reasonable in this particular instance.
13. It is estimated that the LEB will cost around £96m. Of this total roughly £50m will be provided by the Department for Transport, with an additional £12m from a Lincolnshire County Council grant. A further £2.8m is likely to come from developer contributions through existing Section 106 Agreements. This leaves a funding gap of approximately £31.2m.
14. It has been suggested that because the project is already underway the LEB must have funding in place for its completion, and therefore no gap exists. However, during the examination the County Council confirmed that because the LEB is a priority the funding shortfall will be met by borrowed capital in the short-term to ensure that the scheme can go ahead. By relying on finance that the County Council does not currently have, a funding gap therefore still exists which CIL receipts will help contribute towards.
15. In terms of secondary education and 6<sup>th</sup> form provision the IDP identifies a shortfall of £86.1m for Lincoln, £17.2m for Sleaford, £16.2m for Gainsborough

---

<sup>4</sup> Document GEN102



and £9.4m for the rural areas. The total funding gap across Central Lincolnshire therefore amounts to approximately £128.9m.

16. As with the LEB, the estimated cost of secondary and 6<sup>th</sup> form education provision has not been broken down by each local authority. Although it is possible to compare individual school capacity with proposed developments, the geography of Central Lincolnshire is such that students often live in one area and attend school in another. For example, parts of North Hykeham form part of Lincoln's urban area but fall within North Kesteven. When also taking into account that development has been planned on a joint basis through the CLLP, this approach is reasonable.

#### Conclusion on Infrastructure Planning Evidence

17. When combined, the estimated cost of funding the Regulation 123 list items amounts to around £160.1m. In comparison, the IDP suggests that the housing growth in the CLLP is likely to yield around £35m from CIL based on assumptions regarding unit sizes. An alternative amount of approximately £39m across the plan area is identified in the Projected CIL Income paper<sup>5</sup>. But even using the higher value, the contribution that *this* CIL is expected to make, alongside similar levies in West Lindsey and North Kesteven would only be very modest.
18. In conclusion therefore, the information provided clearly points to a need to introduce the levy.

#### *Economic Viability Evidence*

19. The Council's viability evidence is set out in the *Central Lincolnshire Local Plan and Community Infrastructure Levy Viability Study 2016*<sup>6</sup> ('VS'). The approach taken to the viability assessments is based on a residual value methodology. This attributes a value to a range of different developments and deducts any associated costs such as land acquisition, construction, external works, fees, contingencies, finance, planning policy costs and planning obligations. An allowance for developer profit is included and the difference between the development value and the total cost is the maximum amount that could be charged for CIL whilst ensuring that development remains viable. Alongside the IDP and information provided by representors this is the main source of evidence relating to viability.

#### Site size and density

20. The starting point for the VS is to consider a suitable range of sites that reflect the type of development likely to come forward in the area. This has been done by reviewing sites which informed the CLLP in the *Strategic Housing and Economic Land Availability Assessment* ('SHELAA'), past delivery and discussions with developers at workshops. In summary, the VS tested greenfield sites with capacity for 3, 4, 5, 10, 35, 100 and 300 dwellings, in addition to SUEs with a standardised size of 2,000 units. An addendum was also produced in May 2016 which looked at greenfield sites of 1,000 houses.

---

<sup>5</sup> Document GEN103

<sup>6</sup> Document GEN101

21. Across all the greenfield sites a density of 35dph was used. Evidence provided by a representor for the hearing session confirms that the density assumptions are broadly correct when applying the same net site area. The brownfield scenarios considered sites with a capacity for 20 and 50 units at a higher density of 40dph, in addition to a scheme for 50 flats at 65dph.
22. Although variations will no doubt occur on individual sites, overall the typologies used in the VS and assumptions regarding net developable areas and densities are reasonable. For the purposes of this assessment they adequately reflect the size and scale of development likely to come forward in the area through the CLLP.

#### Dwelling size

23. Average sizes for detached and semi-detached houses throughout Lincoln, Gainsborough, Sleaford and the rural areas of North Kesteven and West Lindsey are included in the VS. The data is based on properties for sale in March 2015 and shows considerable variations throughout Central Lincolnshire. For example, the average size of a dwelling in Gainsborough was 85 square metres, whereas in Sleaford it was 110 square metres. Because the VS seeks to assess viability on a plan-wide level a generic house size of 95 square metres was used. This represents the mid-point size across a range of house types throughout Central Lincolnshire, excluding Lincoln City Centre apartments.
24. Evidence submitted by a representor suggests that local developers are not achieving such sizes, with market housing typically around 87 square metres per unit. But this is only based on an assessment of 5 sites. Whilst I appreciate that not every house built over the plan period will measure 95 square metres, it is a reasonable starting point upon which to base the VS. It is also based on proportionate available evidence.

#### Sales values

25. Different values have been provided for Lincoln, Gainsborough, Sleaford and rural North Kesteven/West Lindsey. Separate values for apartments in Lincoln, the LSA and West Gainsborough have also been included. In summary, this demonstrates that the highest sales values<sup>7</sup> are typically found in Lincoln and the LSA (which includes the surrounding villages), with the lowest values in West Gainsborough.
26. The values have been derived from analysing around 2,000 new properties included on the Land Registry database between 2012 and 2015. Asking prices from the website 'Rightmove' have also been used. Although the latter does not give a true reflection of the final sales price, Land Registry data does not provide the full picture either as it does not include information such as the size or condition of a property. Using both sources of data, combined with input from the developer forums represents a sound yet proportionate methodology. Based on discussions with developers a cautious approach to the higher sales values in the LSA was also taken by applying a discount of up to 10%.

---

<sup>7</sup> Examiner's Note: Expressed as £ per m<sup>2</sup>

## Land Values

27. Paragraph 173 of the Framework states that to ensure viability, the costs of development should provide competitive returns to a willing landowner and willing developer to enable development to be deliverable. A critical part of this process is ensuring that land can come forward for new development.
28. The VS compares the residual value of each development scenario against a threshold land value ('TLV'), or the value that a willing landowner is likely to release a site for development. For generic (non-strategic) scenarios other sites have been assessed to help reach an informed judgement on the value of a typical, fully serviced plot. Due to the lack of publically available data concerning land transactions the VS has used asking prices for a range of sites and 'sense-checked' values through the developer workshops. Values are expressed as £ per net developable hectare and range from £500,000 for a fully serviced plot in Gainsborough, Sleaford and the rural areas to £680,000 for a greenfield site in the LSA. Given the limited amount of transparent evidence available, and considering that no alternative assessment has been provided on the same scale, the TLVs for the non-strategic sites are reasonable. They also reflect the fact that sales values are typically higher within the LSA than elsewhere in Central Lincolnshire.
29. For the SUEs a different approach has been used. It is based on the existing agricultural value of the land multiplied by 10. This is intended to reflect a premium above the existing use value that would provide a competitive return to a willing landowner to enable a site to come forward for development. Paragraph C.1.12 of the VS states that:

*"As a 'rule of thumb' it is generally accepted in the development industry that landowners can anticipate a return of between 10 and 20 times the agricultural value of the land. This is supported by the HCA Viability toolkit assumptions (2010 Annex 1 'Transparent Viability Assumptions')".*
30. Using this methodology a review of sales values in the wider area suggests that typical low grade agricultural land is expected to cost between £20,600 and £25,700 per gross hectare (or roughly £8,300 - £10,400 per gross acre). These values are intended to reflect the existing use of the SUEs and have been multiplied by 10 to provide the landowner with an incentive to sell. This is regarded as the minimum value that would be expected, and the VS has used a figure of £210,000 per gross hectare (or approximately £85,000 per gross acre).<sup>8</sup> Converted into a net figure (consistent with non-strategic sites) results in an un-serviced TLV of £300,000 per hectare for the SUEs.
31. Trying to determine how much above an existing use value would be sufficient to bring forward strategic sites for development is inherently difficult. Sites vary in terms of their location and market attractiveness, as do landowners' expectations. In this particular case no alternative methodology has been provided either, and there is no comparable data available in the public domain relevant to Central Lincolnshire.

---

<sup>8</sup> Examiner's Note – The figures in the residual appraisal summaries in Appendix F of Document GEN101 are based on a net site area, and are therefore different to the TLVs in Table 6.3

32. However, different representors throughout the process, from the developer workshops to consultation on the DCS, have all expressed concerns that the TLV of £85,000 per gross acre is too low. I am also mindful that the SUEs around Lincoln represent large areas of predominantly open land, allocated for residential-led mixed-use development in the CLLP, on the edge of the City where house prices and demand is strong. Both SUEs have also been progressing through the planning system for a significant period of time and site promotion costs will have been incurred which need to be factored in. Although the Council controls part of the Western Growth Corridor and can borrow capital at more competitive rates, there are other landowners to consider. It is also reasonable to assume that despite wanting to see development come forward, the Council would also wish to secure best value for the site.
33. As a consequence, although £85,000 per gross acre is a reasonable minimum TLV, it is possible that this figure could be higher. Furthermore, paragraph 6.3.26 of the VS confirms that *"It is important to appreciate that assumptions on threshold land values can only be broad approximations subject to a wide margin of uncertainty."* In the absence of any transactional evidence relating to strategic sites it is therefore important to incorporate a suitably sized buffer in setting the CIL rates for the SUEs.

#### Section 106 and Site Opening up Costs

34. The VS includes an allowance for Section 106 costs of £2,000 per dwelling on non-strategic sites, and £4,300 per dwelling for the SUEs. The generic site cost is based on an assessment of completed Section 106 agreements with an average of infrastructure contributions excluding the LEB and secondary/6<sup>th</sup> form education.
35. It is possible that some sites may have contributed more in the past through Section 106 Agreements. Others may have contributed less. But no assessment on a comparable scale has been provided to indicate that the figure used for non-strategic sites in the VS is fundamentally wrong. The Hearing Statement provided by Chestnut Homes indicates that assuming CIL is in place, the average Section 106 cost across 5 of their sites would be £2,177. This aspect of the VS is therefore broadly accurate.
36. Section 106 costs associated with each of the SUEs are set out in the IDP.<sup>9</sup> It lists items of infrastructure likely to be required which are not covered by CIL. For the NEQ the Section 106 costs are estimated to be around £6.9m in total, which includes a contribution of £900,000 towards the LEB already secured as part of Phase 1.<sup>10</sup> The total anticipated Section 106 cost would therefore be £4,929 per dwelling, or £4,286 per dwelling without the LEB contribution (as the scheme would not be expected to contribute twice). The figure of £4,300 per dwelling used in the VS is therefore reasonable. No site specific evidence has been submitted to indicate that a different value should have been used.
37. For the Western Growth Corridor the table in Appendix 1C of the IDP has been presented slightly differently, and includes highways infrastructure as a

---

<sup>9</sup> Document GEN102 Appendix 1C

<sup>10</sup> Examiner's Note: Outline planning permission has been granted for Phase 1 with a contribution towards the LEB secured by a Section 106 Agreement.

Section 106 cost. At roughly £17.8m (net) for 3,200 houses this alone exceeds the £4,300 per plot figure in the VS. However, at the hearing the Council advised that the bulk of this cost relates to the construction of new bridge links to gain access to the site, and should more accurately be included as a site opening-up cost, rather than a Section 106 cost.

38. Site opening-up costs have been attributed a separate value of £10,000 per plot in the VS. This is based on consultation with site promoters and agents who suggested that a range of £6,000 - £10,000 per plot would be reasonable. A review of viability assessments associated with approved SUEs in the area endorsed this view. Given the varying degree of works likely to be required across the SUEs in respect of utilities, drainage and highways connections, adopting the higher figure of £10,000 per plot is reasonable.
39. Deducting the £17.8m highways costs from the table in the IDP, and treating it as a site opening-up, rather than Section 106 cost, leaves a total planning obligation contribution of £16.3m. This excludes any costs associated with the Lincoln Park & Ride which is not a policy requirement in the CLLP, and results in an estimated Section 106 cost of £5,094 per plot as illustrated in the IDP. Although values could change as more details become known, the evidence provided in the IDP therefore points to a slightly higher cost per plot than has been accounted for in the VS. This further emphasises the importance of incorporating a suitable viability buffer to account for any variations in the cost of providing items of non-CIL infrastructure such as primary school and healthcare provision.
40. At the hearing session the Council advised that the £2.5m attributed to flood mitigation could also be considered as a site opening up cost. However, this includes work such as raising land levels, upgrading drainage systems and improving management practices. It is therefore necessary to mitigate the effects of flooding, rather than open the site up for development in the same way as a new bridge or road access.

#### Developer Profit

41. The VS refers to developer profit as a percentage of GDV for both market and affordable housing. This represents common practice and was used by the majority of representors at the hearings for all three charging authorities.
42. During the workshop in February 2015 participants discussed using 20% for market housing and 6% for affordable housing. In contrast, the final VS adopts a figure of 17.5%. This is based on the average figure that housebuilders have been prepared to accept in the region as cited at an RICS 'Case Study Analysis' event.
43. Although it relates to data from August 2013, no alternative sources of information have been provided to substantiate comments that a significantly higher percentage is more representative of market conditions. Subject to incorporating a healthy buffer it is a reasonable figure to use in this instance.

#### Planning Policy Costs

44. The VS includes a breakdown of costs associated with each of the policies in the CLLP. One exception is the requirement to meet the higher water consumption standard of 110 litres per occupier per day. Nonetheless, at the hearing it was agreed that the figure of roughly £9 per dwelling in the

Council's Statement broadly reflects the cost associated with meeting this standard. In the context of the overall costs of constructing a new house this is highly unlikely to make schemes unviable.

45. At the time the VS was prepared in April 2016 draft Policy LP11 of the CLLP required affordable housing to be provided on all qualifying housing sites of 4 or more dwellings. MMs advanced during the examination of the plan amended Policy LP11 which now requires affordable housing on sites of 11 or more units in accordance with the PPG<sup>11</sup>. However, this will have the effect of making developments of between 5 and 10 dwellings *more* viable. This is evidenced by the appraisals in the VS which tested a 0% affordable housing requirement on sites of 5 and 10 dwellings on greenfield sites.

#### Other Costs

46. Build costs are based on the Building Cost Information Service (BCIS) median figures. Median costs have been used rather than a mean figure to discount any abnormalities. Although the data is from February 2015, it was agreed at the hearing that increases in material costs are likely to have been offset by increases in sales value, as evidenced in the Council's Matter 2 Statement. The data is therefore robust.
47. Applied to the BCIS build costs is a contingency rate of 5% and allowance for external works equivalent to 10% on all residential development. No evidence has been provided to suggest that this is not representative of development schemes in the area. Similarly, I am satisfied that an 8% allowance on build costs for professional fees is reasonable in this instance, and that the BCIS figures clearly demonstrate that build costs for flats are higher than for houses (£1,061 compared to £898 per square metre).

#### Non-Residential Development

48. In addition to residential schemes the VS has also tested different types of commercial developments, including light industrial schemes, in and out-of-centre comparison retail, convenience retail and student accommodation. As with the residential scenarios, the VS has established the GDV and deducted development costs including developer profit.
49. Based on the evidence provided the values and costs cited for non-residential schemes represent reasonable assumptions. The range of scenarios used also adequately reflects the type of development likely to come forward in the area as set out in the CLLP.

#### Conclusion on Economic Viability Evidence

50. Viability testing is not a precise science and the VS has been informed by robust, appropriate and proportionate evidence wherever possible. However, the accuracy of some assumptions in the VS are limited due to the amount of transparent, comparable data available, especially concerning the TLV for the SUEs and the Section 106 costs for the Western Growth Corridor. Given that the SUEs are expected to contribute a significant amount of new housing in and around Lincoln, it is important that the buffer is large enough to allow for

---

<sup>11</sup> Paragraph: 031 Reference ID: 23b-031-20161116

any additional costs that may be incurred in bringing forward the sites for development.

### *Charging Zones*

51. The CLLP identifies a range of residential development sites likely to come forward in Lincoln over the plan period. This has been broken down in the VS to generic sites up to 300 dwellings and the SUEs. It is largely uncontested that the SUEs have different viability considerations. Although developers can benefit from economies of scale the infrastructure and site opening up costs are often significantly greater than smaller sites. Due to their size SUEs also typically take longer to come forward before new houses can be built and sold.
52. The differences between generic sites likely to come forward over the plan period and the SUEs therefore justify the identification of two charging zones for new residential development. Zone 2 relates specifically to the SUEs whereas Zone 1 covers the rest of the City.
53. However, the geographic illustration of the two zones in the DCS is unclear. In order to ensure that decision-makers, developers and local communities can clearly differentiate between the zones inset maps at a larger scale are required. The maps produced by the Council for the hearing session should therefore accompany the charging schedule, subject to amending the drafting error regarding the boundary of the Western Growth Corridor. **(RM/1)**

### **Are the rates informed by, and consistent with, the evidence available?**

#### *Residential Rates*

##### Zone 1

54. Within the LSA the VS concludes that some non-strategic sites will only be able to viably contribute up to £34 per square metre. It therefore recommends adopting a CIL rate of £25 per square metre to allow an appropriate 'buffer'. The buffer ensures that new residential development will be able to fund CIL should economic circumstances in the area change. This is highly likely given the cyclical nature of the housing market.
55. In contrast, the DCS proposes a rate of £30 per square metre. Document CITY005 seeks to justify this approach. It states that historic Section 106 Agreements have contributed £4,000 - £6,000 per dwelling towards infrastructure and remained viable. A scheme is also cited as providing £9,800 per dwelling with a 35% contribution towards affordable housing. In addition, the Council's hearing statement confirms that the proposed rates still fall under the recommended maximum amount, and would be less than 2% of GDV.
56. However, adopting a rate of £30 per square metre would only provide a buffer of around 12%. This leaves very little scope for changing economic circumstances. It is also important to consider that assumptions regarding land prices in the VS were based on relatively limited data. The appraisal therefore advised, with caution, that:

*"It is not appropriate to assume that because a development appears to be viable, that the land will change hands and the development proceed...There can be no definite viability cut off point owing to variation in site specific*

*circumstances, including the land ownership expectations. To compensate for the risk of limited transactional evidence, it will be important to allow a buffer away from the theoretical maximum charge."*

57. By seeking to adopt a CIL rate that only leaves a buffer of around 12% for non-strategic sites in Zone 1 the DCS is not informed by, or consistent with the evidence available. Given the uncertainties regarding land values, and taking into account the need to allow for changing economic circumstances, the proposed DCS could put at risk the delivery of development in the area. It is therefore recommended that a rate of £25 per square metre is adopted in Zone 1 as set out in the VS. **(RM/2)**

## Zone 2

58. A similar approach has been taken in Zone 2. The VS recommends a rate of £20 per square metre, whereas the DCS proposes a rate of £25 per square metre.
59. I appreciate that even at £25 per square metre the size of the buffer in Zone 2 is significantly greater than for developments in Zone 1. For example, the maximum viable CIL rate for new residential development at the NEQ and Western Growth Corridor SUEs is £59 per square metre. Adopting the Council's proposed rate therefore includes a healthy buffer of around 58%.
60. However, for the reasons set out above there remains some uncertainty regarding the accuracy of the TLV used to calculate the viability of the SUEs. Paragraph 6.3.26 of the VS confirms that *"This uncertainty has been factored into the assessment when drawing conclusions and recommendations."* In the absence of any robust information having been provided to reduce this margin of uncertainty, adopting a higher rate therefore goes above and beyond the scope of the available evidence.
61. Furthermore, interrogation of the IDP demonstrates that even when accounting for highway works as site opening up costs at the Western Growth Corridor, the amount payable for infrastructure under Section 106 could exceed the £4,300 per dwelling used in the VS. Work surrounding essential flood mitigation is also ongoing, and bringing forward later phases at the NEQ involves redevelopment of a former quarry. Although the site promoters and developers informed the local plan examination that the sites are viable developable, specific costs are likely to become clearer as the projects move forward, and could rise.
62. When taking these factors into account, and considering the importance of the SUEs to the delivery of the plan as a whole, it is critical that their viability is not undermined by CIL. I therefore recommend that a rate of £20 per square metre is applied in Zone 2 as set out in the VS. Adopting this rate will ensure that the schedule is consistent with the available evidence. **(RM/3)**
63. In reaching this conclusion I note that house prices have increased throughout the City of Lincoln by approximately 10.2% since 2015<sup>12</sup>. Nevertheless, the same evidence confirms that build costs have also risen by roughly 7.8%. This does not justify departing from the available evidence. Similarly, no robust analysis has been provided to substantiate comments that higher sales

---

<sup>12</sup> City of Lincoln Council Matter 2 Hearing Statement



values in the LSA would allow developers to pay more for the SUEs and ensure that projects remained viable.

64. A further change is also required to the DCS. As submitted it refers to Zone 2 as *"developments of 1000 [units] or more and specified urban extensions as labelled on the plan"*. However, the accompanying maps only relate to the Western Growth Corridor and NEQ SUEs. For clarity the charging schedule should therefore simply refer to Zone 2 – 'Sustainable Urban Extensions' (**RM/4**). No other sites of over 1,000 units are allocated in the City of Lincoln through the CLLP and no windfall proposals of such a scale have been identified. Thus, although the option of an additional column for 'other' sites over 1,000 units was discussed at the hearing, this is unnecessary. It is also unnecessary to rename Zone 1 as the 'administrative boundary'. The LSA is defined in the CLLP and has been used consistently by the three Councils.

#### Apartments

65. The VS demonstrates that apartments and flats are unable to support CIL even at 0% affordable housing. This is partly down to the higher build costs, with apartments containing communal areas and circulation spaces which contribute towards construction costs but are not translated into sales revenue. A block of apartments also need to be substantially completed before sales can begin, unlike a phased scheme of houses. A rate of £0 per square metre is therefore justified across both zones.
66. The DCS also refers to apartments as "NA". For clarity this should be changed to £0 per square metres. The term "applicable to whole District" in the first table is also misleading as there are different Zones. Both should be amended. (**RM/5**)

#### Retail Rates

67. Student accommodation, comparison retail, office and light industrial developments have all been demonstrated as unable to contribute towards CIL and remain viable. A nil rate is therefore justified across both zones.
68. However, the VS has tested different sized convenience retail stores and concludes that the least viable development (a larger format store) would be able to support a charge of up to £73 per square metre. The proposed rate of £40 per square metre is therefore informed by, and consistent with the evidence available. It also provides a generous buffer of approximately 45% to account for changing economic circumstances affecting retail development.

#### **Would the charging rates put at risk the delivery of development?**

69. The SUEs in Zone 2 form an important part of the CLLPs housing strategy and safeguarding their viability is critical to ensure that housing needs are met locally. Adopting a CIL rate which exceeds the evidence provided, without sufficient justification, risks undermining the delivery of these strategic sites. Similarly, the rate proposed in the DCS for the remainder of the City in Zone 1 leaves very little room for manoeuvre, and should economic circumstances change, it would put at risk the delivery of development in the area.
70. It is therefore recommend that the rates in the charging schedule are reduced by £5 per square metre in each zone to reflect the recommendations of the VS. Subject to adopting the rates set out in the VS the available evidence

demonstrates that CIL would not prejudice the delivery of new residential and convenience retail development. It would strike an appropriate balance between the desirability of funding necessary infrastructure and the potential impact on the viability of development in the area as required by national guidance<sup>13</sup>.

71. In reaching this view it is appreciated that CLLP Policy LP11 allows the percentage of affordable housing to be negotiated if viability testing demonstrates that relevant targets cannot be met in full. But this is intended to offer flexibility in specific circumstances on a site-by-site basis. It is not appropriate to set a CIL levy rate that would rely on applicants having to negotiate other planning policy requirements such as affordable housing. This would place an unreasonable and disproportionate burden on applicants and local planning authorities. It would also be contrary to paragraph 174 of the National Planning Policy Framework which states that the cumulative impact of standards and policies should not put at risk implementation of the plan.

### **Other Matters**

72. It has been suggested that other types of residential development such as service family accommodation and houses for agricultural and forestry workers should be subject to a lower rate. However, the PPG advises that charging authorities should set a rate which does not threaten the ability to develop viably the sites and scale of development identified in the relevant Plan. No specific proposals for service personnel have been included in the CLLP. In the event that dwellings for agricultural workers come forward and are liable for CIL, I have seen no evidence that this is likely to be on a scale that would undermine the delivery of development identified in the plan.
73. Representations also state that there are other infrastructure needs that the Council should fund through CIL. But this is not a matter for me. Instead, I am required to consider whether or not, in general terms, the projects in the Regulation 123 would assist the delivery of the CLLP. As identified above, the LEB and secondary/6<sup>th</sup> form education will assist with the delivery of the plan, and there is clearly a need for additional funding for both projects through CIL.

### **Overall Conclusion**

74. Subject to modifications the City of Lincoln Council Community Infrastructure Levy Charging Schedule will satisfy the requirements of Section 212 of the 2008 Act and will meet the criteria for viability in the 2010 Regulations (as amended).
75. I therefore conclude that the Charging Schedule be approved based on the modifications set out in Appendix 1.

*Matthew Birkinshaw*

EXAMINER

---

<sup>13</sup> Paragraph: 008 Reference ID: 25-008-20140612

**APPENDIX 1 – RECOMMENDED MODIFICATIONS**

Reference	Modification
RM/1	Add inset maps at a larger scale showing the location of the sustainable urban extensions
RM/2	Amend the rate for Zone 1 to £25 per m <sup>2</sup>
RM/3	Amend the rate for Zone 2 to £20 per m <sup>2</sup>
RM/4	Amend description of Zone 2 to read <i>"Developments at Western Growth Corridor and North East Quadrant sustainable urban extensions"</i>
RM/5	Add column for apartments and delete <i>"Applicable to whole district"</i> from the header

The effect of these recommendations would be to create a charging schedule that reads as follows:

<b>CITY OF LINCOLN COUNCIL CIL CHARGING SCHEDULE RESIDENTIAL CHARGING RATES</b> (Charge Per Square Metre)			
		Dwellings excluding apartments	Apartments
Zone 1	Lincoln Strategy Area	£25	£0
Zone 2	Developments at Western Growth Corridor and North East Quadrant sustainable urban extensions as labelled on the plan	£20	£0
<b>CITY OF LINCOLN COUNCIL CIL CHARGING SCHEDULE COMMERCIAL CHARGING RATES (APPLICABLE TO WHOLE DISTRICT)</b>			
Convenience Retail		£40	
All other uses*		£0	

\*'All other uses' and the £0 rate include comparison retail and retail warehousing.

This page is intentionally blank.

## APPENDIX 2

### CITY OF LINCOLN DISTRICT COUNCIL

#### Community Infrastructure Levy Charging Schedule

Name of Charging Authority	City of Lincoln Council
Rates (£m) at which CIL is to be chargeable	CIL will be charged in Pounds Sterling (£) per square metre at differential rates according to the type of development and by location as set out in the Commercial and Residential Tables of this Schedule.
Charging Zones	The Charging Zones to which CIL will be applied are those as identified on the tables and maps as set out within this Schedule.
How the Chargeable amount will be Calculated	<p>The charging authority will calculate the amount of CIL chargeable to a qualifying development utilising the formula set out in Part 5 of the CIL Regulations. In summary (and subject to any changes that have occurred or may occur as a result of future amendments to the Regulations) the amount of CIL chargeable will be calculated as follows: CIL Rate x Chargeable Floor Area x BCIS Tender Price Index (at Date of Planning Permission) / BCIS Tender Price Index (at Date of Charging Schedule)</p> <p>The Chargeable Floor Area makes allowance for previous development on the site. The net chargeable floor area amounts to the gross internal area of the chargeable development less the gross internal area of any existing buildings that qualify for exemption on the site.</p> <p><b>This summary does not take account of every aspect of the Regulations.</b></p>
Further Information	Further information, for example, on exemptions from paying the CIL will be available on the district council webpages in due course. In many cases, this will be via links to national guidance.

## CITY OF LINCOLN COUNCIL CIL Charging RATES (£ per Sqm)

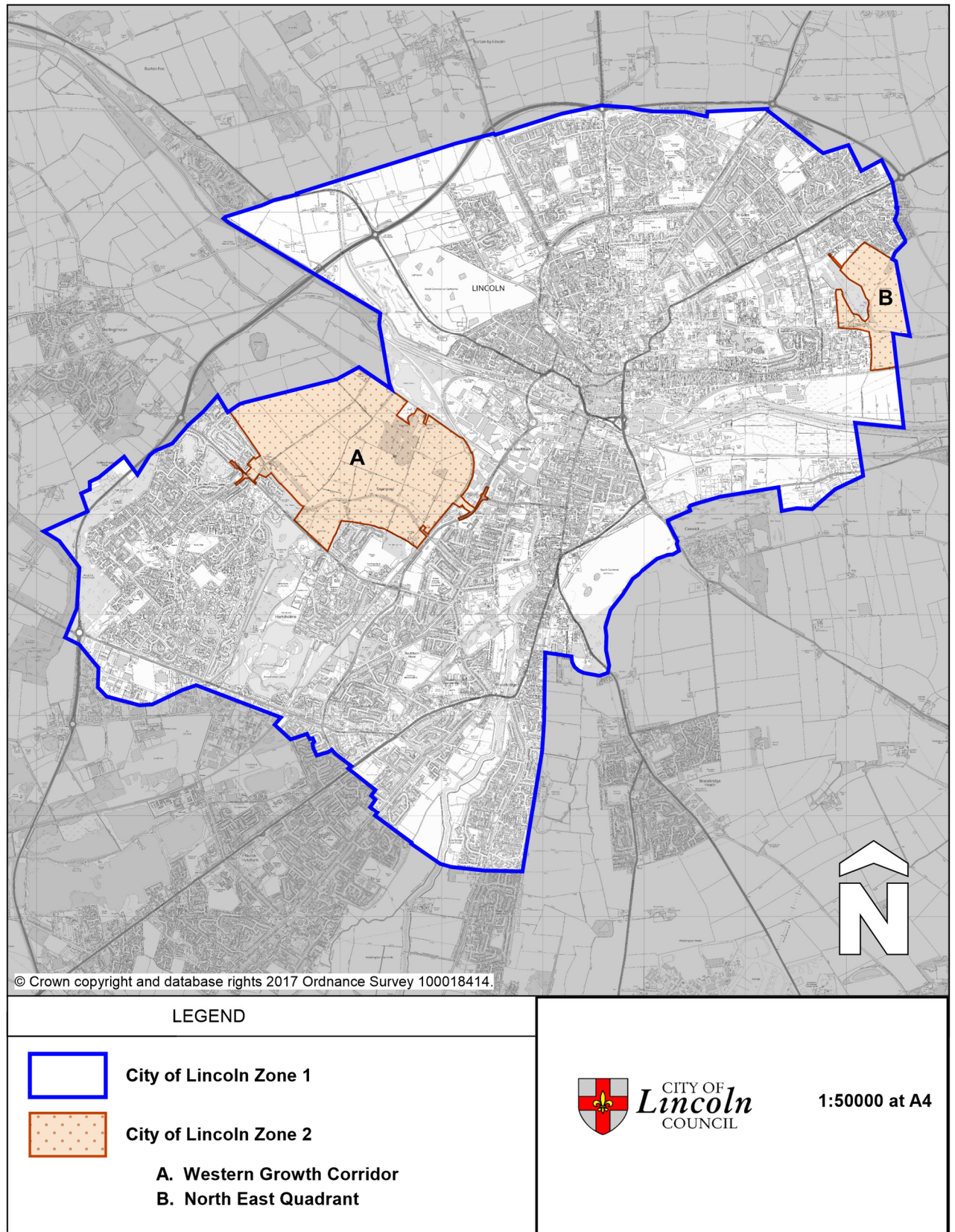
CITY OF LINCOLN COUNCIL CIL CHARGING SCHEDULE RESIDENTIAL CHARGING RATES			
		Dwellings excluding apartments	Apartments
Zone 1	Lincoln Strategy Area	£25	£0
Zone 2	Developments at Western Growth Corridor and North East Quadrant sustainable urban extensions	£20	£0

CITY OF LINCOLN COUNCIL CIL CHARGING SCHEDULE COMMERCIAL CHARGING RATES (APPLICABLE TO WHOLE DISTRICT)	
Convenience retail	£40
All other uses*	£0

\*All other uses' and the £0 rate include comparison retail and retail warehousing.

# City of Lincoln Council Community Infrastructure Levy Charging Zones

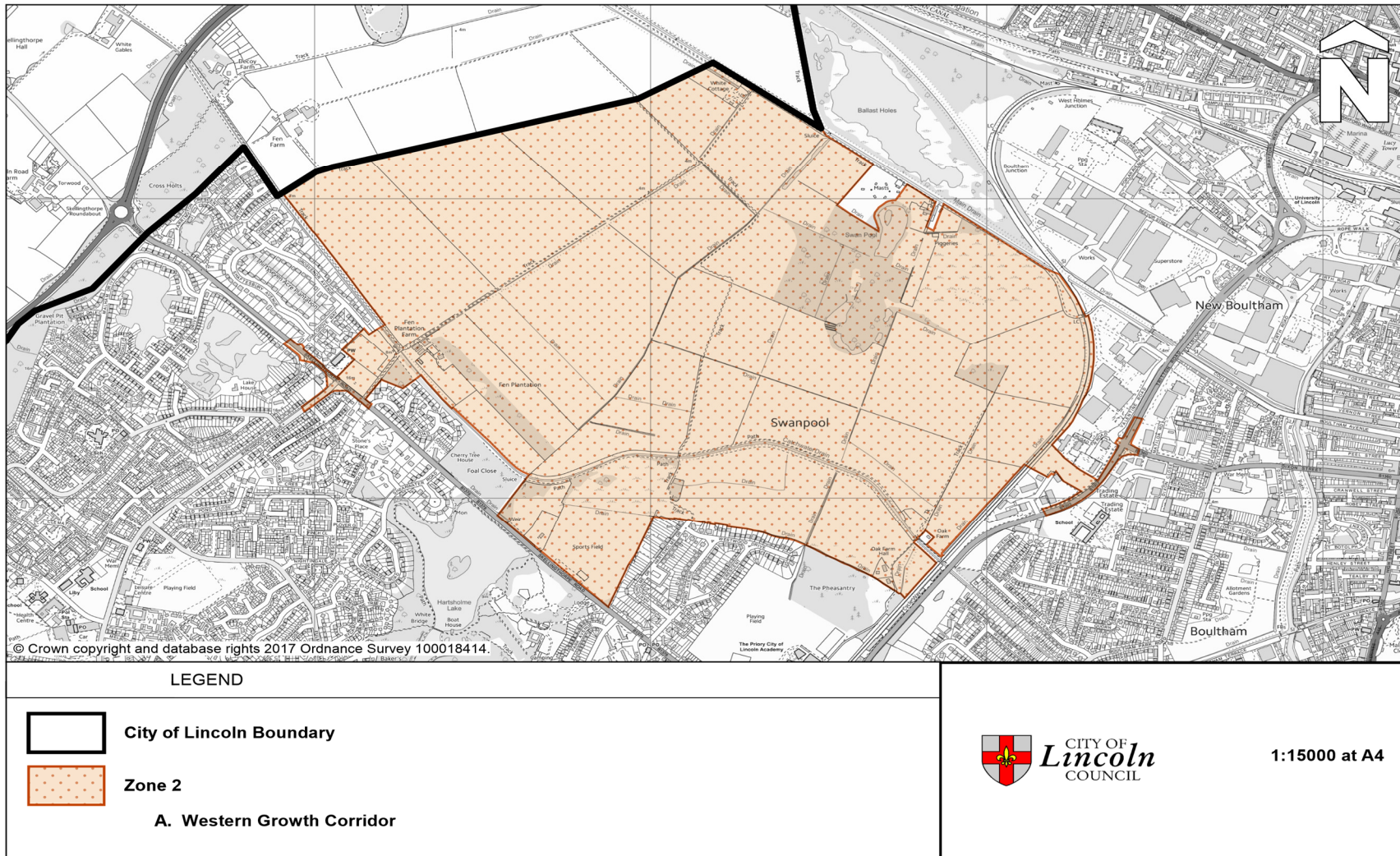
## Zones 1 and 2





# City of Lincoln Council community infrastructure Levy Charging Schedule

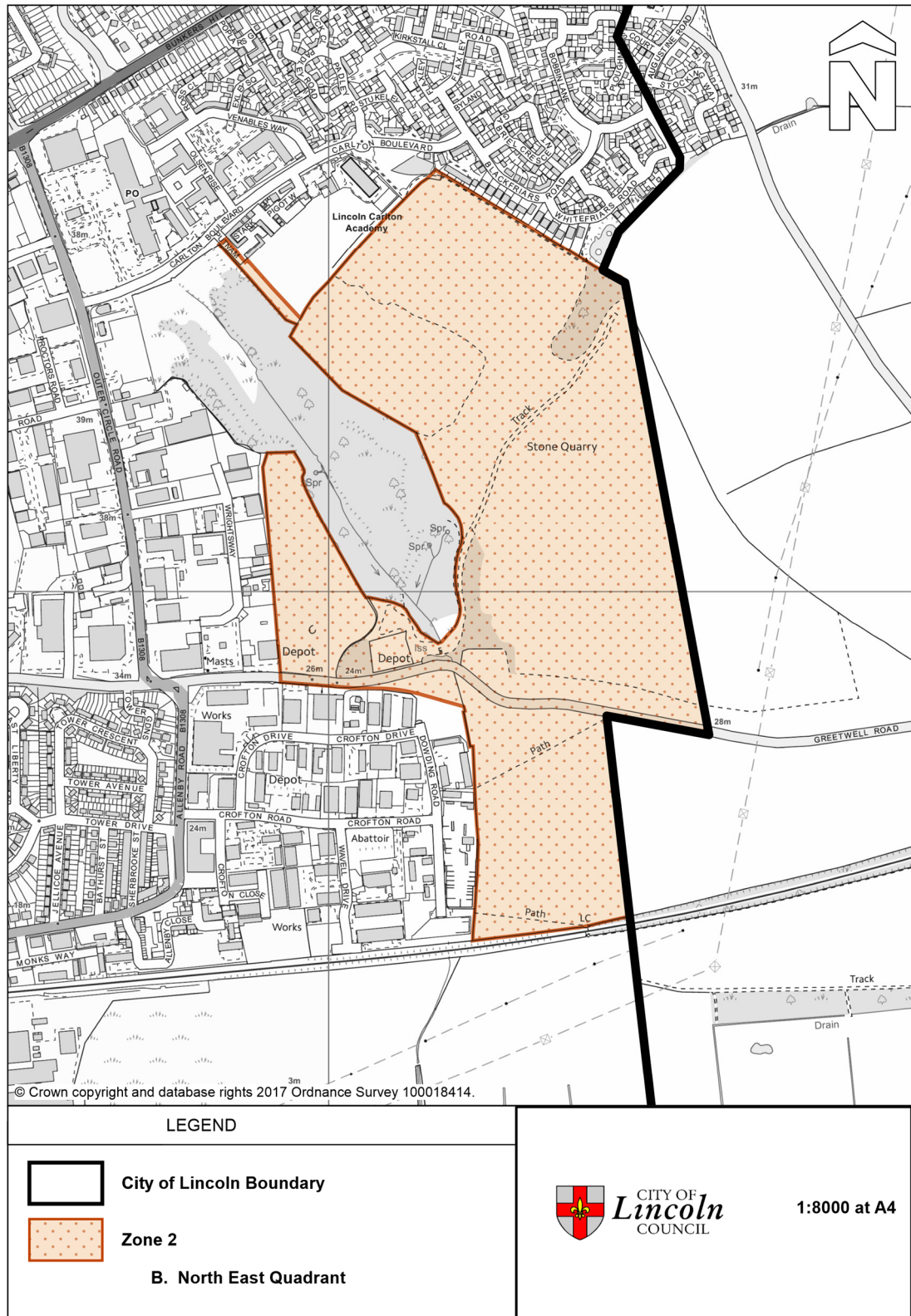
## Zone 2 Inset Map A Western Growth corridor





# City of Lincoln Council community infrastructure Levy Charging Schedule

## Zone 2 Inset Map B North East Quadrant





## APPENDIX 3

**CITY OF LINCOLN COUNCIL**  
**COMMUNITY INFRASTRUCTURE LEVY**  
**CIL INFRASTRUCTURE LIST “REGULATION 123 LIST”**

It is intended that the Council will spend and distribute CIL revenue on the following items:

Lincoln Eastern Bypass
Secondary Education and School-based post-16 Education

**CITY OF LINCOLN COUNCIL**  
**COMMUNITY INFRASTRUCTURE LEVY**  
**PAYING CIL IN THE FORM OF LAND**

In certain circumstances the **City of Lincoln Council** may support the payment of some or all of a CIL requirement in the form of land. This will depend upon six conditions:

1. The CIL liability is greater than required under the relevant regulations (currently £50,000);
2. **City of Lincoln Council** must agree to the transfer and has the right to withhold such agreement;
3. Either:
  - a) **City of Lincoln Council** must have the intention of using the land to help provide infrastructure to support the development of its area; or,
  - b) **City of Lincoln Council** must be satisfied that any third party that will receive a land transfer will use land for a specific purpose that will help provide infrastructure to support the development of its area.
4. The person transferring the land to **City of Lincoln Council** as payment must have assumed liability to pay CIL beforehand;
5. The land to be transferred must have been valued by a suitably qualified and experienced independent person to be agreed with **City of Lincoln Council**. The valuation must represent the fair market price for the land on the day it is valued;
6. Development on the site must not have commenced before a written agreement with **City of Lincoln Council** to pay some or the entire CIL amount in land has been made. This agreement must state the value of the land being transferred.

**City of Lincoln Council** will accept a land transfer at its discretion. The authority will consider agreements within the context of relevant development plan documents, supplementary planning documents and corporate strategies.

Prior to commencement of development on the site in question, a CIL liable party should discuss possible land transfer with **City of Lincoln Council**.

It should be noted that the agreement to pay in land may not form part of a planning obligation entered into under Section 106 of the Town and Country Planning Act 1990.

The land transfer agreement may allow the transfer of land in instalments, subject to the payment proportions and due dates set out in the relevant demand notice.

Any outstanding CIL amount (after a transfer of land) should be paid in line with the payment due dates contained in the relevant demand notice.

**CITY OF LINCOLN COUNCIL**  
**COMMUNITY INFRASTRUCTURE LEVY**  
**INSTALMENTS POLICY**

Regulation 70 of the Community Infrastructure Levy Regulations 2010 sets a default of full payment of the levy within 60 days of the commencement of development. The Regulations also enable a charging authority to set an Instalment Policy that allows payments to be spread over longer periods. The City of Lincoln Council consider it reasonable that payment instalments are scheduled in proportion to the scale of CIL liability for proposed developments.

In accordance with regulation 69b of the CIL Amendment Regulations, **CITY OF LINCOLN COUNCIL** will apply the following Instalment Policy to all development on which CIL is liable.

The Instalments Policy will come into effect on [INSERT DATE], from which time the Community Infrastructure Levy will be payable by instalments as follows:

**Where the chargeable amount is less than £50,000**

- Full payment will be required within 60 days of the commencement date or further period as set out by Regulation 70.

**Where the chargeable amount is £50,000 - £300,000**

- First instalment representing 25% of the chargeable amount will be required within 60 days of the commencement date; and
- The second instalment representing 75% of the chargeable amount will be required within 365 days of the commencement date.

**Where the chargeable amount is above £300,000**

- First instalment representing 25% of the chargeable amount will be required within 60 days of the commencement date;
- Second instalment representing 25% of the chargeable amount will be required within 365 days of the commencement date;
- Third instalment representing 25% of the chargeable amount will be required within 730 days of the commencement date; and
- The fourth and final instalment representing 25% of the chargeable amount will be required within 1095 days of the commencement date.

This page is intentionally blank.

**Executive – 30 October 2017**

**Extract of minutes**

**Community Infrastructure Levy**

Purpose of Report

To advise the Executive on the current programme in respect of progressing Community Infrastructure Levy adoption by the City of Lincoln Council.

**Decision**

The Executive recommended:

- (a) That the Council approves the modifications as set out in the City of Lincoln Council Community Infrastructure Levy Examination Report to the Draft Charging Schedule, as set out in Appendix 1 to the report.
- (b) That the Council incorporates those modifications into the City of Lincoln Council's Community Infrastructure Levy Charging Schedule.
- (c) That the Council adopts the amended City of Lincoln Council Community Infrastructure Levy Charging Schedule, as set out in Appendix 2 to the report.
- (d) That the Council approves the supporting policies, as set out in Appendix 3 to the report.
- (e) That the Council implements the Community Infrastructure Levy Charging Schedule on a date as soon as practicable on or after 1 January 2018.
- (f) That the Council incorporates this additional function within its Constitution.

Alternative Options Considered and Rejected

An option to not adopt the Community Infrastructure Levy had been considered through the Central Lincolnshire Strategic Group. A recommendation to not proceed with this option was agreed on the basis that it would significantly weaken the ability to support the infrastructure needs resulting from the planned growth in Central Lincolnshire, particularly in respect of delivery of the Eastern Bypass and Secondary School provision.

Reason for Decision

Following the examination hearing into the City of Lincoln Council's Community Infrastructure Levy Draft Charging Schedule, which took place on 3 March 2017, the examiner produced a report on 24 May 2017 which concluded that, subject to the recommended modifications, the Council's draft Community Infrastructure Levy Charging Schedule would provide an appropriate basis for the collection of the Levy in the area.

Five modifications had been recommended for inclusion in the Draft Charging Schedule, as follows:

- provision of additional inset maps at a larger scale showing the location of the sustainable urban extensions;
- amendment of the rate for new residential development in Zone 1 to £25 per square metre;
- amendment of the rate for new residential development in Zone 2 to £20 per square metre;
- amendment of the description of Zone 2 to read 'Developments at Western Growth Corridor and North East Quadrant sustainable urban extensions';
- addition of a column for apartments and deleting the text 'Applicable to whole district' from the header'.

In addition, the recommended revised Community Infrastructure charging rates for residential development were as follows:

Zone 1: Lincoln Strategy Area - £25 per square metre  
Zone 2: SUE's (WGC & NEQ) - £20 per square metre

The recommended revised charging rates for convenience retail was £40 per square metre.

Subject to these modifications, it was noted that the Council would be able to demonstrate that it had sufficient, appropriate evidence to support the Schedule. The Schedule would strike an appropriate balance between the desirability of funding necessary infrastructure whilst ensuring that it did not put at risk the viability of development in the area, as set out in the Central Lincolnshire Local Plan.

The Council was seeking to implement the Charging Schedule alongside North Kesteven District Council and West Lindsey District Council in January 2018.

The Council's Policy Scrutiny Committee and Planning Committee had considered this report at their meetings on 10 October 2017 and 11 October 2017, respectively. The draft minutes of those meetings were appended to the report.

The Leader of the Council emphasised that this was an important funding source to support the necessary infrastructure associated with new development.



**22. Community Infrastructure Levy (CIL)**

Toby Forbes Turner, Principal Planning Officer:

- a. presented a report to advise Policy Scrutiny Committee on the current programme in respect of progressing Community Infrastructure Levy (CIL) adoption by the Authority as detailed at paragraph 1.1 of the officer's report.
- b. highlighted that following the CIL Examiner's report (detailed at Appendix 1), which concluded that subject to recommended modifications '*The City of Lincoln Council draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area*', and subject to member approval, the City Council was in a position to adopt a CIL Charging Schedule.
- c. detailed the five modifications recommended to the Draft Charging Schedule as detailed within paragraph 3 of the report.
- d. identified the time line to implementation of CIL subject to Council approval as detailed at paragraph 4 of the officer's report.
- e. requested members comments on the content of the report prior to referral to Executive and Council for final approval.

**Question** – Would the CIL charge be applicable to buildings that have been started but not completed?

**Response** – **For exact clarity the relevant date is the date of the issuing of the planning permission notice** If developers had secured permission prior to CIL implementation date and already started building when the CIL was implemented then the charge would not apply.

**Question** – How would the City Council use the 15% of CIL receipts?

**Response** – Members would need to decide how the funds would be distributed, there were several models that could be used.

RESOLVED that the contents of the report be noted and referred to Executive for approval.

This page is intentionally blank.

**EXTRACT FROM COMMITTEE**

---

**Planning Committee**

**11 October 2017**

---

**45. Community Infrastructure Levy (CIL)**

Toby Forbes Turner, Principal Planning Officer:

- a. presented a report to advise Planning Committee on the current programme in respect of progressing Community Infrastructure Levy (CIL) adoption by the Authority as detailed at paragraph 1.1 of the officer's report
- b. advised that further to previous reports to Policy Scrutiny Committee and Executive on the City Council's CIL programme, Planning Committee Members were requested to consider the requirements on effectively the final stages of CIL process, namely adoption of CIL
- c. highlighted that following the CIL Examiner's report (detailed at Appendix 1), which concluded that subject to recommended modifications '*The City of Lincoln Council draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area*', and subject to member approval, the City Council was in a position to adopt a CIL Charging Schedule
- d. detailed the five modifications recommended to the Draft Charging Schedule as detailed within paragraph 3 of the report
- e. identified the time line to implementation of CIL subject to Council approval as detailed at paragraph 4 of the officer's report
- f. requested member's comments on the content of the report prior to referral to Executive and Council for final approval.

Members discussed the content of the report in further detail, requesting clarification as to when developers would be liable for payment of both S106 monies and CIL?

Toby Forbes Turner, Principal Planning Officer confirmed that a reasonable period of notice was required between adoption and implementation to allow notification to developers about to submit a planning application and to align with other Central Lincolnshire Charging Authorities. Following the implementation date, developers would be liable for CIL once planning permission was granted.

RESOLVED that

- The proposal for the Council to approve the modifications as set out in the City of Lincoln Council CIL Examination Report (Appendix 1) to the Draft Charging Schedule be noted and recommended to be incorporated into the City of Lincoln Council CIL Charging Schedule by Members.

- The proposal for the Council to adopt the amended City of Lincoln Council CIL Charging Schedule (Appendix 2) be noted by Members;
- The proposal to implement the supporting policies in Appendix 3 (Regulation 123 List, Instalments and In-Kind policies) to be approved by Council be noted by Members.
- The proposal that the CIL Charging Schedule be implemented by the City of Lincoln Council on a date as soon as is practicable on or after 1 January 2018 be supported by Members.

<b>SUBJECT:</b>	<b>REVIEW OF THE HOUSING APPEALS PANEL PROCEDURES</b>
<b>DIRECTORATE:</b>	<b>CHIEF EXECUTIVE AND TOWN CLERK</b>
<b>REPORT AUTHOR:</b>	<b>LEGAL &amp; DEMOCRATIC SERVICES MANAGER</b>

## **1. Purpose of Report**

- 1.1 To update Council on changes to the Housing Appeals Panel (HAP) Procedures agreed at the meeting of the Executive on 30 October 2017 and seek approval to amend the Constitution accordingly.

## **2. Executive Summary**

- 2.1 The key changes agreed to the HAP procedures are outlined below and further detailed in section 4 of the report.

- To reflect legislative changes to:
  - Review decisions to seek possession of dwelling-houses on absolute grounds for anti-social behaviour as required by section 85ZA of the Housing Act 1985.
  - Review decisions to seek possession of dwelling-houses following a Demoted Tenancy under section 82A of the Housing Act 1985.
- General update to the procedures wording to better reflect the HAP's remit.
- Amendments to further formalise how the HAP meetings will be conducted.
- Creation of section 13 which sets out a clear role for the Chair and allows the Panel to take more of an active role within proceedings.
- Standardisation of Housing Officer recommendations and HAP decisions whilst still allowing the Panel to exercise their discretion.

## **3. Background**

- 3.1 Recently, it became apparent that a number of procedural changes needed to be addressed within the HAP procedures to update them in view of the legal framework and give a clear idea of roles for both members and officers.
- 3.2 Following the decision to address these changes the procedures have been updated and circulated to HAP members including the Chair and Vice-Chair, the Tenancy Services Manager, Estate Officer Team Leaders and Housing Officers have been consulted on the proposed changes. No negative comments or changes have arisen from this process.

## **4. Details of Changes**

- 4.1 The following are the agreed changes to the HAP procedures. The revised procedures can be found at Appendix 1, Appendix 2 contains the current version for member's information.

Review decisions to seek possession of dwelling-houses on absolute grounds for anti-social behaviour as required by section 85ZA of the Housing Act 1985.

Several Notices of Possession were granted on absolute grounds for anti-social behaviour since 2016. Until the procedures were reviewed this element of legislation was not reflected within the Panel's remit and therefore wording to allow these reviews to take place has been inserted.

Review decisions to seek possession of dwelling-houses following a Demoted Tenancy under section 82A Housing Act 1985.

In addition the HAP procedures required amendment to allow demoted tenancy reviews to take place where an officer takes the decision to demote the tenancy. Officers can demote a tenancy under S.82A of the Housing Act 1985, this means that a secure Tenant will become a Demoted Tenant. A Tenancy can be Demoted for 12 months and during this time it is easier for the authority to evict a Demoted Tenant than it is to evict a Secure Tenant. This legislation has now been reflected within the procedures to allow this review to be carried out.

- 4.2 General update to the procedures wording to better reflect the HAP's remit.

During the review it was found that numerous areas that the HAP were reviewing was duplicated elsewhere in the authority. These areas of the procedures have now been reviewed and where necessary removed. This ensures that the panel only review decisions made where it is set up to do so and makes this process as efficient as possible.

- 4.3 Amendments to further formalise how the HAP meetings will be conducted.

As part of the review of the procedures a clear process of proceedings was required to guide officers throughout the process of submitting review request applications to Democratic Services, and during the course of the Panel meeting when presenting tenant's cases to the Panel. Examples of this is the right to have an interpreter present for the hearing as outlined in s.7 and S.8 which sets out the timeframe within which a review must be heard.

- 4.4 Creation of section 13 which sets out a clear role for the Chair and allows them to take more of an active role within proceedings.

Section 13 of the report was created to define the clear roles and responsibilities of the Chair, and provides clear guidance for the Chair to take an active role. The Chair must now ask the Housing Officer what their recommendation to the panel is so that this can be formally recorded by the Clerk. The Tenant will then be allowed an opportunity to respond to this.

#### 4.5 Standardisation of Housing Officer recommendations and HAP decisions whilst still allowing the panel to exercise their discretion.

Clear guidance has been provided to officers to offer a set of recommendations when reviewing decisions to seek possession, this in essence makes it clear for members and officers regarding the potential outcomes of the Panel and prevents confusion for the tenant by ensuring a consistent and transparent decision making process is in place. The revised recommendations of the Panel are as follows:

1. Uphold the Director of Housing and Regeneration decision to serve Notice of Proceedings on the Tenant and authorise court proceedings for possession of the dwelling-house.
2. Uphold the Director of Housing and Regeneration decision to serve Notice of Proceedings on the Tenant but to stay the application for possession to the court pending a further review of the case by the Panel.
3. Uphold the Director of Housing and Regeneration decision to serve Notice of Proceedings on the Tenant but to stay the application for possession to the court pending monitoring by officers of a consistent and acceptable pattern of payment of the rent arrears.
4. Extend the period of the introductory tenancy by six months and either options 2 or 3 above apply.

N.B this is only an option if the Appeal hearing is at least eight weeks before the twelve month introductory tenancy period ends.

5. Rescind the Notice of Proceedings.

- 4.6 The Procedure formalises how a review hearing can be postponed or adjourned under S.10 and S.11. of the Housing Act 1985. Both the Tenant and the Housing Officers have the right to request a postponement or an adjournment but a hearing can only be postponed once. Where a hearing has been adjourned or a further review is requested the new procedure requires that wherever possible the same Panel will sit on the next hearing. This will mean that a further hearing can be dealt with quickly and that only new evidence will be considered. Where it is not possible to reconvene the same Panel the Clerk to the Panel will summarise the evidence already heard at the postponed hearing.

## 5. **Strategic Priorities**

### 5.1 Let's Deliver Quality Housing

These changes will allow the Council to carry out its statutory duty to provide tenants with a review process when faced with eviction under an introductory tenancy, as well as clarifying the procedures. This in turns provides a service to Council customers whilst allowing the Council to maintain its housing stock and ensure that rent arrears are kept to a reasonable level within the HRA.

## **6. Organisational Impacts**

### **6.1 Finance (including whole life costs where applicable)**

None.

### **6.2 Legal Implications**

This report brings the current procedures carried out by the HAP Panel and responsibilities of Housing Officers, Chair and Vice-Chair in line with working arrangements with current legislation to allow the panel to carry out its function efficiently and effectively.

### **6.3 Equality, Diversity & Human Rights**

These were considered and there are no direct equality and diversity issues arising from this report in view of the fact that these procedures will be applied to all tenants and such considerations will form part of any HAP process in any event. The formalisation of the right to an interpreter to be present during the appeal means that HAPs are now more accessible.

## **7. Risk Implications**

### **7.1 There are no risks associated with these change in procedures.**

## **8. Recommendation**

### **8.1 That the Constitution be amended to reflect amendments to the Housing Appeals Panel Procedures agreed by the Executive on 30 October 2017.**

**Is this a key decision?** No

**Do the exempt information categories apply?** No

**Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply?** No

**How many appendices does the report contain?** 3

**List of Background Papers:** None

**Lead Officers:** Graham Watts, Principal Democratic Officer  
Telephone (01522) 873439

Louise Roberts, Solicitor  
Telephone (01522) 873399



**PROTOCOL AND PROCEDURE**

<b>Terms of Reference</b>	<p>To determine appeals from any decision of the Director of Housing and Regeneration taken under powers delegated to him on housing matters by resolution or decision of the Council or any competent body or Executive member or under the Constitution. Primarily any decisions to issue a notice of seeking possession or to take any subsequent steps in the County Court and to review his decisions to extend the trial period of or determine (as the case may be) introductory tenancies pursuant to requests made under the provisions of section 125B or 129 of the Housing Act 1996 respectively.</p> <p>To also review decisions to seek possession of dwelling-houses on the absolute ground for anti-social behaviour as required by section 85ZA of the Housing Act 1985 and to review decisions to seek possessions of dwelling-houses following a Demoted Tenancy under section 82A Housing Act 1985.</p>
<b>Composition</b>	The Appeals Panel shall consist of a minimum of 3 members which shall be made up from those members appointed to the Panel by the Council.
<b>Meetings</b>	Meetings of the Appeals Panel shall be called as and when required so as to determine appeals and/or review requests within statutory or the Council's own laid down time limits
<b>Independence</b>	<p>No member shall sit on the Appeals Panel where he/she has had some direct personal involvement in a matter to be determined</p> <p>In particular, in accordance with the Allocation of Housing (Procedure) Regulations 1997, no member shall sit on the Appeals Panel in respect of an appeal against an allocation decision, when either:</p> <ul style="list-style-type: none"> <li>(a) the unit of housing accommodation concerned is situated in his/her electoral ward; or</li> <li>(b) the person subject to the decision has their sole or main residence in the member's ward</li> </ul>

**RIGHT OF APPEAL/REVIEW****1. Decisions which may be reviewed or appealed**

- 1 (a) Any decision on housing matters made by the Director of Housing and Regeneration, or his officers, in exercise of delegated powers conferred under the Constitution or by resolution or decision of the Council or any competent body or Executive member

**2. Method and Time Limits for Appeal/Review Request**

- 2 (a) **EXCEPT** for a review request made under paragraph 2 (b) below, a person wishing to exercise the right of appeal or review request **MUST** do so in writing within 14 days of receipt of the decision from the Director of Housing and Regeneration
- 2 (b) **A request for a review of the landlord's decision**
- to extend a trial period of or
  - to seek an order for possession of a dwelling-house let under an introductory tenancy or under a demoted tenancy must be made before the end of the period of 14 days beginning with the day on which either the notice of extension or proceedings is served.

- to seek possession on the absolute ground for anti-social behaviour must be made before the end of 7 days beginning with the day on which the notice is served.

2 (c) For the purpose of determining the date of receipt of any written decision or appeal or review request any communication:

- (i) sent by 1st class post shall be deemed received the second day after it was posted,
- (ii) sent by 2nd class post shall be deemed received the fourth day after it was posted,
- (iii) delivered to or left at the address on the communication shall be deemed received the day after it was delivered or left at the address,
- (iv) sent by fax shall be deemed received on that day if transmitted before 4pm or otherwise on the day after the day upon which it was transmitted
- (v) sent by other electronic method shall be deemed received the day after the day on which it was transmitted.

### 3. ***Receipt of Appeal/Review Request***

3 (a) Upon receipt, the Director of Housing and Regeneration shall arrange for the appeal/review request to be referred to the Housing Appeals Panel for determination.

### 4. **Determination Date**

4 (a) Requests for review of a decision

- (i) to seek an order for possession of a dwelling-house let under an introductory tenancy or a demoted tenancy shall be carried out and the tenant notified before the date specified in the notice of proceedings as the date after which possession proceedings may be begun and
- (ii) to extend the trial period of an introductory tenancy shall be carried out and the tenant notified before the original expiry date of the trial period.
- (iii) to seek possession on the absolute ground for anti-social behaviour shall be carried out and the tenant notified before the date specified in the notice under section 83ZA of the Housing Act 1985 as the day after which proceedings for possession of the dwelling-house may be begun.

4 (b) Following receipt of a request for a review hearing the Appellant will be notified of the time, date and place of the hearing no less than 5 days after the receipt of the review request.

4 (c) All review hearings will be heard by the panel within 6 weeks of the date of receipt of the review request unless an adjournment has been granted.

### 5. **Procedure**

5 (a) The procedure contained within the Introductory Tenants (Review) Regulations 1997 or the Introductory Tenancies (Review of Decisions to Extend a Trial Period) (England) Regulations 2006 or The Absolute Ground for Possession for Anti-social Behaviour ( Review Procedure ) ( England ) Regulations 2014 (as appropriate) shall be followed in respect of any review conducted into a decision by the Director of Housing and Regeneration to seek an order for possession of a dwelling-house let under, an introductory tenancy or a demoted tenancy, or to extend a trial period of an introductory tenancy or to seek possession of a dwelling-house on the absolute ground for anti-social behaviour and the remaining paragraphs hereof shall not apply except in so far as they are consistent with those Regulations

5 (b) In respect of all other decisions, including all tenancy matters, housing applications, discretionary renovation grant matters and other operational decisions, the procedure for dealing with appeals will be as follows:

- (i) an officer will be appointed to review the decision who will have had no prior involvement in the matter
  - (ii) the Appellant will be given a written explanation of the decision taken within 15 working days
  - (iii) if the Appellant remains dissatisfied with the decision he/she will have the right to appeal to the Housing Appeals Panel and will be notified of that right with the written explanation
  - (iv) for the purpose of paragraph 2 (a) above the period of 28 days shall be calculated from the date of receipt of the written explanation
- 5 (c) (i) There shall be a presumption that all appeals or review requests shall be by way of an oral hearing (the provisions within the aforementioned Regulations notwithstanding) **UNLESS** the appellant informs the Director of Housing and Regeneration that he/she wishes the matter to be determined by way of written representations
- (ii) Such notice **MUST** be given by the Appellant in writing when submitting his/her appeal/review request

## 6. **Appeals/Reviews by written representations**

- 6 (a) **Where the appeal/review request is by way of written representations the Housing Appeals Panel shall consider all properly submitted representations and the appellant shall be notified by the Council of the date by which such representations must be received which cannot be earlier than 5 clear days after receipt of such notification**
- 6 (b) When any appeal or review request is dealt with by written representations the Appellant will receive a copy of the written representations to be submitted by the Director of Housing and Regeneration with the notice of hearing as provided for in paragraph 8 below. The Appellant will also be invited to submit supplementary written representations for consideration by the Housing Appeals Panel. Written representations must be received 5 working days before the appeal date.

## 7. **The Hearings**

- 7 (a) The Housing Appeals Panel shall follow the procedure set out in the Appendix hereto and the Appellant has the right to:-
- (i) be heard, to be accompanied and may be represented by another person whether that person is professionally qualified or not and for the purpose of the appeal proceedings any representative shall have the same rights and powers as the Appellant given in paragraphs 7 (ii) – (v) below
  - (ii) call persons to give evidence
  - (iii) put questions to any person who gives evidence at the hearing; and
  - (iv) Make representations in writing
  - (v) To assist you during the hearing a translator may be appointed

Director of Housing and Regeneration will be represented during the review by a duly Authorised Officer and where possible this should be the Housing Officer for the Appellant.

A Clerk will be present throughout the hearing and the decision making process. The Clerk will be a member of Legal or Democratic Services and will give legal advice to the Panel. The Clerk will record the decision of the Panel and notify the Appellant of the decision in writing.

## 8. **Notice of Hearings**

- 8 (a) The Council shall give an Appellant written notice of the date, time and place of the meeting of the Housing Appeals Panel that shall determine his/her appeal/review request
- 8 (b) The date for the Appeal will be sent to the Appellant no more than 5 days after receipt of the appeal/review request
- 8 (c) If no, or inadequate, notice of the date of the meeting is given the matter may only proceed with the consent of the Appellant or his/her representative

**9. Absence of Appellant/Tenant**

- 9 (a) Where an Appellant requests an oral hearing and fails to appear, the Housing Appeals Panel, being satisfied proper notice has been given, may, having regard to all the circumstances including any explanation offered for the absence, proceed with the hearing notwithstanding his/her absence or adjourn the hearing or give such directions as to the further conduct of the appeal/review request as it may think proper

**10. Postponement of Hearing**

- 10 (a) The Appellant may apply to the Housing Appeals Panel requesting a postponement of the hearing, any such request will be considered by the Clerk to the panel in consultation with the Chair. The application may be granted or refused but reasons must be given in writing for any refusal. Any postponement will not be granted for longer than 14 days.

10 (b) The Director of Housing and Regeneration or an Authorised Officer may apply to the Housing Appeals Panel requesting a postponement of the hearing, any such request will be considered by the Clerk to the panel in consultation with the Chair. Such a request will only be granted where it is considered that there will be no prejudice to the Appellant and a postponement will not be granted for more than 14 days. Once a postponement under this subsection has been granted the Appellant must be notified in writing within 3 days. Requests for postponement of a hearing made by an Authorised Officer will not be considered if they are simply that the Applicant's Housing Officer is not available on the date of the Panel as it would be expected that another Housing Officer could take conduct of the Appeal.

10 (c) a review hearing can only be postponed once unless exceptional circumstances have been presented to the Clerk and the Chair.

10 (d) Where no request for a postponement has been made but information has come to light that could lead to an application for a postponement the Clerk, in consultation with the Chair, may consider a postponement.

**11. Adjournment of Hearing**

- 11 (a) The Housing Appeals Panel may, at any time, adjourn the hearing of any appeal/review request on the application of either party
- 11 (b) If a matter is adjourned part heard the authority will, wherever possible endeavour to reconvene the same panel to sit on the reconvened panel. This will ensure that the reconvened panel is quicker and that evidence already given does not have to be repeated. Where the same panel cannot be reconvened for whatever reason the Clerk to the panel will summarise the evidence already heard by the panel at the previous hearing.
- 11 (c) In the case of a review of a decision to seek possession on Absolute Grounds for anti-social behaviour, where the hearing is adjourned for more than one day, the Housing Appeals Panel must specify a date on which the hearing is to be resumed by sending a notice in writing to that effect to the Appellant and any other person whose attendance is required at the resumed hearing

## 12. The Decision

12(a) The Housing Appeals Panel after considering the written representations and/or the evidence may:

1. Uphold the Director of Housing and Regeneration decision to serve Notice of Proceedings on the Tenant and authorise court proceedings for possession of the dwelling-house.
2. Uphold the Director of Housing and Regeneration decision to serve Notice of Proceedings on the Tenant but to stay the application for possession to the court pending a further review of the case by the Panel.
3. Uphold the Director of Housing and Regeneration decision to serve Notice of Proceedings on the Tenant but to stay the application for possession to the court pending monitoring by officers of a consistent and acceptable pattern of payment of the rent arrears.
4. Extend the period of the introductory tenancy by six months and either options 2 or 3 above apply.
5. N.B this is only an option if the Appeal hearing is at least eight weeks before the twelve month introductory tenancy period ends.
6. Rescind the Notice of Proceedings.

12(b) The Council will notify the Appellant in writing of the Housing Appeal Panel's decision, including (where appropriate) the reasons for reaching that decision, within 7 working days of the date the decision is made. The decision letter will include a copy of the decision notice signed by the Chair or Vice Chair of the Panel.

## 13. Procedure for Oral Hearings

- (a) The Chair will introduce himself/herself and state the nature of the matter to be considered.
- (b) The Chair will then introduce the other members of the Appeals Panel, the Clerk, the officers present to advise the Panel and any witnesses.
- (c) The Chair will confirm that none of the members sitting on the Appeals Panel were involved in the decision the subject of appeal/review.
- (d) The Chair will take the details of the authority's representative and the appellant's representative (if any) who will both state their name and position and the names and positions of any witnesses they intend to call.
- (e) The Chair will ask the officers to confirm whether or not the requisite notice has been given to the appellant of the date, time and place of the hearing.

If the requisite notice has not been given the Chair will enquire of the appellant or his/her representative whether it is agreed that the hearing proceed.

If it is not agreed, the hearing will be adjourned to a future suitable date.

- (f) If there is no appearance by the appellant the Appeals Panel shall, on being satisfied proper notice has been given, and having regard to all the circumstances including any explanation offered for the absence, decide whether the hearing shall proceed notwithstanding the appellant's absence, or give such directions with a view to the conduct of the appeal/review request as it may think proper.
- (g) Witnesses shall be present from the start of the hearing **ONLY** if **BOTH** parties agree and the Chair retains the right to request that witnesses give their evidence without the other witnesses being present even when both parties are in agreement. The Authority's representative and the Appellant and his/her representative will be present throughout the presentation of the case.

- (h) The Chair will then outline the procedure for the hearing, which shall be as follows:
  - (a) The authority's representative summarises his/her case.
  - (b) The authority's representative may then call witnesses to give evidence. (Hearsay evidence of witnesses is admissible although direct evidence shall carry more weight).

Where witnesses are called each in turn:-

- (i) gives evidence;
  - (ii) may be questioned by the Appellant or the Appellant's representative;
  - (iii) may be questioned by members of the Appeals Panel;
  - (iv) may, if necessary, be re-questioned by the authority's representative.
- (c) The Appellant or the Appellant's representative summarises his/her case.
- (d) The Appellant or the Appellant's representative may then call witnesses to give evidence which may include the Appellant. Each witness in turn:-
  - (i) gives evidence;
  - (ii) may be questioned by the authority's representative;
  - (iii) may be questioned by members of the Appeals Panel;
  - (iv) may, if necessary, be re-questioned by the Appellant or the Appellant's representative.
- (e) Upon completion of all or any oral evidence from the Appellant and/or the Appellant's witnesses the Appellant or the Appellant's representative may submit any written representations
- (f) On completion of the evidence each party will be given the opportunity of summing up his/her case; firstly the authority's representative, secondly the Appellant or the Appellant's representative.
- (g) Members of the Appeals Panel may ask the parties or any witness for any additional information or clarification required.
- (h) The Chair should ask the Housing Officer for their recommendation in each case. The Appellant will then be afforded the opportunity to express their views on this recommendation and make their own request of the Panel.
- (I) The Chair will then
  - (i) advise the parties that the Appeals Panel will consider its decision;
  - (ii) advise the appellant that he/she will be notified of the Appeals Panel's decision in writing, and, where appropriate, the reasons for the decision;
  - (iii) advise the appellant he/she will receive the notification within 7 working days;
  - (iv) invite the parties, their representatives and witnesses to withdraw.
- (j) The Appeals Panel will consider its decision. The decision of the majority of the Appeals Panel shall be the decision of the Panel, and where the Panel consists of an even number, the Chair shall have a second or casting vote.
- (k) It is at the discretion of the Chair of the Appeals Panel to announce the Appeals Panel's decision together, where appropriate with the reasons, for the decision. Where the Chair of the Appeals Panel chooses the Appellant will not be notified on the day but will receive notification in writing from the Clerk to the Panel.
- (l) A written record of the Appeals Panel's decision including a statement of the reasons for its decision signed by the Chair shall be retained by the Authority.
- (m) The appellant will be notified of the Appeals Panel's decision by written notice given by the Chief Executive, under the hand of the Clerk to the Panel. This will be given as soon as possible after the hearing and, in any event, to reach the Appellant within 7 working days.

- (n) Where the decision of the Panel is to uphold the decision of the Director of Housing and Regeneration but stay the proceedings pending a further review or monitoring by Officers the further review should (where possible) be conducted by the same Panel. The Panel should restrict themselves to only considering new evidence (things that have happened since the first review) presented by the Appellant or the Authorised Officer as all pertinent evidence should have been presented at the first review hearing. Evidence that pre-dates the panel's decision for a review hearing will only be heard under exceptional circumstances. Evidence already heard should not be reheard except where 11b applies.

#### **14. POINTS TO NOTE RELATING TO HEARINGS**

- (a) Members must remain throughout all of the hearing.
- (b) Members must confine themselves to questions and **NOT** embark on discussions upon the merits or otherwise of the application or evidence until they consider their decision.
- (c) An Appellant may apply to the Appeals Panel requesting a postponement of the hearing and the Appeals Panel may grant or refuse the application as it sees fit.
- (d)
  - (i) A hearing may be adjourned by the Appeals Panel at any time during the hearing on the application of the Appellant, his/her representative or at the motion of the Appeals Panel. If a hearing is adjourned part heard and after the adjournment the persons constituting the Appeals Panel differ from those appearing at the first hearing, proceedings shall be by way of a complete rehearing.
  - (ii) Where the Appeal is quorate any hearing may, with the consent of the Appellant or his/her representative but not otherwise, be proceeded with in the absence of one of the persons who is to determine the review providing that there are still 3 members of the Panel and at least one of them is the Chair or Vice Chair.

This page is intentionally blank.



**PROTOCOL AND PROCEDURE**

<b>Terms of Reference</b>	To determine appeals from any decision of the Director of Housing and Regeneration taken under powers delegated to him on housing matters by resolution or decision of the Council or any competent body or Executive member or under the Constitution (other than any decisions to issue a notice of seeking possession or to take any subsequent steps in the County Court) and to review his decisions to extend the trial period of or determine (as the case may be) introductory tenancies pursuant to requests made under the provisions of section 125B or 129 of the Housing Act 1996 respectively. To also review decisions to seek possession of dwelling-houses on the absolute ground for anti-social behaviour as required by section 85ZA of the Housing Act 1985
<b>Composition</b>	The Appeals Panel shall consist of a minimum of 3 members which shall be made up from those members appointed to the Panel by the Council.
<b>Meetings</b>	Meetings of the Appeals Panel shall be called as and when required so as to determine appeals and/or review requests within statutory or the Council's own laid down time limits
<b>Independence</b>	<p>No member shall sit on the Appeals Panel where he/she has had some direct personal involvement in a matter to be determined</p> <p>In particular, in accordance with the Allocation of Housing (Procedure) Regulations 1997, no member shall sit on the Appeals Panel in respect of an appeal against an allocation decision, when either:</p> <ul style="list-style-type: none"> <li>(a) the unit of housing accommodation concerned is situated in his/her electoral ward; or</li> <li>(b) the person subject to the decision has their sole or main residence in the member's ward</li> </ul>

**RIGHT OF APPEAL/REVIEW**

1. ***Decisions which may be reviewed or appealed***
  - 1 Any decision on housing matters made by the Director of Housing and Regeneration, or his officers, in exercise of delegated powers conferred under the Constitution or by resolution or decision of the Council or any competent body or Executive member
2. ***Method and Time Limits for Appeal/Review Request***
  - 2 (a) **EXCEPT** for a review request made under paragraph 2 (b) below, a person wishing to exercise the right of appeal or review request **MUST** do so in writing within 28 days of receipt of the decision from the Director of Housing and Regeneration
  - 2 (b) **A request for a review of the landlord's decision**
    - to extend a trial period of or
    - to seek an order for possession of a dwelling-house let under an introductory tenancy must be made before the end of the period of 14 days beginning with the day on which either the notice of extension or proceedings is served.
    - to seek possession on the absolute ground for anti-social behaviour must be made before the end of 7 days beginning with the day on which the notice is served.

2 (c) **For the purpose of determining the date of receipt of any written decision or appeal or review request any communication:**

- (i) **sent by 1st class post shall be deemed received the second day after it was posted,**
- (ii) **sent by 2nd class post shall be deemed received the fourth day after it was posted,**
- (iii) **delivered to or left at the address on the communication shall be deemed received the day after it was delivered or left at the address,**
- (iv) **sent by fax shall be deemed received on that day if transmitted before 4pm or otherwise on the day after the day upon which it was transmitted**
- (v) **sent by other electronic method shall be deemed received the day after the day on which it was transmitted.**

### **3. *Receipt of Appeal/Review Request***

3 **Upon receipt, the Director of Housing and Regeneration shall arrange for the appeal/review request to be referred to the Housing Appeals Panel for determination.**

### **4. *Determination Date***

4 (a) **Requests for review of a decision**

- (i) **to seek an order for possession of a dwelling-house let under an introductory tenancy shall be carried out and the tenant notified before the date specified in the notice of proceedings as the date after which possession proceedings may be begun and**
- (ii) **to extend the trial period of an introductory tenancy shall be carried out and the tenant notified before the original expiry date of the trial period.**
- (iii) **to seek possession on the absolute ground for anti-social behaviour shall be carried out and the tenant notified before the date specified in the notice under section 83ZA of the Housing Act 1985 as the day after which proceedings for possession of the dwelling-house may be begun.**

4 (b) **Any other appeal or review request shall be determined by the Housing Appeals Panel within 28 days of receipt of the appeal/review request by the Director of Housing and Community Services.**

### **5. *Procedure***

5 (a) **The procedure contained within the Introductory Tenants (Review) Regulations 1997 or the Introductory Tenancies (Review of Decisions to Extend a Trial Period) (England) Regulations 2006 or The Absolute Ground for Possession for Anti-social Behaviour ( Review Procedure ) ( England ) Regulations 2014 (as appropriate) shall be followed in respect of any review conducted into a decision by the Director of Housing and Regeneration to seek an order for possession of a dwelling-house let under, or to extend a trial period of, an introductory tenancy or to seek possession of a dwelling-house on the absolute ground for anti-social behaviour and the remaining paragraphs hereof shall not apply except in so far as they are consistent with those Regulations**

5 (b) **In respect of all other decisions, including all tenancy matters, housing applications, discretionary renovation grant matters and other operational decisions, the procedure for dealing with appeals will be as follows:**

- (i) **an officer will be appointed to review the decision who will have had no prior involvement in the matter**
- (ii) **the Appellant will be given a written explanation of the decision taken within 15 working days**
- (iii) **if the Appellant remains dissatisfied with the decision he/she will have the right to appeal to the Housing Appeals Panel and will be notified of that right with the written explanation**

- (iv) for the purpose of paragraph 2 (a) above the period of 28 days shall be calculated from the date of receipt of the written explanation

- 5 (c) (i) There shall be a presumption that all appeals or review requests shall be by way of an oral hearing (the provisions within the aforementioned Regulations notwithstanding) **UNLESS** the appellant informs the Director of Housing and Regeneration that he/she wishes the matter to be determined by way of written representations
- (ii) Such notice **MUST** be given by the Appellant in writing when submitting his/her appeal/review request

6. **Appeals/Reviews by written representations**

- 6 (a) **Where the appeal/review request is by way of written representations the Housing Appeals Panel shall consider all properly submitted representations and the appellant shall be notified by the Council of the date by which such representations must be received which cannot be earlier than 5 clear days after receipt of such notification**

- 6 (b) When any appeal or review request is dealt with by written representations the Appellant will receive a copy of the written representations to be submitted by the Director of Housing and Regeneration with the notice of hearing as provided for in paragraph 8 below. The Appellant will also be invited to submit supplementary written representations for consideration by the Housing Appeals Panel

7. **The Hearings**

7. The Housing Appeals Panel shall follow the procedure set out in the Appendix hereto and the Appellant has the right to:-
- (i) be heard and to be accompanied and may be represented by another person whether that person is professionally qualified or not and for the purpose of the appeal proceedings any representative shall have the same rights and powers as the Appellant given in paragraphs 7 (ii) – (iv) below
- (ii) call persons to give evidence
- (iii) put questions to any person who gives evidence at the hearing; and
- (iv) make representations in writing

8. **Notice of Hearings**

- 8 (a) The Council shall give an Appellant written notice of the date, time and place of the meeting of the Housing Appeals Panel that shall determine his/her appeal/review request
- 8 (b) The date for the meeting shall not be less than 5 days after receipt of the appeal/review request
- 8 (c) If no, or inadequate, notice of the date of the meeting is given the matter may only proceed with the consent of the Appellant or his/her representative

9. **Absence of Appellant/Tenant**

- 9 Where an Appellant requests an oral hearing and fails to appear, the Housing Appeals Panel, being satisfied proper notice has been given, may having regard to all the circumstances including any explanation offered for the absence, proceed with the hearing notwithstanding his/her absence or give such directions as to the further conduct of the appeal/review request as it may think proper

10. **Postponement of Hearing**

- 10 The Appellant may apply to the Housing Appeals Panel requesting a postponement of the hearing and it may grant or refuse the application as it sees fit

11. **Adjournment of Hearing**

- 11(a) The Housing Appeals Panel may at any time adjourn the hearing of any appeal/review request on the application of either party
- 11(b) If a matter is adjourned part heard and membership of the Housing Appeals Panel shall differ at any reconvened hearing, the case shall proceed by way of a complete rehearing.
- 11(c) In the case of a review of a decision to seek possession on the absolute ground for anti-social behaviour, where the hearing is adjourned for more than one day, the Housing Appeals Panel must specify a date on which the hearing is to be resumed by sending a notice in writing to that effect to the Appellant and any other person whose attendance is required at the resumed hearing

12. **The Decision**

- 12(a) The Housing Appeals Panel after considering the written representations and/or the evidence may:
  - confirm the decision of the Director of Housing and Regeneration and, where appropriate, the reasons given;
  - confirm the decision of the Director of Housing and Regeneration substituting its own reasons if appropriate;
  - vary the Director of Housing and Regeneration' decision giving its reasons;
  - quash the Director of Housing and Regeneration' decision and/or substitute its own in either case giving its reasons
- 12(b) The Council will notify the Appellant in writing of the Housing Appeal Panel's decision, including (where appropriate) the reasons for reaching that decision, within 7 working days of the date the decision is made.

## APPENDIX

### THE HOUSING APPEALS PANEL

#### Procedure for Oral Hearings

- (1) The Chairman will introduce himself/herself and state the nature of the matter to be considered.
- (2) The Chairman will then introduce the other members of the Appeals Panel and the officers present to advise the Panel.
- (3) The Chairman will confirm that none of the members sitting on the Appeals Panel were involved in the decision the subject of appeal/review
- (4) The Chairman will take appearances from the authority's representative and the appellant's representative (if any) who will both state their name and position and the names and positions of any witnesses they intend to call.
- (5) The Chairman will ask the officers to confirm whether or not the requisite notice has been given to the appellant of the date, time and place of the hearing.

If the requisite notice has not been given the Chairman will enquire of the appellant or his/her representative whether it is agreed that the hearing proceed.

If it is not agreed, the hearing will be adjourned to a future suitable date.

- (6) If there is no appearance by the appellant the Appeals Panel shall, on being satisfied proper notice has been given, and having regard to all the circumstances including any explanation offered for the absence, decide whether the hearing shall proceed notwithstanding the appellant's absence, or give such directions with a view to the conduct of the appeal/review request as it may think proper.
- (7) Witnesses shall be present from the start of the hearing **ONLY** if **BOTH** parties agree. The authority's representative and the appellant and his/her representative will be present throughout the presentation of the case.
- (8) The Chairman will then outline the procedure for the hearing, which shall be as follows:
  - (a) The authority's representative summarises his/her case.
  - (b) The authority's representative may then call witnesses to give evidence. (Hearsay evidence of witnesses is admissible although direct evidence shall carry more weight). Where witnesses are called each in turn:-
    - (i) gives evidence;
    - (ii) may be questioned by the appellant or the appellant's representative;
    - (iii) may be questioned by members of the Appeals Panel;
    - (iv) may, if necessary, be re-questioned by the authority's representative.
  - (c) The appellant or the appellant's representative summarises his/her case.
  - (d) The appellant or the appellant's representative may then call witnesses to give evidence which may include the appellant. Each witness in turn:-
    - (i) gives evidence;
    - (ii) may be questioned by the authority's representative;
    - (iii) may be questioned by members of the Appeals Panel;
    - (iv) may, if necessary, be re-questioned by the appellant or the appellant's representative.
  - (e) Upon completion of all or any oral evidence from the appellant and/or the appellant's witnesses the appellant or the appellant's representative may submit any written representations

- (f) On completion of the evidence each party will be given the opportunity of summing up his/her case; firstly the authority's representative, secondly the appellant or the appellant's representative.
  - (g) Members of the Appeals Panel may ask the parties or any witness for any additional information or clarification required.
- (9) The Chairman will then
- (i) advise the parties that the Appeals Panel will consider its decision;
  - (ii) advise the appellant that he/she will be notified of the Appeals Panel's decision in writing, and, where appropriate, the reasons for the decision;
  - (iii) advise the appellant he/she will receive the notification within 7 working days;
  - (iv) invite the parties, their representatives and witnesses to withdraw.
- (10) The Appeals Panel will consider its decision. The decision of the majority of the Appeals Panel shall be the decision of the Panel, and where the Panel consists of an even number, the Chairman shall have a second or casting vote.
- (11) The Chairman of the Appeals Panel will announce the Appeals Panel's decision together where appropriate with the reasons for the decision.
- (12) A written record of the Appeals Panel's decision including (where appropriate) a statement of the reasons for its decision signed by the Chairman shall be retained by the Authority.
- (13) The appellant will be notified of the Appeals Panel's decision by written notice given by the Chief Executive, under the hand of the clerk to the Panel. This will be given as soon as possible after the hearing and, in any event, to reach the appellant within 7 working days.

#### **POINTS TO NOTE RELATING TO HEARINGS**

- (a) Members must remain throughout all of the hearing.
- (b) Members must confine themselves to questions and **NOT** embark on discussions upon the merits or otherwise of the application or evidence until they consider their decision.
- (c) An appellant may apply to the Appeals Panel requesting a postponement of the hearing and the Appeals Panel may grant or refuse the application as it sees fit.
- (d)
  - (i) A hearing may be adjourned by the Appeals Panel at any time during the hearing on the application of the appellant, his/her representative or at the motion of the Appeals Panel. If a hearing is adjourned part heard and after the adjournment the persons constituting the Appeals Panel differ from those appearing at the first hearing, proceedings shall be by way of a complete rehearing.
  - (ii) That notwithstanding, where more than one person is conducting the review, any hearing may, with the consent of the appellant or his/her representative but not otherwise, be proceeded with in the absence of one of the persons who is to determine the review.

**Executive – 30 October 2017**

**Extract of minutes**

**Housing Appeals Panel**

Purpose of Report

To consider proposed changes to the Housing Appeals Panel procedure.

**Decision**

That the proposed changes to the Housing Appeals Panel procedure be supported and recommended to Council for approval.

Alternative Options Considered and Rejected

None.

Reason for Decision

Recently it had become apparent that a number of procedural changes needed to be addressed within the Housing Appeals Panel procedure both to update them in view of the legal framework but also to provide a clear understanding of roles for members and officers.

The key changes proposed to be made to the Housing Appeals Panel procedure included the following:

- a reflection of legislative changes to:
  - review decisions to seek possession of dwelling-houses on absolute grounds for anti-social behaviour as required by Section 85A of the Housing Act 1985;
  - review decisions to seek possession of dwelling-houses following a Demoted Tenancy under Section 85A of the Housing Act 1985.
- a general update to the procedure's wording to better reflect the Housing Appeals Panel's remit;
- amendments to further formalise how the Housing Appeals Panel meetings would be conducted;
- the creation of Section 13 which set out a clear role for the Chair and allowed the Panel to take more of an active role within proceedings;
- standardisation of Housing Officer recommendations and Housing Appeals Panel decisions, whilst still allowing the Panel to exercise its discretion.

The revised procedure document was appended to the report.

This page is intentionally blank.



**COUNCIL**

**5 DECEMBER 2017**

**SUBJECT: AMENDMENT TO MINIMUM REVENUE PROVISION POLICY**

**REPORT BY: CHIEF FINANCE OFFICER**

**LEAD OFFICER: SARAH HARDY, GROUP ACCOUNTANT**

**1. Purpose of Report**

- 1.1 This report recommends a change to the Minimum Revenue Provision policy for the approval of council.

**2. Executive Summary**

- 2.1 A change to the policy for the repayment of debt known as the Minimum Revenue Provision.

**2.1.1 Minimum Revenue Provision**

The Council funds its capital programme using available capital resources (capital receipts, grants and revenue contributions) and borrowing. To fund the repayment of borrowing the Council sets aside a prudent amount each year known as the Minimum Revenue Provision.

The nature of certain schemes within the capital programme, whereby a capital receipt is available at the end of the project, means that Minimum Revenue Provision may not be applied as the funds are returned in full at the end of the project. In exploring this revision the Council has taken advice from its Treasury Management advisors (Link Asset Services) and researched other local authority's approaches.

The revised policy is appended to this report.

**3. Strategic Priorities**

- 3.1 Develop a fit for purpose Council – through its policies the council aims to ensure a prudent approach is taken to servicing repayment of its debt.

**4. Organisational Impacts**

- 4.1 Finance – The financial implications are covered in the main body of the report.

## **5. Recommendations**

- 5.1 It is recommended that members approve the change to the Minimum Revenue Provision policy.

### **List of Background Papers:**

Treasury Management Half Year Update, presented to Performance and Scrutiny Committee on 23 November 2017 and to Executive on 27 November 2017

Lead Officer – Sarah Hardy, Group Accountant Tel. 01522 873839,  
e-mail [sarah.hardy@lincoln.gov.uk](mailto:sarah.hardy@lincoln.gov.uk)

## **Minimum Revenue Provision (MRP) Policy**

1.0 The Council is required to pay off an element of the accumulated General Fund borrowing each year through a revenue charge (the Minimum Revenue Provision), and is also allowed to undertake additional voluntary payments (VRP).

1.1 CLG Regulations have been issued which require full Council to approve **an MRP Statement** in advance of each year. A variety of options are provided so long as there is a prudent provision.

1.2 Members are recommended to approve the following MRP Statement:

For capital expenditure incurred:

(A) Before 1<sup>st</sup> April 2008 or which in the future will be Supported Capital Expenditure, the MRP policy will be:

**Existing practice** - MRP will follow the existing practice outline in former DCLG Regulations, but on a 2% straight-line basis, i.e. provision for the full repayment of debt over 50 years;

(B) From 1<sup>st</sup> April 2008 for all unsupported borrowing (including finance leases) the MRP policy will be:

**Asset Life Method** – MRP will be based on the estimated life of the assets on either a straight line or annuity basis (as deemed most appropriate for capital expenditure being financed through borrowing). Asset life is deemed to begin once the asset becomes operational. MRP will commence from the financial year following the one in which the asset becomes operational.

MRP in respect of unsupported borrowing taken to meet expenditure, which is treated as capital expenditure by virtue of either a capitalisation direction or regulations, will be determined in accordance with the asset life method as recommended by the statutory guidance.

(C) The Council will set aside £750k of capital receipts to the Capital Adjustment Account instead of applying these receipts to new expenditure in order to reduce the total debt liability (this will be £150k per annum over the period 2017/18 to 2021/22). The Council will reduce the MRP provision for the year by the same amount.

(D) Expenditure in respect of the Local Authority Mortgage Scheme will not be subject to a minimum revenue provision as this is a temporary arrangement and the funds will be returned in full.

(E) Expenditure in respect of land purchases will increase the Capital Financing Requirement (CFR) by the borrowing required to fund the purchase which will be repaid by the future sale of the asset. Once the asset is sold and the funds are realised they will be classed as a capital receipt and will be off-set against the CFR which will reduce accordingly. As the funds will be returned in full there is no need to set aside prudent provision to repay the debt liability so no MRP will be applied in respect of this type of purchase.

**SUBJECT: PROCUREMENT POLICIES**

**DIRECTORATE: CHIEF EXECUTIVE**

**REPORT AUTHOR: HEATHER CARMICHAEL, CLIENT PROCUREMENT OFFICER**

## **1. Purpose of Report**

- 1.1 To update members on the changes to the Authority's own internal Procurement Policies following an internal review of the current provision.

## **2. Executive Summary**

- 2.1 Following the decision to withdraw from Procurement Lincolnshire, the shared service there is a need to ensure that the Council has in place a robust procurement service.

## **3. Background**

- 3.1 In light of the withdrawal from the shared service, the Council is committed to adopting a robust procurement strategy moving forward. A comprehensive review has been undertaken by the Client Procurement Officer and the City Solicitor to ensure that the service and its underpinning policies/strategies meets the needs of both the Council and those who we wish to do business with. And is a forward thinking, pro-active approach to procurement.

These policies will ensure that the service operates at a strategic level focussing on those activities which will deliver efficiencies and improve the way that services are delivered. It is also the aim that these policies will assist and support those external bodies contracting and/or wishing to contract with the Council.

## **4. Main Body of Report**

- 4.1 There is now, more than ever, a need to achieve savings and efficiencies as well as cultivating long term sustainable procurement practices. In order to deliver this, it is critical that local authorities have in place the relevant policies and strategies that enable this to happen.
- 4.2 This review has taken account of best practice by others involved in public sector procurement as well as feedback from suppliers who have or are looking to engage with the Council in the future. It must however be acknowledged that there are some limitations as to what the Council can and can't change due to the legal constraints of Public Contract Regulations.

- 4.3 To this end, the Client Procurement Officer and the City Solicitor have developed the following policies and strategies which, when adopted by the council will enable all parties to have a clear and transparent understanding of what is required of them.
- 4.4 The four policies will be in addition to the more operation policy document, Contract Procedure Rules which details the processes Officers are required to follow:
- Procurement Protocol (Appendix A)
  - Delivering Social Value Through Procurement (Appendix B)
  - How To Do Business With City of Lincoln Council (Appendix C)
  - Local Purchasing Strategy (Appendix D)
- 4.5 **Procurement Protocol** – this document sets out the Council’s commitment to equality of opportunity for all those who wish to do business with it. It accepts that a one size fits all approach to procurement is not productive ; identifies the perceived barriers whilst balancing this with legislative requirements ; makes a commitment to working with various organisations prior to as well as during (as much as it is allowed) the procurement process and looks at the potential to offer support, training and advice to suppliers. The council is proposing the following mission statement:
- “to ensure procurement opportunities with the City of Lincoln Council are fair, straightforward and accessible to all”
- 4.6 **Delivering Social Value Through Procurement** – this document sets out the important role Social Value can play in enabling sustainable development through the Council’s procurement activity. The policy identifies a number of key topics with social, economic and environmental impacts and details specific policy commitments. However this is an evolving area where suppliers and officers alike are still developing best practice and therefore the policy will continue to be informed by best practice. The Council is proposing the following as the Social Value position for the Council:
- “a process by which benefits can be made that will improve the quality of life & life chances of City of Lincoln residents and enhance our Civic pride in the City”
- 4.7 **How To Do Business with City of Lincoln Council** – this document has been developed to provide a step by step guide to suppliers looking to working with the Council. It is envisaged that it will:
- Outline the rules and regulations that the Council must follow in procuring goods, services and works
  - Detail how to bid and outline what information will be required
  - Provide contact details of those who can provide support and guidance
  - Provide information as to where contract opportunities can be found
- 4.8 **Local Purchasing Strategy** – this is a refreshed version of the strategy which has been in place for a number of years. It details the Council’s preference to procure locally produced goods or services over those which come from further afield. Unfortunately it has to be acknowledged that this is substantially limited due to Public Contract Regulations 2015 which take account of EU Directives. These do

not allow for procurement awards to be made on geographical location or allow favouritism to be shown to “local businesses” as this can be seen as being discriminatory. However there are opportunities for below OJEU threshold activities for “local businesses” to be supported without contravening the regulations. The Council has adopted the following as its definition of a “local supplier”

“those suppliers whose trading premises are located within Lincolnshire and/or a 20 mile radius of the county of Lincolnshire’s boundary”

Attached at appendix A, is the detailed category work programme and the suggested officers who can best input into the engagement process.

- 4.9 Whilst reference is made throughout all current procurement policies, including those within this report, to the EU, it is not yet known, given the uncertainty of Brexit negotiations, what the potential impact will be on procurement in the future. However as the EU legislation in the main has been reflected within UK law by way of Public Contract Regulations 2015 it is not anticipated that any changes will be seen within the next 5 years.

## **5. STRATEGIC PRIORITIES**

- 5.1 Let’s Drive Economic Growth – depending on the type of contract being procured there could be the option to include the development of Apprenticeship schemes and also local jobs
- 5.2 Let’s Reduce Inequality - depending on the type of contract being procured there maybe scope to include training for local residents as well payment of the Living Wage. In addition the adoption of a Social Value policy is a Vision 20:20 project under this theme group
- 5.3 Let’s Deliver Quality Housing – as part of the Social Value policy it may be possible to engage with successful contractors to help improve the living accommodation of our residents
- 5.4 Let’s Enhance Our Remarkable Place – as part of the Social Value policy it may be possible to encourage contractors to undertake improvement works within local communities

## **6. Organisational**

- 6.1 Legal Implications including Procurement Rules

Any procurement activity would be undertaken following the relevant procurement guidance.

- 6.2 Equality, Diversity & Human Rights (including the outcome of the EA attached, if required).

The development of the individual policies within this report will not result in an impact. However when undertaking procurement equality matters will need to be considered and a review and subsequent EA will be undertaken where deemed appropriate.

## **7. Recommendation**

- 7.1 That the proposed Procurement Policies be recommended to Full Council for approval and inclusion within the Council's Constitution.

**Is this a key decision?** No

**Do the exempt information categories apply?** No

**Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply?** No

**How many appendices does the report contain?** 5

**List of Background Papers:** None

**Lead Officer:** Heather Carmichael, Client Procurement Officer  
Telephone (01522) 873309



# PROCUREMENT PROTOCOL

June 2017



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



## Mission Statement

***“too ensure procurement opportunities with the City of Lincoln Council are fair, straightforward and accessible to all”***

## Introduction

The Council is committed to equality of opportunity for all those who wish to do business with us, from micro businesses to multi- national companies.

The Council realises that a one size fits all procurement policy is not a productive way forward both for external suppliers and the Council. The Council has therefore developed this policy and the actions that lie underneath it, to ensure that the procurement process it has, whilst complying with due process, is as straightforward as possible and assists contractors and partners to work with the Council to achieve the most advantageous outcomes.

## **What are the current barriers?**

It is acknowledged that there is a perception faced by all public authorities that the procurement process within local authority's is too bureaucratic, time consuming and weighted against smaller companies.

It is true that procurement must follow due process. The process is dictated by law, through the Public Contracts Regulations 2015 and internal contract procedure rules.

However the Council realises that there are ways that we can assist those bidding for work with the Council and to support and guide them through the process. This policy sets out how the Council will adapt and improve the procurement process so that potential partners can more readily work with the Council.

Appendix one – Social Value Policy

Appendix two – Executive summary contract procedure rules

Appendix three – Glossary of terms



CITY OF  
**Lincoln**  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



## **The Procurement Process**

The first discussion that a supplier has with the Council should not be when bidding for work. The Council intends to put into place a series of actions which support potential suppliers through the whole procurement process. These actions will include support/assistance in understanding the process and mechanisms involved. They are not overly complex and by providing bespoke support we will help breakdown perceptions that they are.

This will be addressed in the following ways:

### **1 Prior to the bid**

#### **1.1 Work with LEPS, federation of small businesses, developer forums.**

- We will take a pro-active approach in engaging with local businesses groups re: procurement issues on an on-going basis. We will not only raise awareness of public sector procurement opportunities but will also identify the most effective ways of completing documentation and highlight that we will support businesses, as much as we are able to throughout the process.
- We will make SME's aware that consortia bids will be accepted, where appropriate, that this is an option to them for larger contracts and how to go about completing documentation in these circumstances.
- We will develop a procurement page on our web site. This will include, faq's, glossary of terms; latest OJEU figures; uploaded standard documents and policies so suppliers can become familiar with them and have easy access to them at any time. We will also ensure that standard terms and conditions are available on our web site so that there are no surprises in our documents.
- We will undertake a review of how the Council puts together the award criteria for contracts, such as the price/quality mix.
- We will examine whether there is too much emphasis on wordy quality assessments, and whether these can be streamlined in any way.
- We will host procurement networking events and workshops at least bi-annually. This will ensure that we are as pro-active as possible in engaging with the local supply chain and the relevant market place.
- We have drawn up a Social Value Policy (attached as Appendix two) and this will be supplied with every tender.



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



- We will review framework agreements that we currently use and promote these to local suppliers in order to help them bid to be part of those and if not as the main contractor then as a 2<sup>nd</sup>/3<sup>rd</sup> tier supplier.
- We will continue to develop relationships with the existing framework providers and encourage them to bring networking events to Lincoln, to explain to our local suppliers the advantages of being on a framework.
- We will look to set up our own frameworks in order to speed up the delivery of projects
- We will signpost local suppliers to the local supply portal where they can register to become 2<sup>nd</sup>/3<sup>rd</sup> tier suppliers.
- The Council will use this local supply portal as an opportunity to advertise sub-contracting opportunities within our larger (potentially over OJEU) contracts.
- In addition to this we will also include a provision within the specification about the use of the site by the successful contractor to engage with sub-contractors.
- We will continually review our documentation and assess whether, these can be simplified.
- Where appropriate within our tender documentation we will incorporate an executive summary with a full technical specification held within an Appendix rather than the main document.

## 2 Pre-engagement

- As relationships have developed with SME's we will advise them of contract opportunities. We will be more pro-active in that we will meet with suppliers face to face, if requested, in answering questions about the specification or documentation completion.
- We will also look at structured pre market engagement to ensure that we are asking for the right things within our specifications and to ensure that suppliers understand what we are asking for and are looking for from them.
- We will make it clear that advice and guidance is available to all suppliers throughout the procurement process, and relevant contact details will be given to enable this.
- Wherever possible we will have a single stage submission tender, dependent on the market place i.e. a high volume of tender returns could result in delay of the contract award.



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



- Where we are procuring developable land packages, we will look at whether the land agreements can be packaged into lots which would still see the delivery of the project/scheme to the desired outcome.
- We will hold 'meet the supplier days' (if appropriate and proportionate to the tender exercise) where we ask/advertise our requirements in respect of developing the above agreements, and then evaluating all the interested party's proposals to see which deliver the best overall outcome rather than looking at deals in isolation

### 3 Bidding

- We will be more flexible when assessing the financial standing of a supplier especially when there is no financial risk to the authority.
- When undertaking a RFQ exercise in respect of Goods & Services (not Works), we will assess whether the financial standing assessment can be removed completely from the document and do this as part of the shortlisting of the contract.
- We will offer a number of hours of free support to suppliers prior to the commencement of the procurement exercise.
- We will, where legislation and also capacity allows, offer support and training to businesses to upskill them in the completion of documents



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



This page is intentionally blank.

# DELIVERING SOCIAL VALUE THROUGH PROCUREMENT

June 2017



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



## 1. Introduction

- 1.1 The Council recognises the important role it can play in enabling sustainable development through its procurement activity. In 2015-16 we spent in the region of £28m via procurement and it is anticipated that this will increase in 2016-17 due to major projects like the Transport Hub, Boultham Park and Western Growth Corridor. Through our approach to social value, we will integrate economic, environmental and social sustainability into our procurement process.
- 1.2 This policy identifies a number of key topics with social, economic and environmental impacts and details specific policy commitments. However it should be noted that there is no “one size fits all” in achieving social value. It is an evolving area where suppliers and officers alike are still developing best practice. Therefore this policy should be viewed as a living document and as such will continue to be informed by best practice both at a local and national level.

## 2. Defining Social Value

- 2.1 The Public Services (Social Value) Act 2012, which came into force on 31<sup>st</sup> January 2013, requires all public bodies in England and Wales, for the first time to legally consider how the services they commission and procure might improve the economic, social and environmental well-being of their area.
- 2.2 Recent developments in the modernisation of EU Public Contract Regulations , which have been embedded in UK law, also means that the place of social value in commissioning and procurement has become even clearer.
- 2.3 Social Value requires officers to consider where added value and benefit, in relation to economic, environmental and social aspects, can be delivered to the City, over and above those which are already done so as part of the requirements detailed within the specification.

Historically, this consideration was in the main only given to the short term or in isolation, however it is now a requirement to consider the longer term costs and sustainability in conjunction with how the inclusion of additional social value outcomes can potentially reduce the burdens/pressures in other areas.

For example:

A grounds maintenance service is let and delivered by an organisation who actively works within the local community providing training to the long term unemployed with a view to them entering gainful employment. Social value outcomes are achieved as a result of those gaining expertise which will enable them to gain employment. Therefore the procurement of this contractor to provide the standard provision has also resulted in a positive effect on other strategic priorities.



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future





- 2.4 The Council will as part of its adoption of this policy adopt the definition of Social Value as set out by the Sustainable Procurement Taskforce. The definition is as follows:

*A process whereby organisations meet their needs for goods, services and works and utilities in such a way that achieves value for money on a whole life basis in terms of generating benefits not only to the authority but also to society and the economy whilst minimising the damage to the environment.*

- 2.5 More specifically the following has been defined as the Social Value position for the Council:

*“A process by which benefits can be made that will improve the quality of life & life chances of City of Lincoln residents and enhance our Civic pride in the City”*

- 2.6 At the present time the only legal requirement is in respect of goods and services contract that have a value above OJEU thresholds (currently £164,176). However it is the Council’s aim that consideration will be given in respect of all procurement exercises; therefore this will be applicable to works contracts as well contracts with a value below the OJEU threshold.

### **3. Main Aims of the Policy**

- 3.1 The Council has developed a set of outcomes/principles that will enable it to consider the economic, social and environmental well-being of the City and its residents when commissioning/procuring its contracts. These outcomes/principles are based on the vision, values and priorities contained within the Vision 20:20 strategy.
- 3.2 These principles will be embedded within its procurement activities to ensure that only Value for Money products and services are selected and that in all cases a balanced consideration of social, ethical, environmental and economic impacts are undertaken throughout the procurement process. In addition to this it is also imperative that these principles are applied in a proportionate manner and are also tailored to reflect the works, services or goods being procured.
- 3.3 The policy is also there to ensure that Council employees, contractors and suppliers are aware of the commitment to long term social, ethical, environmental and economic sustainability. We will need to protect and enhance the environment and create better lives, well-being and opportunities for the people of Lincoln through our procurement process.



CITY OF  
**Lincoln**  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



## 4.0 Policy Context

- 4.1 The City of Lincoln Council Vision 20:20 Strategy sets the overarching strategic framework for this policy.

The strategy recognises that despite the recession Lincoln has continued to develop and grow.

It is envisaged that this Social Value policy, in conjunction with the Vision 20:20 strategy and the social value activities that they will both generate, will form a key element in the delivery of the Council's overall vision, Together, Lets deliver Lincoln's ambitious future.

## 5.0 Objectives

- 5.1 The Vision 20:20 strategy has four key principles and this policy has tried to ensure that these are provided for.

- Let's Drive Economic Growth
- Let's Reduce Inequality
- Let's Deliver Quality Housing
- Let's Enhance Our Remarkable Place

- 5.2 The objectives of this policy are reflective of the above and also the definition as detailed within paragraph 2.4. Below are the key objectives:

- Promote employment and economic sustainability – tackle unemployment and facilitate the development of skills
- Improve the living standards of local residents – encourage the payment of the living wage ; ensure that residents have access to all entitlements ; encourage suppliers to engage with the local supply chain both in respect of goods and labour
- Promote equality and fairness - engage with the most vulnerable within the community and tackle those wards which are most deprived
- Promote and improve environmental sustainability – reduce wastage ; use sustainable sources for materials ; reduce energy consumption



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



## 6. Policy Focus

6.1.1 This section deals with the key focuses, reflecting the objectives in paragraph 5.2. The focuses are as follows:

- Minimise carbon dioxide and other greenhouse gas emissions
- Take into account the need to reduce traffic emissions as well as reducing the negative impacts of transportation when purchasing goods and services
- Consider the environmental performance of all suppliers
- Maximise the use of recycled products and products made from reclaimed materials
- Consider fair trade or equivalent as well ethically sourced/produced goods and services
- Ensuring all contracts (where proportionate and relevant) contain sustainability/social value references within the specifications
- Maximising employment and economic gain opportunities for the “local” suppliers
- Engaging with and raising awareness of stakeholders, both internally and externally
- Maximise the use of local goods, produce and services
- Support SME’s and local businesses
- Consider equality, diversity and employee well being
- Support Third Sector and Social Enterprise
- Use of Sustainable Materials
- Waste Reduction

6.1.2 Minimise carbon dioxide and other greenhouse gas emissions

- Encourage suppliers to measure both theirs and their supply chain carbon footprint and where possible look to reduce this
- Build a requirement into specifications, where relevant and appropriate, for emission reduction

6.1.3 Take into account the need to reduce traffic emissions as well as reducing the negative impacts of transportation when purchasing goods and services

- Encourage suppliers to measure and review in order where possible to reduce this
- Build a requirement into specifications in respect of this, where relevant and appropriate

6.1.4 Consider the environmental performance of all suppliers

- Encourage suppliers to monitor all aspects of their business relating to environmental performance and to look for ways to reduce this moving forward



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



- 6.1.5 Maximise the use of recycled products and products made from reclaimed materials
- Encourage suppliers to build this into their contract delivery and to pass this through their supply chain
  - Build a requirement into specifications in respect of this , where relevant and appropriate
- 6.1.6 Consider Fairtrade or equivalent as well ethically sourced/produced goods and services
- Encourage suppliers to build this into their contract delivery and to actively promote through their supply chain
  - Build a requirement into specifications in respect of this , where relevant and appropriate
- 6.1.7 Ensuring all contracts (where proportionate and relevant) contain sustainability/social value references within the specifications
- Engage with service users and internal stakeholders when procuring major contracts to clearly define, design and establish methods to meet their needs in a sustainable/social value approach
  - Encourage suppliers to support locally beneficial projects in the communities in which they operate as part of the contract delivery
  -
- 6.1.8 Maximising employment and economic gain opportunities for the “local” suppliers
- Encourage suppliers to support employment opportunities for people from disadvantaged categories i.e. NEET’s, long term unemployed, people with physical or learning disabilities, ex-offenders, ex armed forces
  - Evaluate potential suppliers capacity to deliver targeted recruitment and training
  - Support suppliers in identifying relevant sources of support to assist in meeting the training and employment needs of target groups
- 6.1.9 Engaging with and raising awareness of stakeholders, both internally and externally
- Undertake training awareness sessions with the local business community
  - Encourage suppliers to communicate with their supply chain the importance of social value and sustainable procurement



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



6.1.10 Maximise the use of local goods, produce and services

- Recognise the importance of sourcing local goods and produce, where appropriate
- When procuring major contracts build in a requirement, where appropriate, for local primary producers to be included within the supply chain

6.1.11 Support SME's and local businesses

- Ensure that the procurement process is as accessible as possible to all
- Build into specifications, where appropriate and relevant, support of the local economy and supply chain
- Work with local suppliers and SME's to help identify local supply chain and sub-contracting opportunities
- Incorporate within this element the Local Purchasing Strategy

6.1.12 Consider equality, diversity and employee well being

- Ensure that the Council's commitment to Equality and Diversity is communicated to suppliers
- Encourage suppliers to be aware of and tackle, where possible equality issues within the sectors they operate in
- Make accessibility in the workplace a requirement, where appropriate, within the specification
- Encourage suppliers to recognise the benefits of workforce volunteering within the community they live and work in
- Encourage suppliers to consider how they can look after the health and well-being of their workforce

6.1.13 Support Third Sector and Social Enterprise

- Encourage suppliers to take steps to make supply chain opportunities accessible to relevant third sector and social enterprise organisations
- Provide regular engagement and information sessions to ensure local third sector and social enterprise understand the procurement process and where appropriate take account of their feedback
- Consider where relevant and appropriate alternative bidding models such as consortium and partnerships

6.1.14 Use of Sustainable Materials

- Ensure that where appropriate all timber and paper products are recycled or sourced from sustainable forests
- Encourage suppliers to be reactive to changes in scarce products/materials and seek alternatives where appropriate



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



#### 6.1.15 Waste Reduction

- Encourage suppliers to reduce waste at land-fills etc and promote re-use, recycling at all levels of the supply chain
- Build into specifications, where appropriate and relevant, waste reduction aspirations

6.2 As referenced in 6.1.11, the Local Purchasing Strategy has now been in place for a number of years. However for ease of reference please see below the definition of “local” as previously adopted by this Council

“a supplier is defined as one whose trading premises are located within Lincolnshire and/or a 20 mile radius of the county of Lincolnshire’s boundary”

For clarification a “trading premise” is where the supplier has a branch/base/office within the locality

### 7. Evaluating Our Approach

7.1 The impact of this policy will be reviewed on an annual basis to show how we are delivering on our objectives.

7.1 It is the intention of this policy to inform the use of key performance indicators (KPI’s) within contracts moving forward. It will also ensure that full contract management is undertaken in respect of the monitoring of social value elements within a suppliers submission.

7.2 The Client Procurement Officer will report into Performance Scrutiny Committee on an annual basis to detail the benefits that have been delivered as part of this Policy.

### 8. Working with Potential Suppliers

8.1 It is the Council’s aspiration that deriving from this policy Suppliers will be able to leave a “Lincoln Legacy”. The impact of which will last long after the term of the contract has expired

8.2 A number of examples are shown within Appendix A to this policy and it is hoped that these will help suppliers develop a social value submission which will deliver a legacy which will improve the economic, environmental and social well-being of the residents of Lincoln.



CITY OF  
*Lincoln*  
COUNCIL

Together, let’s deliver  
Lincoln’s ambitious future



## 9. Developing our Methodology

- 9.1 As part of the annual report to committee, an annual review will also take place to ensure that the policy is fit for purpose and reflective of case law and best practice.
- 9.2 It is also the intention that as part of his review Officers will develop further out use of varying evaluation methods to help ensure that we continue to successful in deriving positive economic, environmental and social outcomes from procurement in Lincoln.



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future





### Promote employment and economic sustainability

To provide a programme of training and upskilling of the long term unemployed within the City to help residents gain vital experience at no cost to the users

To provide apprenticeships as part of the contract delivery with a view to providing permanent employment once the apprenticeship has been completed

To provide a programme of training and upskilling of various sectors (disabled, ex Armed Forces, NEETS etc) within the City to help residents gain vital experience at no cost to those who attend

To become a Living Wage Foundation employer

To provide training and life skills to local education facilities at no cost

To work with Community Groups and Volunteers providing training and support at no cost, in order to develop life skills

### Improve the living standards of local residents

To become a Living Wage Foundation employer

To engage and develop on going relationships with local small and micro businesses

To support employees' in ensuring they have access to all work based entitlements

To support local community groups which help tackle poverty within the City

To undertake a community project within the City which will enable green space to be used by residents

### Promote equality and fairness

To provide support (both financial and in kind) to local community groups who work with and support residents of the deprived wards

To undertake a programme of free skills workshops to support certain sectors of the community i.e. disabled, young persons, 50-64 year olds

To work with the Council to provide home improvements at no cost to the residents of deprived wards



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future





#### Promote and improve environmental sustainability

To commit to reducing the amount of waste produced being directed to land fill

To donate any unwanted materials or potential waste items to local community groups for their use at no cost

To include within the contract the use of sustainable energy resources

To reduce the overall energy consumption in relation to the delivery of the contract

To work with local residents in order to reduce their fuel consumption at no cost



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



This page is intentionally blank.

# HOW TO DO BUSINESS WITH THE CITY OF LINCOLN COUNCIL

June 2017



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



## 1. Introduction

- 1.1 The City of Lincoln Council is committed to equality of opportunities for all those who wish to do business with us. It has developed this guide in order to assist those companies who wish to supply/provide goods or services as well as works to the Council. It also helps to support the Council's mission statement, set out below, in respect of procurement and ultimately the adopted Procurement Protocol:

*“to ensure procurement opportunities with the City of Lincoln Council are fair, straightforward and accessible to all”*

- 1.2 It is envisaged that this guide will provide the following:

- outline the rules and regulations that the council must follow in procuring goods, services and works
- detail how to bid and outlines what information will be required
- provide contact details of those who can provide support and guidance
- provide information as to where contract opportunities can be found

- 1.3 City of Lincoln Council is a district council situated in the rural county of Lincolnshire. It is classed by many as the urban hub of the county. It is divided by uphill and downhill Lincoln and is one of England's most beautiful and vibrant cathedral cities.

With a constantly diversifying population of circa. 88,500, it is a city entirely urban in its nature and has a tightly drawn boundary covering just 13.78 square miles. It is a significant regional centre, with a high number of people who commute to work, shop or visit the City. It has an elected assembly of 33 councillors.

The Council spends on average in the region of £28 million a year on the provision of goods services and works.

- 1.4 The Council's procurement activities enable services to be provided in an efficient, cost-effective and sustainable manner whilst enabling the Council to realise its Vision 20:20 aspirations. Within this, the council pursues four priority themes:

- Let's Drive Economic Growth
- Let's Reduce Inequality
- Let's Deliver Quality Housing
- Let's Enhance Our Remarkable Place



CITY OF  
**Lincoln**  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



- 1.5 As there is a high level of competition to work with the Council, there is no guarantee that this guide will enable your company to be successful. However the purpose of this guide is to provide information to enable suppliers to be best placed when submitting a quotation or tender for council opportunities.
- 1.6 Procurement is the process of acquiring goods, works and services from third parties. It includes both the process by which requirements are defined and contracts are awarded, as well as the management of contracts once awarded. Effective procurement seeks to achieve value for money based on a price/quality appraisal rather than the cheapest option.
- 1.7 The Council is committed to:
- Being fair
  - Non-discriminatory
  - Professional
  - Prompt Payer
- 1.8 The Council is also committed to delivering Social Value through its procurement activities and has developed its own Social Value Policy which is reflected in the majority of its procurement activity. This is also supported by the Public Services (Social Value) Act 2012, which makes considering the wider social, environmental and economic impacts of procurement a public duty.

## **2 Procurement Rules & Regulations**

- 2.1 Public procurement is governed by various rules and regulations and these are made at local, national and European level.
- 2.2 The City of Lincoln Council has its own Contract Procedure Rules (CPR's) which all officers involved in procurement must comply with. These form part of the Council's constitution. These are available on the Council's website.
- These CPR's work alongside other regulations which the Council must comply with, notably, Public Contract Regulations 2015.
- 2.3 The CPR's underpinning principles are:
- Ensure fairness and transparency when awarding public contracts
  - Comply with all legal requirements
  - Achieve value for money by awarding to the most economically advantageous tender
- 2.4 The CPR's set out the thresholds at which certain processes are to be followed and these have been summarised in paragraphs 2.5 to 2.7.



CITY OF  
**Lincoln**  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



- 2.5 Contracts with a value of up to £25,000 can be awarded by making a direct approach to a single supplier. Where possible any approach made should be to a local supplier as defined in CPR's. Any approach should be done so using the Council's standard template detailing the full requirements of the provision required. The supplier will be required to detail how it will deliver the requirement as well the cost for doing so. This will then be appraised and if all is satisfactory then a formal contract will be drawn together.
- 2.6 Where the value of the contract is over £25,000 but under the current threshold for OJEU Goods & Services then a minimum of four quotations should be sought. Two of the quotations should be sort from a "local" supplier where possible. Any approach will be undertaken by using the Council's standard template. This will detail all the requirements of the provision as well as how the submissions are to be assessed. The process will be undertaken electronically using the Council's procurement portal. Once formally evaluated then a contract will be issued to the successful bidder. All unsuccessful bidders will receive a full appraisal of their submission in order to provide constructive feedback.
- 2.7 The Local Purchasing Strategy has now been in place for a number of years. However for ease of reference please see below the definition of "local" as previously adopted by this Council
- "a supplier is defined as one whose trading premises are located within Lincolnshire and/or a 20 mile radius of the county of Lincolnshire's boundary"
- For clarification a "trading premise" is where the supplier has a branch/base/office within the locality
- 2.8 Where the contract is in respect of Works and the value is over the OJEU threshold for Goods & Services but under that of the OJEU Works threshold then the process detailed in 2.6 will apply other than a minimum of five quotations should be sort.
- 2.9 The council uses Pro contract/Due North for its procurement portal, [www.procontract.due-north.com](http://www.procontract.due-north.com) . It is therefore a requirement for suppliers to be registered on this site in order to participate in any procurement activity with a value over £25,000. In some cases in may also be used for under £25,000 activities.



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



- 2.10 Where the value of the procurement activity exceeds the OJEU thresholds then the following principles will apply. However it should be noted that the Council's CPR's also follow the basic principles of the EU Treaty.

The key EU principles are:

- Equal treatment - treat all tenders in the same way without favour or prejudice on the basis of locality or business model
- Transparency – all opportunities should be advertised where appropriate to the size of the contract as well as being open about the selection and award criteria
- Proportionality – requirements are relevant and appropriate to the contract being procured. In addition the complexity of the process should be proportionate to the complexity and value of the proposed contract
- Mutual Recognition – when qualifications/certificates are required these will be accepted on the same basis from other member states as those based in the UK

- 2.11 The principles of the Treaty have been embedded into UK law by the Public Contract Regulations 2015. It is a requirement of these regulations for the Council to follow detailed procedures for all procurements above certain financial threshold in respect of “Goods & Services” and also “Works”. Even with “Brexit” it is envisaged that these will remain until at least 2019 and potentially longer given the complexities.

The thresholds are reviewed every two years and the current levels are as follows:

**Goods and services - £164,176**

**Works - £4,104,394**

The next review is due 1<sup>st</sup> January 2018.

- 2.12 For above value procurement activities the Council must comply with the following:

- Advertise in the Official Journal of the European Union (OJEU)
- Tenders must be invited in accordance with one of the prescribed routes and follow the minimum timescales
- A contract award notice must be published within OJEU
- Unsuccessful bidders must be given written feedback detailing the rationale behind why they were not selected



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



### 3. Opportunities

- 3.1 The Council will use an electronic procurement portal for the majority of its procurement activities (where the contract is over £25,000). In order to be able to partake then the supplier must be registered on the system ([www.procontract.due-north.com](http://www.procontract.due-north.com)). Therefore we would encourage all those interested in working with the Council to register on this site.

It should be noted that whilst the Council will use an electronic portal for its procurement activity up to the OJEU limit, these opportunities will not be advertised. Only those suppliers selected to provide a quotation will be able to see the documentation

Once registered the system will automatically send you alerts for opportunities which you may be interested in (only in respect of those opportunities over the OJEU threshold). This will be based on the service categories/products which you have listed when registering. However you can also just search current opportunities which we have available.

The portal also details the contract opportunities of various other local authorities within the East Midlands.

### 4. Tender Routes

- 4.1 The following section will provide a brief summary of the main procurement routes that the City of Lincoln Council will follow.
- 4.2 Restricted Tender (above OJEU) – any organisation can express an interest and complete the Standard Questionnaire (SQ). However only those which are shortlisted by the Council will move to the second stage. This process is used for tenders where the market place is large and/or more complex tenders
- Two stage process
  - Standard Questionnaire (previously known as the PQQ) is used to shortlist a limited number of bidders to go through to the second stage
  - Second stage is where an Invitation to Tender will need to be completed
- 4.3 Open Tender (Above OJEU) – all interested organisations are able to tender. This process is used for less complex tenders and/or where the market place is limited
- Single stage process where all tender documents are issued
  - No shortlisting used



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future





- 4.4 Request for Quotation – where the anticipated contract value is less than that of the relevant OJEU threshold
- For contract values over £25,000 but below OJEU
  - A minimum of four suppliers, of which two must be “local”, will be invited to quote
  - Process will be undertaken electronically through the Council’s procurement portal
  - Assessment of submissions will be made using MEAT – most economically advantageous tender
  - One stage process like that of the Open Tender but simplified to reflect lower value
- 4.5 Direct Approach – where the value of the contract is anticipated to be below £25,000
- Quotation should be undertaken using the Councils simplified template and in some cases maybe through the electronic procurement portal. Where appropriate the approach should be made to a “local” supplier (see para. 2.7)
- 4.6 The Council also has access to a number of framework arrangements via external bodies. A framework is an agreement, involving one or more suppliers. It is similar to an “approved list” but is more legally robust.
- Whilst the Council does not at the present time operate any frameworks, it may do so in the future.
- The process to procure a framework is via a tender process, often the restricted procedure. The provision can only be in place for a maximum of four years and during that time no new supplier can be added to it.
- The Council where possible will try to inform local suppliers of potential framework opportunities when they are advertised, as it can often limit the availability of future opportunities the Council may have if they do not participate in the process.
- 4.7 Public Contract Regulations 2015 also allow for a number of other methods of procurement however as these are rarely used by the council they have not been included within this guide. However if they were to be used in the future then the council is committed to ensuring that relevant training/meet the buyer events.



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



## 5. Overview of Documentation

- 5.1 **Standard Questionnaire (SQ)** – this will be used as part of the restricted process in order to shortlist. It was previously known as the Pre-Qualification Questionnaire (PQQ). It will only be used on procurement exercises where the value is in excess of the relevant OJEU threshold.

The SQ is split into 3 sections. Section 1 and 2 are standard whereas section 3 is for more contract specific questions to be added in.

It will contain a Business Questionnaire which requests information regarding your organisation. This will include a financial assessment; a health and safety statement; legal grounds for exclusion and a statement on compliance re equalities legislation.

There will also be backward looking technical questions about your organisations previous experience and general competency in delivering the required provision. It should be noted that this can include the taking up of references.

It is imperative that you answer all the questions with as much information as you can (taking into account any word count restrictions) as what is submitted at this stage will form the selection process on which the Council will determine which suppliers are shortlisted for the next stage (Invitation to Tender).

The questions will be assessed by way of a mix of pass/fail criteria and also a weighted percentage. The full selection criteria will be detailed within the documentation.



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



- 5.2 Invitation to Tender (ITT) – this is used as the second stage to a restricted tender but the entire process of an open tender. When being used in an open tender it will incorporate both an SQ and ITT.

The ITT will include technical questions to assess the suppliers' capacity and capability to deliver the requirements of the contract.

In a restricted procedure these technical questions will be forward looking as it is not permitted to cover the same area previously done so within the SQ. In an open procedure as stated above the ITT will incorporate both an SQ and ITT. This means that they are permitted to cover both backward and forward looking, assessing both your experience and capacity as well as your specific proposals for delivering the contract. It will also include a business questionnaire.

The assessment criteria will be based on both the price and quality of the submission. The detail of these will be clearly defined within the tender documentation.

## **6. Evaluation of Submissions**

- 6.1 All submissions where an evaluation/assessment criteria is detailed within the documentation will be evaluated using this criteria. However it should be noted that this will only be undertaken for those submissions made within the stated timescales and that late bids will not be accepted under any circumstances.
- 6.2 Once evaluated the Council will issue a letter to the bidder informing them as to whether they have been successful or not. If it is an unsuccessful submission then the letter will also include full feedback. This feedback will include the scores allocated to your submission along the scores of the successful bidder. In addition to this an explanation as to why that score was given will be included. It is hoped that this feedback will enable you to review and see where potential improvements could have been made. Whilst not given as standard to the successful bidder this information will be provided if requested.



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



## 7. General Tips

- 7.1 When reviewing the tender documentation please ensure that you raise any queries you may have prior to the deadline for questions. Queries can only be raised through the relevant procurement portal. Contact made via any other means (i.e. by phone or email) will not be answered and you will be asked to use the portal.
- 7.2 The Council will also answer any queries raised through the procurement portal as quickly and efficiently as it can. However once the deadline has passed it will be unable to do so.
- 7.3 It should be noted that any question asked, unless deemed to be of a commercially sensitive nature, will be clarified to all bidders. This is to ensure that we adhering to the principles of the EU Directives - being transparent and showing equal treatment to all through the process. However the identity of who asked the question will remain confidential.
- 7.4 Answer all the questions as fully as you can. However please ensure that you take account of any word limits on questions. If you exceed the limit the Council does not have to take into account anything detailed once the limit has been exceeded.
- 7.5 When responding please ensure that you do so in the required format and that you clearly label your submission(s) so that it is easy to identify the question/section you are answering.
- 7.6 Do not attach any policy documents/additional information which is not asked for within the tender documentation. This information cannot be considered.



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



**For further information in respect of anything contained within this guide please do not hesitate to contact us:**

**Email:** [heather.carmichael@lincoln.gov.uk](mailto:heather.carmichael@lincoln.gov.uk)

**Telephone:** 01522 873309

**Website:** [www.lincoln.gov.uk](http://www.lincoln.gov.uk)



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



This page is intentionally blank.

# LOCAL PURCHASING STRATEGY

June 2017



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



## 1. Introduction

- 1.1 The City of Lincoln Council is committed to equality of opportunities for all those who wish to do business with us. However it also has a social responsibility to support local regional businesses and this has been the underlying principle behind the development of this strategy.
- 1.2 Local Purchasing is a preference to procure locally produced goods or services over those which come from further afield. However it has to be acknowledged that this is a difficult concept to apply as the definition of “local” is a very subjective one.
- 1.3 The issue of local purchasing involves a number of complex views with no clear consensus regarding what actually constitutes “local” spend. Some stakeholders see this as being within a town or city boundary, whereas others consider it to be within a county boundary. The commercial reality of local purchasing is that it varies widely dependent on the nature of the goods or services being procured.
- 1.4 There is also a potential for positive action supporting “local” spend to be substantially limited due to Public Contract Regulations 2015 which take account of EU directives. These do not allow procurement awards to be based on geographical location or allow favouritism to be shown to “local” businesses, as this may be seen as being discriminatory. However there are many ways in which local businesses and the local economy can be legitimately supported without contravening the Regulations.



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future





## **2      *Definition of “Local”***

2.1      For the purposes of this strategy, local is defined as the following:

“those suppliers whose trading premises are located within Lincolnshire and/or a 20 mile radius of the county of Lincolnshire’s boundary”

2.2      The Council’s own Contract Procedure Rules (CPR’s) detail the various routes dependent on the value of the contract which officers must follow and when this strategy can be used.

2.3      Contracts with a value of up to £25,000 can be awarded by making a direct approach to a single supplier. Where possible any approach made should be to a local supplier.

2.4      Where the value of the contract is over £25,000 but under the current threshold for OJEU Goods & Services then a minimum of four quotations should be sort. Two of the quotations should be sort from a “local” supplier where possible.

2.5      Where the contract is in respect of Works and the value is over the OJEU threshold for Goods & Services (£164,176) but under that of the OJEU Works threshold (£4,104,394) then the process detailed in 2.6 will apply other than a minimum of five quotations should be sort.

2.6      For above value procurement activities the Council must comply with the following there is no allowance for the use of this strategy. However the use of the Social Value Policy can help maximise local spend.



CITY OF  
**Lincoln**  
COUNCIL

Together, let’s deliver  
Lincoln’s ambitious future



**For further information in respect of anything contained within this strategy please do not hesitate to contact us:**

**Email:** [heather.carmichael@lincoln.gov.uk](mailto:heather.carmichael@lincoln.gov.uk)

**Telephone:** 01522 873309

**Website:** [www.lincoln.gov.uk](http://www.lincoln.gov.uk)



CITY OF  
*Lincoln*  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



### Extract of minutes – Policy Scrutiny Committee 10 October 2017

Heather Carmichael, Client Procurement Officer,

- a. presented the Authorities own internal Procurement Policies following an internal review of the current provision.
- b. advised that following the decision to withdraw from Procurement Lincolnshire Shared Service there was a need to ensure that the Council had in place a robust procurement service.
- c. advised that the policies would ensure that the service operated at a strategic level focussing on those activities that would deliver efficiencies and improve the way that services were delivered. They also aimed to assist and support external bodies contracting and/or wishing to contract with the Council.
- d. advised that 4 policies had been produced in addition to the operation policy document, Contract Procedure Rules which detailed the processes Officers were required to follow.
- e. referred to paragraph 4 of the report and summarised the four policies:
  - Procurement Protocol
  - Delivering Social Value through Procurement
  - How to do Business with City of Lincoln Council
  - Local Purchasing Strategy
- f. highlighted the role that social value could play in enabling sustainable development through the Councils procurement activity.
- g. invited members questions and comments.

**Question** – What examples could you give of social value?

**Response** – Contractors had delivered social value through their current contract by completing works at St Botolphs Court and Shuttleworth House.

**Question** – Have you made the companies aware of these policies?

**Response** – There would be meetings held with Chamber of Commerce and Lincoln BIG to promote the policies, also some 1 to 1 sessions would be held with companies where there may be the possibility to sell them some training. Also the policies would be published to the website.

**Comment** – The quality and performance of a contractor should be more important than the social value aspect in the tender process.

**Response** – Social value was one element of the tender process and there was a lot of other criteria that the companies would have to fulfil including price and quality.

The Chair requested that a review of the policies be brought back to committee in 1 years' time.

Heather Carmichael, Client Procurement Officer responded that the data on social value would be included in the review.

RESOLVED that the policies be supported and be referred to Executive for approval.

**SUBJECT: BROWNFIELD LAND REGISTER**

**DIRECTORATE: DEPARTMENT OF COMMUNITIES AND ENVIRONMENT**

**REPORT AUTHOR: TOBY FORBES TURNER, PRINCIPAL PLANNING POLICY OFFICER**

## 1. Purpose of Report

- 1.1
  - To provide Executive with an overview of the new requirements of the Town and Country Planning (Brownfield Land Register) Regulations 2017
  - To set out how the Planning Team within DCE will implement the Brownfield Land Register
  - To advise Executive that the Council amends the Constitution to include decision making associated with its forthcoming Brownfield Land Register.

## 2. Executive Summary

- 2.1 On 16th April 2017 the Government's Town and Country Planning (Brownfield Land Register) Regulations 2017 came into force which introduced a requirement on Local Planning Authorities to publish and maintain a Brownfield Land Register (BLR). Brownfield land refers to land which has previously been developed and is or has been occupied by a permanent structure. The Government's definition of previously developed land is set out in the glossary at Annex 2 of the National Planning Policy Framework (NPPF).
- 2.2 There is a legal requirement for all Local Authorities to comply with the deadline for publication of the register by 31st December 2017. DCLG have published a prescribed format that all local authorities must use to publish their data.

## 3. Background

- 3.1 The purpose of the BLR is to provide up-to-date, publicly available and consistent information on sites that local authorities consider to be appropriate for residential development having regard to the criteria set out in the aforementioned Regulations. According to DCLG, *"This will provide certainty to developers and communities, encourage investment in local areas, bring forward derelict and underused land for new homes and ultimately speed up the development process"*
- 3.2 Part 1 of the BLR which is mandatory, includes details of all sites within the District which are categorised as previously developed land irrespective of planning status and meet the following criteria:
  - The land must be at least 0.25ha and have capacity to accommodate at least 5 dwellings
  - The land must be 'suitable' for residential development

- The land must be 'available' for residential development
  - Housing development on the land must be 'achievable'
- 3.3 The terms 'suitable', 'available' and 'achievable' are defined in Regulation 4 of the Brownfield Land Register Regulations. In summary, the terms mean 'suitable' in that there is an existing site allocation, planning permission or permission in principle, or the Council considers that the land would otherwise be suitable for residential development; 'available' in that the landowner has expressed an intention to sell or develop the land or the Council considers it could otherwise be made available; and 'achievable' in that new housing development could realistically be achieved on the land within 15 years. It is for Local Planning Authorities to determine which sites they feel meet these criteria and therefore suitable to be placed on Part 1 of the Register.
- 3.4 There is a legal requirement for all Local Authorities to comply with the deadline for publication of Part 1 of the register by 31st December 2017. DCLG have published a prescribed format that all local authorities must use to publish their data. There also is a requirement to review the Register annually.
- 3.5 Part 2 of the BLR is effectively a subset of Part 1 which allows LPA's to select sites that it considers to be appropriate to grant permission in principle (PiP) for housing led development. This is an additional tool that the Government has created and the Council must carefully considered whether it is beneficial to use it, and if so where. The inclusion of sites on Part 2 of the register is at the Council's discretion and requires a clear, transparent and consistent approach.
- 3.6 The new regulations stipulate very precisely what matters can be taken into account when granting Permission in Principle, and which matters cannot. Crucially, unlike normal planning applications it would usually fall to the Council, and not the developer, to undertake any technical surveys necessary to confirm that a site is suitable and developable. This would have significant resource and financial implications for the authority if the non-statutory Part 2 of the register was pursued at this time.
- 3.7 All sites that are entered into Part 2 of the Register by the LPA are automatically granted 'permission in principle' which cannot be revoked and normally retains that permission for 5 years. Sites can be included in Part 1 which are not in Part 2.
- 3.8 A 'permission in principle' is similar to an outline planning permission, although it is not itself a planning consent. There is a mandatory statutory consultation process the same as planning applications, mandatory publicity requirements including the display of site notice, entry onto the Council's Planning register and a 42 day public consultation period when a Part 2 list is first drafted (and then 21 days at future annual reviews). The Council will take into account matters raised during the consultation to determine whether or not it should be entered into Part 2 of the register.
- 3.9 A 'permission in principle' does not amount to a full planning permission and therefore development cannot commence without additional information being submitted to and approved by the Council. The additional information is known as a 'technical details consent' and is similar to an application for reserved matters.

- 3.10 A 'Permission in Principle' plus a Technical Details Consent equals a full planning permission to build. A 'permission in principle' is valid for a period of five years. Once a site is built out it is removed from the register. After the Council has published its Brownfield land register it is required to review it annually.

#### **4. Implementation of Part 1 of the Brownfield Land Register**

- 4.1 The mandatory part of the register (Part 1) must be published by 31st December 2017. The task is currently being carried out by the Principal Planning Policy Officer with support from the DM Team Leader and Planning Manager.
- 4.2 The task comprised of a review of sites that have previously been identified through the Strategic Housing and Economic Land Availability Assessment (SHELAA) which formed part of the evidence base in support of the recently adopted Central Lincolnshire Local Plan. A review of other suitable sites has also been undertaken which meet the Brownfield Land definition criteria.
- 4.3 Following this assessment, 15 sites are proposed to be put forward as sites to be included in Part 1 of the Brownfield Land Register. All these sites are either:
- Allocated housing sites in the Local Plan
  - Allocated regeneration/opportunity area sites in the Local Plan where housing is suitable
  - Sites with an extant planning permission for housing
  - Sites without planning permission but were submitted by landowners as part of the SHELAA for consideration for housing
- 4.4 DCLG have confirmed that the intention is for Brownfield Registers to complement existing information, rather than seek to add significant additional burdens on local authorities. As such, and going forward as part of the annual review of the Brownfield Land Register, a call for sites could be combined with the annual update of the SHELAA. This will ensure that efforts are not duplicated and should make the process straightforward for any landowners wishing to submit a site.
- 4.5 **Implementation of Part 2 of the Brownfield Land Register**
- 4.6 At this point in time no sites are to be put onto Part 2 of the Register. This is due to the focus being on to prepare Part 1 of the Register in order to meet our Legal Requirements plus the considerable time and resources that will need to be spent in order to place sites onto Part 2. This work equates to essentially preparing a site for submission of a planning application with the work an applicant would normally do, instead being carried out by the Local Planning Authority.
- 4.7 As part of the annual review of the Brownfield Land Register further consideration work will be given to Part 2 of the Register in 2018. Planning Committee are best placed to provide the formal Governance of the preparation of the Brownfield Land Register due to the close parallels with the granting of planning permissions. A report on the Register was presented to Planning Committee at their meeting on 8<sup>th</sup> November 2017.

## **Amendment to the Constitution**

- 4.9 As the Regulations are new legislation, the Council's Constitution requires updating to permit their implementation. A formal decision is therefore required by the Council in respect of where in the Constitution these decision powers should be placed. As the Regulations are intended to deliver outcomes equivalent to the granting of planning permissions, it is proposed that the decisions referring to the Brownfield Land Register should be added to the scheme of delegation to The Planning Committee under Article 3 of the Constitution.
- 4.10 The consultation process required by Part 2 of the Register is very similar to that required by an application for planning permission. It is also therefore proposed that decisions relating to entry of land in Part 2 of the Register be added to the scheme of delegation to The Planning Committee under Article 3 of the Constitution, and be subject of the same 'call-in' procedures applied to applications for planning permission.

## **5. Strategic Priorities**

### **5.1 Let's drive economic growth**

The intention of the Brownfield Land Register is to encourage investment in local areas, bring forward derelict and underused land for new homes and ultimately speed up the development process.

### **5.2 Let's deliver quality housing**

It is intended that the production of Brownfield Land Registers will identify and bring forward sites for housing.

## **6. Organisational Impacts**

### **6.1 Finance (including whole life costs where applicable)**

None at this stage as work relating to Part 1 of the Brownfield Land Register will be delivered from within the Planning Team. However if the Council wishes to pursue Part 2 then significant extra resources in the form of officer time will need to be made available.

### **6.2 Legal Implications including Procurement Rules**

It is a legal requirement for the Council to collate and publish a Brownfield Land Register by 31 December 2017. This report is intended to ensure that the Council complies with these requirements.

### **6.3 Equality, Diversity & Human Rights (including the outcome of the EA attached, if required)**

A full EIA is not required for this report.



## **7. Risk Implications**

### **7.1 (i) Options Explored**

Do not prepare a Brownfield Land Register.

### **7.2 (ii) Key risks associated with the preferred approach**

The Council would be in breach of the legal requirements contained within the 2017 Brownfield Land Register Regulations.

## **8. Recommendation**

8.1 That Executive note this report on the new requirements of the Town and Country Planning (Brownfield Land Register) Regulations 2017.

8.2 That Executive note how the Planning Team within DCE will implement the Brownfield Land Register.

8.3 That Executive recommend that the Council amends the Constitution to include decision making associated with its forthcoming Brownfield Land Register.

**Is this a key decision?**

No

**Do the exempt information categories apply?**

No

**Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply?**

No

**How many appendices does the report contain?**

None

**List of Background Papers:**

None

**Lead Officer:**

Toby Forbes Turner, Principal Planning Policy Officer  
Telephone (01522) 873804

This page is intentionally blank.

**CITY OF LINCOLN COUNCIL BY ELECTION – CARHOLME WARD  
19 OCTOBER 2017**

**RETURNING OFFICER’S REPORT**

	<b>Name of Candidate</b>	<b>Party</b>	<b>Votes Cast</b>
For	James Robert Brown	Liberal Democrats	82
For	Ben Loryman	The Green Party	83
For	Lucinda Preston	Labour and Co-operative Party	<b>922</b>
For	Kateryna R Salvador	Conservative and Unionist Party	368

Percentage turnout: 27.3%

This page is intentionally blank.

<b>SUBJECT:</b>	<b>PROPOSED AMENDMENTS TO THE CONSTITUTION</b>
<b>DIRECTORATE:</b>	<b>CHIEF EXECUTIVE &amp; TOWN CLERK</b>
<b>LEAD OFFICER:</b>	<b>BECKY SCOTT, LEGAL &amp; DEMOCRATIC SERVICES MANAGER</b>

**1. Purpose of Report**

- 1.1 To propose changes to the Council's Constitution in respect of delegated authorities.

**2. Power to Amend Constitution**

- 2.1 The Monitoring Officer has a duty to review the Constitution and make any necessary changes to it.

**3. Proposed Changes**

- 3.1 Officers have compiled the proposed changes to the Constitution relating to delegated authorities and these are outlined in the attached tracked change document at Appendix A.
- 3.2 The reasons for the majority of the proposed changes are to re-align the responsibilities for private housing and housing with their appropriate Assistant-Directors in accordance with their responsibilities and reflect changes in the Council's structure. This includes the transfer of responsibilities for the Public Protection and Anti-social Behaviour team which will move from the AD (Communities and Street Scene) to the AD (Health and Environment) which is due to take place on Monday 11<sup>th</sup> December 2017. These specific responsibilities will therefore be implemented as at that date.
- 3.3 The amendments also incorporate new powers recently introduced in legislation which officers wish to utilise for other areas in respect of enforcement.
- 3.4 The following authorisation at page 18 of Appendix A has been deleted as this responsibility lies with the Land Tribunal, not the Housing Appeals Panel:
- 'To determine applications for HMOs to ensure that they meet the fit and proper person test as detailed in the mandatory licensing of houses in multiple occupation scheme.'*
- 3.5 These are shown in Appendix A from page 34 onwards with a clean version on Appendix B.

- 3.6 The Licensing Committee on 22<sup>nd</sup> November 2017 proposed some minor procedural changes to Article 8, clause 8.2 'Proceedings of Regulatory and other Committees' in the Constitution. Therefore 8.2 (iii) is proposed to read: *'The Licensing Committee and Licensing Sub-Committee when acting in accordance with the Licensing Act 2003 and the Gambling Act 2005 shall conduct the proceedings in accordance with their own hearing procedure'*.
- 3.7 In addition the Licensing Committee proposed that in the Access to Information Procedure Rules, in section 6, there is an additional sentence added at the end to read *'Meetings held under the Licensing Act 2003 or the Gambling Act 2005 will have only their agenda published'*. This is due to sensitive information being contained in the reports, however paper copies will be available at the hearing to any person involved in the proceedings.

### **Organisational Impacts**

#### **4.1 Finance**

There are no direct financial implications arising from this report.

#### **4.2 Legal Implications**

There are no direct legal implications arising from this report.

### **5. Recommendation**

- 5.1 That Council be recommended to approve the proposed changes to the Constitution.

### Part 3: Responsibility for Functions

#### EXTRACT 1

<p>The promotion and maintenance of high standards of conduct within the Council in accordance with Article 9</p> <p>To make recommendations on any policy or other matters affecting the terms and conditions on which staff hold office including disciplinary and grievance procedures</p>	<p>Ethics and Engagement Committee</p> <p>Employee JCC</p>	
<p>To monitor and review the effectiveness of the Council's health and safety at work policies and to make recommendations on any matters relating to health and safety at work in respect of employees of the City Council</p> <p>To consider appeals against dismissal grading and grievances by employees of the Council</p> <p>To determine appeals from any decision of the Director of Housing and Regeneration taken under powers delegated to him/her under Table IIC below (other than any decision to issue a notice of seeking possession or to take any subsequent steps in the County Court.</p> <p><del>To determine applications for HMOs to ensure that they meet the fit and proper person test as detailed in the mandatory licensing of houses in multiple occupation scheme.</del></p> <p>Power to grant Premises Licences/Club Premises Certificate</p> <p>Power to grant Personal Licences</p>	<p>Employee JCC</p> <p>Personnel Appeals Panel</p> <p>Housing Appeals Panel</p> <p><del>Housing Appeals Panel</del></p> <p>Licensing Committee</p> <p>Licensing Committee</p>	<p></p> <p></p> <p></p> <p></p> <p>Strategic Director – Communities and Environment</p> <p>Strategic Director – Communities and Environment</p>

## **STRATEGIC DIRECTOR – COMMUNITIES AND ENVIRONMENT**

	<b><u>Other Authorised Officer</u></b>
<p>1 To authorise persons, whether employed by the Council or not, to act in a statutory role as appropriate to undertake duties and responsibilities, including Proper Officer, Alternative Proper Officers and Powers of Entry, under the following statutes and regulations and orders made thereunder, except where otherwise provided in this Constitution.</p> <p>Public Health Act 1936  Public Health Act 1961  Prevention of Damage by Pests Act 1949  Clean Air Act 1993  Local Government (Miscellaneous Provisions) Act 1976  Local Government (Miscellaneous Provisions) Act 1982  Rag, Flock and other Filling Materials Act 1951  Control of Pollution Act 1974  Building Act 1984  Food &amp; Environment Protection Act 1985  Environment Act 1995  Water Act 1989  Water Industry Act 1991  Food Safety Act 1990</p> <p>Public Health (Control of Diseases) Act 1984  Public Health (Infectious Diseases) Regulations 1988  Slaughter of Poultry Act 1967  National Assistance Act 1948 (as amended)  The Agriculture (Miscellaneous Provisions) Act 1968  Natural Mineral Waters Regulations 1985  Health &amp; Safety (Enforcing Authority) Regulations 1989  Sunday Trading Act 1994  Zoo Licensing Act 1981  Performing Animals Act 1925  The Control of Pesticides Regulations 1986  Criminal Justice and Public Order Act 1994  Health and Safety at Work Act 1974  <a href="#">Control of Asbestos Regulations 2012</a>  <a href="#">Food Safety &amp; Hygiene (England) Regulations 2013</a></p>	<p><b>Assistant Director (Health and Environmental Services)</b></p>
<p>2 To appoint named Officers as Inspectors to exercise the powers of an inspector in:</p> <p>(i) Section 20 (2)(a) to (m) inclusive, Sections 21, 22 and 25 of the Health and Safety at Work Act 1974.</p>	<p><b>Assistant Director (Health and Environmental Services)</b></p>

Part 3 (Responsibility for Functions) – page 2



	<u>Other Authorised Officer</u>
<p>(ii) Any Health and Safety Regulations.</p> <p>(iii) Any of the appropriate provisions of the Acts mentioned in Schedule 1 of the 1974 Act which are specified in the third column of the Schedule and of the Regulations, Order or other instruments of a legislative character made or having effect under any provisions so specified which may be in force from time to time.</p>	
<p>3 <a href="#">To maintain a register of buildings with cooling towers and evaporative condensers</a></p>	<p><b>Assistant Director (Health and Environmental Services)</b></p>
<p>4 To appoint named Officers to exercise the powers of an inspector under the Food Safety Act 1990 ('the Act') and <a href="#">the Food Safety &amp; Hygiene (England) Regulations 2013</a>:</p> <ul style="list-style-type: none"> <li>• <a href="#">Section 9 of the Act (Inspection and Seizure of Suspected Food)</a></li> <li>• <a href="#">Regulation 6 hygiene improvement notices</a></li> <li>• <a href="#">Regulation 7 hygiene prohibition orders</a></li> <li>• <a href="#">Regulation 8 hygiene emergency prohibition notices and orders</a></li> <li>• <a href="#">Regulation 9 remedial action notices</a></li> <li>• <a href="#">Regulation 10 detention notices</a></li> <li>• <a href="#">Regulation 14 procurement of samples</a></li> <li>• <a href="#">Regulation 15 analysis etc. of samples</a></li> <li>• <a href="#">Regulation 16 powers of entry</a></li> <li>• <a href="#">Regulation 29 food which has not been produced, processed or distributed in accordance with the Hygiene Regulations</a></li> <li>• <del>Section 10 (Improvement Notices)</del></li> <li>• <del>Section 11 (Service of copy of a Prohibition Order and issue of certificate confirming sufficient measures taken by a proprietor to obviate health risk condition at premises)</del></li> <li>• <del>Section 12 (Emergency Prohibition notices)</del></li> <li>• <del>Section 29 (Procurement of samples)</del></li> <li>• <del>Section 30 (Submission of food samples)</del></li> <li>• <del>Section 32 (Powers of entry under Principal Act and Regulations made thereunder).</del></li> </ul>	<p><a href="#">Assistant Director (Health and Environmental Services)</a></p>

	<b><u>Other Authorised Officer</u></b>
4 To appoint such persons as necessary to act as inspectors within the provisions of Part 1 of the Environmental Protection Act 1990.	<b>Assistant Director (Health and Environmental Services)</b>
5 To appoint named Officers to act under the provisions of Part III of the Food and Environmental Protection Act 1985 and Control of Pesticides Regulations 1986 in respect of the advertisement, supply, sale, storage and use of pesticides except where the Health and Safety Executive (Enforcing Authority) Regulations 1989, and the use of pesticides in domestic premises by the occupier of those premises, provided such use does not form part of a work activity.	<b>Assistant Director (Health and Environmental Services)</b>
6 Subject to the availability of budgetary provisions to appoint in writing: <ul style="list-style-type: none"> <li>(i) Under Section 19 of the Health and Safety at Work Etc Act 1974, any Specialist or Consultant as may be required as an inspector and to authorise such appointee to exercise such powers under Section 20 as may be required.</li> <li>(ii) any Specialist or Consultant as may be required to accompany an inspector pursuant to Section 20 (2) (c) (i) and to authorise such appointee to exercise such powers as may be required.</li> </ul>	<b>Assistant Director (Health and Environmental Services)</b>
7 To act under the Water Act 1989 and Water Industry Act 1991.	<b>Assistant Director (Health and Environmental Services)</b>
8 To act under the Public Health (Control of Disease) Act 1984 and to carry out in appropriate circumstances the functions detailed in paragraph 3 of Schedule 3 and paragraph 3 of Schedule 4 of the Public Health (Infectious Disease) Regulations 1988.	<b>Assistant Director (Health and Environmental Services)</b>
9 To exercise the discretionary powers of the Council contained in the Control of Asbestos <del>Work Regulations 2012 and the Asbestos (Licensing) Regulations 1983.</del>	<b>Assistant Director (Health and Environmental Services)</b>

	<b><u>Other Authorised Officer</u></b>
10 To agree that any notice required to be given by the Sunday Trading Act 1994 should take effect within a shorter period than that provided by the Act.	<b>Assistant Director (Health and Environmental Services)</b>
11 To act and be responsible for the implementation of the procedures prescribed in Section 47 of the National Assistance Act 1948 as amended by the National Assistance (Amendment) Act 1951 in consultation with the Director of Housing and Regeneration.	<b>Assistant Director (Health and Environmental Services)</b>
12 To give a direction under Section 77 of the Criminal Justice and Public Order Act 1994 and to give notice of such a direction to those persons to whom the direction applies.	<b>Assistant Director (Health and Environmental Services)</b>
13 To make arrangements for the disposal of the remains of the deceased under Section 46 of the Public Health (Control of Diseases) Act 1984.	<b>Assistant Director (Health and Environmental Services)</b>
14 To obtain particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 and information under Section 19 of the Environmental Protection Act 1990.	<b>Assistant Director (Health and Environmental Services)</b>
15 In accordance with Section 140 of the Public Health Act 1936, to apply to the Magistrates Court for an Order to close or restrict the use of water from a polluted source of supply.	<b>Assistant Director (Health and Environmental Services)</b>
16 To determine, in accordance with Section 61 of the Control of Pollution Act 1974, applications for prior approval of noise control measures from persons intending to carry out construction work etc.	<b>Assistant Director (Health and Environmental Services)</b>
17 To determine the requirement for providing sanitary appliances at places of public entertainment (either permanently or on occasions) in accordance with the provisions of Section 20 of the Local Government (Miscellaneous Provisions) Act 1976.	<b>Assistant Director (Health and Environmental Services)</b>

	<b><u>Other Authorised Officer</u></b>
<p>19 To determine the standards of hygiene in accordance with  (a) Food <a href="#">Safety &amp; Hygiene (England)</a> (General) Regulations <a href="#">2013</a> and  (b) <del>Food Safety (Temperature) Regulations 1995</del> <a href="#">EU Hygiene Regulations</a></p>	<b>Assistant Director (Health and Environmental Services)</b>
20 To determine standards and requirements regarding the sale of food etc in accordance with the Food Safety Act 1990.	<b>Assistant Director (Health and Environmental Services)</b>
21 To determine applications to install boilers in accordance with the provisions of the Clean Air Act 1993.	<b>Assistant Director (Health and Environmental Services)</b>
22 To record notifications of aerial crop spraying in accordance with the provisions of the Control of Pesticides Regulations 1986.	<b>Assistant Director (Health and Environmental Services)</b>
23 If no objections are raised from the keepers of takeaway food shop premises, to make Closing Orders under Sections 4 and 5 of the Local Government (Miscellaneous) Provisions Act 1982.	<b>Assistant Director (Health and Environmental Services)</b>
24 <del>To grant, refuse or withdraw Health and Hygiene Awards in respect of Retail Food Premises.</del>	<del><b>Assistant Director (Health and Environmental Services)</b></del>
25 To revoke or modify any relaxation of the provision of Part II of the Private Water Supplies Regulations 1991 regarding the wholesomeness of private water supplied.	<b>Assistant Director (Health and Environmental Services)</b>
26 To consider applications for authorisations, transfers, variations and renewals of authorisations in connection with air pollution control and to issue authorisations with appropriate conditions as considered necessary in accordance with the provisions of Sections 6,7,9,10 and 11 of the Environmental Protection Act 1990.	<b>Assistant Director (Health and Environmental Services)</b>
27 To determine confidential matters for exclusion from	<b>Assistant Director</b>

	<b><u>Other Authorised Officer</u></b>
public registers in accordance with Section 22 of the Environmental Protection Act 1990.	<b>(Health and Environmental Services)</b>
28 To determine which samples of water or any land or articles shall be considered appropriate in any circumstances under Section 59(2) of the Water Act 1989.	<b>Assistant Director (Health and Environmental Services)</b>
29 To require the provision of an alternative supply of water by a water undertaker under Section 79 of the Water Industry Act 1991 and to recover the costs from the owner or occupier of the premises so served or from any other relevant person.	<b>Assistant Director (Health and Environmental Services)</b>
30 To exercise the powers contained in Sections 1, 2, 4, 5, 8, 9, 12, 14, 20, 23, 33, 36, 51 and 57 of the Clean Air Act 1993.	<b>Assistant Director (Health and Environmental Services)</b>
31 To appoint casual/temporary manual workers.	<b>Assistant Director (Health and Environmental Services)</b>
32 To serve notices to remedy the condition of watercourses under Section 18 of the Land Drainage Act 1976	<b>Assistant Director (Health and Environmental Services)</b>
33 To exercise the powers concerned in Section 25 of the Land Drainage Act 1991 relating to powers to require works for maintaining flow of watercourses	<b>Assistant Director (Health and Environmental Services)</b>
34 To appoint staff as authorised persons in accordance with Section 64 of the Land Drainage Act 1991	<b>Assistant Director (Health and Environmental Services)</b>
35 To deal with all matters relating to the grant of exclusive rights of burial and to agreements for the maintenance of graves	<b>Assistant Director (Health and Environmental Services)</b>
36 To administer the provisions of the Refuse Disposal (Amenity) Act 1978 in respect of the Regulations (as amended) relating to the removal and disposal of	<b>Assistant Director (Communities and Street Scene)</b>

Part 3 (Responsibility for Functions) – page 7

	<b><u>Other Authorised Officer</u></b>
abandoned vehicles and the recovery of costs.	
37 To release CCTV footage in accordance with the Council's current protocol for the release/use of CCTV footage.	<b>Assistant Director (Communities and Street Scene)</b>
38 <del>To waive any unpaid Fixed Penalty Notices and Penalty Charge Notices issued under the Road Traffic Act, Clean Neighbourhood and Environment Act and the Dogs Fouling of Land Act</del>	<b>Assistant Director (Communities and Street Scene)</b>
39. To waive fees and charges for an allotment plot or plots, at a level and for a duration of his choosing, where he is satisfied that an individual or group is prepared to undertake work so as to bring a plot or plots into allotment cultivation.	<b>Assistant Director (Communities and Street Scene)</b>
40 <del>To exercise all the powers of the Council with regard to The Dogs Act 1906 as amended by the Local Government Act 1988, the Environmental Protection Act 1990 in relation to dogs, the Dangerous Dogs Act 1991 and any associated Orders and Regulations made thereunder.</del>	<b>Assistant Director (Communities and Street Scene)</b>
41 <del>To authorise persons, whether employed by the Council or not, to act in a statutory role as appropriate to undertake duties and responsibilities, including Proper Officer, Alternative Proper Officers and Powers of Entry, under the following statutes and regulations and orders made thereunder, except where otherwise provided in this Constitution:</del>	<b>Assistant Director (Communities and Street Scene) OR Assistant Director (Health and Environmental Services)</b>
<del>Refuse Disposal (Amenity) Act 1978 Pet Animals Act 1951 Riding Establishments Act 1964 and 1970 Animal Boarding Establishments Act 1963 Breeding of Dogs Act 1973 Dangerous Wild Animals Act 1976 Environmental Protection Act 1990 Dangerous Dogs Act 1991 Dogs Fouling of Land Act 1996 Animal Health Act 1981 Noise and Statutory Nuisance Act 1993 Noise Act 1996 Controlled Waste Regulations 1992 Parts 1, 2, 3 and 4 of the Anti-Social Behaviour, Crime and Policing Act 2014</del>	

	<b><u>Other Authorised Officer</u></b>
42 <del>To review applications following the request for a review of the way in which an application for a Community Trigger has been dealt with</del>	<del>Assistant Director (Communities and Street Scene)</del>
43 <del>To appoint inspectors in relation to the Animal Welfare Act 2006.</del>	<del>Assistant Director (Communities and Street Scene)</del>
44 To make decisions on lettings for the following purposes:  (a) use of sports pitches (b) use of parks, recreation grounds and other land or premises for special events provided that if no fee has been fixed for such the fee shall be determined by the relevant portfolio holder	Assistant Director (Communities and Street Scene)
45 <u>To undertake the following actions and to authorise persons, whether employed by the Council or not, to act in a statutory role as appropriate to undertake duties and responsibilities, including but not limited to:-</u>  <u>Public Health Act 1936</u> <u>Caravan Sites and Control of Development Act 1960</u> <u>Local Government (Miscellaneous Provisions) Act 1982</u> <u>Building Act 1984</u> <u>Housing Act 1985</u> <u>Local Government and Housing Act 1989</u> <u>Environmental Protection Act 1990</u> <u>Housing Act 2004</u> <u>Housing Grants, Construction and Regeneration Act 1996</u> <u>Regulatory Reform (Housing Assistance) (England and Wales) Order 2002</u> <u>Enterprise and Regulatory Reform Act 2013: The Redress Scheme for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc)(England) Order 2014</u> <u>Energy Act 2013: Smoke and Carbon Monoxide Alarm (England) Regulations 2015</u> <u>Housing and Planning Act 2016</u> <u>Protection From Eviction Act 1977</u>	<u>Assistant Director (Communities and Street SceneHealth and Environment)</u>
46 <u>To approve financial grants to property owners and tenants to assist in the improvement, adaptation, conversion and renovation of dwellings and houses in multiple occupation.</u>	<u>Assistant Director (Health and Environmental Services)</u>

	<b><u>Other Authorised Officer</u></b>
47 <a href="#">To take action in respect of the repair, closing or demolition of dwellings unfit for human habitation or otherwise in a state of disrepair, the designation and treatment of clearance and renewal areas, the abatement of overcrowding and the control of houses in multiple occupation</a>	<a href="#">Assistant Director (Health and Environmental Services)</a>
48 <a href="#">To decide on applications for home improvement grants and for home repairs assistance.</a>	<a href="#">Assistant Director (Health and Environmental Services)</a>
49 <a href="#">To serve notices for execution of repairs to privately owned dwellings, including houses in multiple occupation and, if necessary, to exercise the Council's powers to institute or secure the institution of works in default of compliance with such notices</a>	<a href="#">Assistant Director (Health and Environmental Services)</a>
50 <a href="#">To serve notices requiring abatement of overcrowding of dwellings and houses in multiple occupation.</a>	<a href="#">Assistant Director (Health and Environmental Services)</a>
51 <a href="#">Apply for Rent Repayment Order</a>	<a href="#">Assistant Director (Health and Environmental Services)</a>
52 <a href="#">Set Civil Penalties</a>	<a href="#">Assistant Director (Health and Environmental Services)</a>
53 <a href="#">To waive any unpaid Fixed Penalty Notices and Penalty Charge Notices issued under the Road Traffic Act, Clean Neighbourhood and Environment Act and the Dogs Fouling of Land Act</a>	<a href="#">Assistant Director (Health and Environmental Services)</a>
54 <a href="#">To authorise persons, whether employed by the Council or not, to act in a statutory role as appropriate to undertake duties and responsibilities, including Proper Officer, Alternative Proper Officers and Powers of Entry, under the following statutes and regulations and orders made thereunder, except where otherwise provided in this Constitution:</a>	<a href="#">Assistant Director (Health and Environmental Services)</a>



	<b><u>Other Authorised Officer</u></b>
<a href="#">Refuse Disposal (Amenity) Act 1978</a> <a href="#">Pet Animals Act 1951</a> <a href="#">Riding Establishments Act 1964 and 1970</a> <a href="#">Animal Boarding Establishments Act 1963</a> <a href="#">Breeding of Dogs Act 1973</a> <a href="#">Dangerous Wild Animals Act 1976</a> <a href="#">Environmental Protection Act 1990</a> <a href="#">Dangerous Dogs Act 1991</a> <a href="#">Dogs Fouling of Land Act 1996</a> <a href="#">Animal Health Act 1981</a> <a href="#">Noise and Statutory Nuisance Act 1993</a> <a href="#">Noise Act 1996</a> <a href="#">Controlled Waste Regulations 1992</a> <a href="#">Parts 1, 2, 3 and 4 of the Anti-Social Behaviour, Crime and Policing Act 2014</a>	
55 <a href="#">To review applications following the request for a review of the way in which an application for a Community Trigger has been dealt with</a>	<a href="#"><b>Assistant Director (Health and Environmental Services)</b></a>
56 <a href="#">To appoint inspectors in relation to the Animal Welfare Act 2006.</a>	<a href="#"><b>Assistant Director (Health and Environmental Services)</b></a>

## **STRATEGIC DIRECTOR – HOUSING AND REGENERATION**

		<b>Other Authorised Officer</b>
1	To approve applications to be placed on the Council's Housing Register which fall within the criteria for acceptance.	<b>Assistant Director (Housing)</b>
2	To determine housing applications, including registration and priority rehousing.	<b>Assistant Director (Housing)</b>
3	To grant and determine Introductory, Secure, Demoted and Intervention Tenancies	<b>Assistant Director (Housing)</b>
4	To make nominations to RSLs and other agencies in accordance with the Council's approved housing allocation policies.	<b>Assistant Director (Housing)</b>
5	To authorise transfers and exchanges.	<b>Assistant Director (Housing)</b>
6	To authorise applications to the County Court for the possession of dwellings and for enforcing judgements obtained	<b>Assistant Director (Housing) or the Tenancy Services Manager</b>
7	To grant or refuse applications for aids and adaptations	<b>Assistant Director (Housing)</b>
8	To approve or refuse tenants' proposals for improvements	<b>Assistant Director (Housing)</b>
<del>9</del>	<del>To approve financial grants to property owners and tenants to assist in the improvement, adaptation, conversion and renovation of dwellings and houses in multiple occupation.</del>	<del><b>Assistant Director (Housing)</b></del>
<del>10</del>	<del>To promote energy efficiency measures within the District's housing stock.</del>	<del><b>Assistant Director (Housing)</b></del>
<del>11</del>	<del>To take action in respect of the repair, closing or demolition of dwellings unfit for human habitation or otherwise in a state of disrepair, the designation and treatment of clearance and renewal areas, the abatement of overcrowding and the control of houses in multiple occupation.</del>	<del><b>Assistant Director (Housing)</b></del>
<del>12</del>	<del>To decide on applications for home improvement grants and for home repairs assistance.</del>	<del><b>Assistant Director (Housing)</b></del>

	Other Authorised Officer
13 <del>To serve notices for execution of repairs to privately owned dwellings, including houses in multiple occupation and, if necessary, to exercise the Council's powers to institute or secure the institution of works in default of compliance with such notices.</del>	<del>Assistant Director (Housing)</del>
14 <del>To serve notices requiring abatement of overcrowding of dwellings and houses in multiple occupation.</del>	<del>Assistant Director (Housing)</del>
105 To negotiate and approve the disposal of landlocked areas of land on Council Estates provided that: a) there is no potential for development for Affordable Housing; b) the land is incorporated into existing, and used for garden purposes; and c) the disposal is done subject to legal and planning guidance.	Assistant Director (Housing)
116 To administer the provisions of the Refuse Disposal (Amenity) Act 1978 in respect of the Regulations relating to anything (other than motor vehicles) abandoned without lawful authority and the recovery of costs.	Assistant Director (Housing)
12 <u>To undertake the following actions and to authorise persons, whether employed by the Council or not, to act in a statutory role as appropriate to undertake duties and responsibilities in accordance with the housing law framework, including but not limited to:-</u>  <u>Parts 1, 2, 3 and 4 of the Anti-Social Behaviour, Crime and Policing Act 2014</u> <u>Environmental Protection Act 1990</u> <u>Public Health Act 1936</u>	<u>Assistant Director (Housing)</u>
137 To appoint Consultants where necessary within the budget to ensure compliance with the Council's Capital Works Programme, or to provide technical advice on work of a specialist nature.	Assistant Director (Housing) and Assistant Director (Growth and Regeneration)

Formatted: Indent: Left: 0 cm, Widow/Orphan control, Tab stops: Not at 12.5 cm

**PROVIDED THAT** a tenant dissatisfied with any decision taken under items 1, 2, 3, 4, 5, 7 and 8 will be entitled to appeal against it to the Housing Appeals Panel.



### Part 3: Responsibility for Functions

#### EXTRACT 1

<p>The promotion and maintenance of high standards of conduct within the Council in accordance with Article 9</p> <p>To make recommendations on any policy or other matters affecting the terms and conditions on which staff hold office including disciplinary and grievance procedures</p>	<p>Ethics and Engagement Committee</p> <p>Employee JCC</p>	
<p>To monitor and review the effectiveness of the Council's health and safety at work policies and to make recommendations on any matters relating to health and safety at work in respect of employees of the City Council</p> <p>To consider appeals against dismissal grading and grievances by employees of the Council</p> <p>To determine appeals from any decision of the Director of Housing and Regeneration taken under powers delegated to him/her under Table IIC below (other than any decision to issue a notice of seeking possession or to take any subsequent steps in the County Court.</p> <p>Power to grant Premises Licences/Club Premises Certificate</p> <p>Power to grant Personal Licences</p>	<p>Employee JCC</p> <p>Personnel Appeals Panel</p> <p>Housing Appeals Panel</p> <p>Licensing Committee</p> <p>Licensing Committee</p>	<p>Strategic Director – Communities and Environment</p> <p>Strategic Director – Communities and Environment</p>

## **STRATEGIC DIRECTOR – COMMUNITIES AND ENVIRONMENT**

	<b><u>Other Authorised Officer</u></b>
<p>1 To authorise persons, whether employed by the Council or not, to act in a statutory role as appropriate to undertake duties and responsibilities, including Proper Officer, Alternative Proper Officers and Powers of Entry, under the following statutes and regulations and orders made thereunder, except where otherwise provided in this Constitution.</p> <p>Public Health Act 1936  Public Health Act 1961  Prevention of Damage by Pests Act 1949  Clean Air Act 1993  Local Government (Miscellaneous Provisions) Act 1976  Local Government (Miscellaneous Provisions) Act 1982  Rag, Flock and other Filling Materials Act 1951  Control of Pollution Act 1974  Building Act 1984  Food &amp; Environment Protection Act 1985  Environment Act 1995  Water Act 1989  Water Industry Act 1991  Food Safety Act 1990  Public Health (Control of Diseases) Act 1984  Public Health (Infectious Diseases) Regulations 1988  Slaughter of Poultry Act 1967  National Assistance Act 1948 (as amended)  The Agriculture (Miscellaneous Provisions) Act 1968  Natural Mineral Waters Regulations 1985  Health &amp; Safety (Enforcing Authority) Regulations 1989  Sunday Trading Act 1994  Zoo Licensing Act 1981  Performing Animals Act 1925  The Control of Pesticides Regulations 1986  Criminal Justice and Public Order Act 1994  Health and Safety at Work Act 1974  Control of Asbestos Regulations 2012  Food Safety &amp; Hygiene (England) Regulations 2013</p> <p>2 To appoint named Officers as Inspectors to exercise the powers of an inspector in:</p> <p>(i) Section 20 (2)(a) to (m) inclusive, Sections 21, 22 and 25 of the Health and Safety at Work Act 1974.</p>	<p><b>Assistant Director (Health and Environmental Services)</b></p> <p><b>Assistant Director (Health and Environmental Services)</b></p>

		<b><u>Other Authorised Officer</u></b>
	<p>(ii) Any Health and Safety Regulations.</p> <p>(iii) Any of the appropriate provisions of the Acts mentioned in Schedule 1 of the 1974 Act which are specified in the third column of the Schedule and of the Regulations, Order or other instruments of a legislative character made or having effect under any provisions so specified which may be in force from time to time.</p>	
3	To maintain a register of buildings with cooling towers and evaporative condensers	<b>Assistant Director (Health and Environmental Services)</b>
4	<p>To appoint named Officers to exercise the powers of an inspector under the Food Safety Act 1990 ('the Act') and the Food Safety &amp; Hygiene (England) Regulations 2013:</p> <ul style="list-style-type: none"> <li>• Section 9 of the Act (Inspection and Seizure of Suspected Food)</li> <li>• Regulation 6 hygiene improvement notices</li> <li>• Regulation 7 hygiene prohibition orders</li> <li>• Regulation 8 hygiene emergency prohibition notices and orders</li> <li>• Regulation 9 remedial action notices</li> <li>• Regulation 10 detention notices</li> <li>• Regulation 14 procurement of samples</li> <li>• Regulation 15 analysis etc. of samples</li> <li>• Regulation 16 powers of entry</li> <li>• Regulation 29 food which has not been produced, processed or distributed in accordance with the Hygiene Regulations</li> </ul>	Assistant Director (Health and Environmental Services)
4	To appoint such persons as necessary to act as inspectors within the provisions of Part 1 of the Environmental Protection Act 1990.	<b>Assistant Director (Health and Environmental Services)</b>

	<b><u>Other Authorised Officer</u></b>
<p>5 To appoint named Officers to act under the provisions of Part III of the Food and Environmental Protection Act 1985 and Control of Pesticides Regulations 1986 in respect of the advertisement, supply, sale, storage and use of pesticides except where the Health and Safety Executive (Enforcing Authority) Regulations 1989, and the use of pesticides in domestic premises by the occupier of those premises, provided such use does not form part of a work activity.</p>	<b>Assistant Director (Health and Environmental Services)</b>
<p>6 Subject to the availability of budgetary provisions to appoint in writing:</p> <p>(i) Under Section 19 of the Health and Safety at Work Etc Act 1974, any Specialist or Consultant as may be required as an inspector and to authorise such appointee to exercise such powers under Section 20 as may be required.</p> <p>(ii) any Specialist or Consultant as may be required to accompany an inspector pursuant to Section 20 (2) (c) (i) and to authorise such appointee to exercise such powers as may be required.</p>	<b>Assistant Director (Health and Environmental Services)</b>
<p>7 To act under the Water Act 1989 and Water Industry Act 1991.</p>	<b>Assistant Director (Health and Environmental Services)</b>
<p>8 To act under the Public Health (Control of Disease) Act 1984 and to carry out in appropriate circumstances the functions detailed in paragraph 3 of Schedule 3 and paragraph 3 of Schedule 4 of the Public Health (Infectious Disease) Regulations 1988.</p>	<b>Assistant Director (Health and Environmental Services)</b>
<p>9 To exercise the discretionary powers of the Council contained in the Control of Asbestos Regulations 2012</p>	<b>Assistant Director (Health Environmental Services)</b>
<p>10 To agree that any notice required to be given by the Sunday Trading Act 1994 should take effect within a shorter period than that provided by the Act.</p>	<b>Assistant Director (Health and Environmental Services)</b>



	<b><u>Other Authorised Officer</u></b>
11 To act and be responsible for the implementation of the procedures prescribed in Section 47 of the National Assistance Act 1948 as amended by the National Assistance (Amendment) Act 1951 in consultation with the Director of Housing and Regeneration.	<b>Assistant Director (Health and Environmental Services)</b>
12 To give a direction under Section 77 of the Criminal Justice and Public Order Act 1994 and to give notice of such a direction to those persons to whom the direction applies.	<b>Assistant Director (Health and Environmental Services)</b>
13 To make arrangements for the disposal of the remains of the deceased under Section 46 of the Public Health (Control of Diseases) Act 1984.	<b>Assistant Director (Health and Environmental Services)</b>
14 To obtain particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 and information under Section 19 of the Environmental Protection Act 1990.	<b>Assistant Director (Health and Environmental Services)</b>
15 In accordance with Section 140 of the Public Health Act 1936, to apply to the Magistrates Court for an Order to close or restrict the use of water from a polluted source of supply.	<b>Assistant Director (Health and Environmental Services)</b>
16 To determine, in accordance with Section 61 of the Control of Pollution Act 1974, applications for prior approval of noise control measures from persons intending to carry out construction work etc.	<b>Assistant Director (Health and Environmental Services)</b>
17 To determine the requirement for providing sanitary appliances at places of public entertainment (either permanently or on occasions) in accordance with the provisions of Section 20 of the Local Government (Miscellaneous Provisions) Act 1976.	<b>Assistant Director (Health and Environmental Services)</b>
19 To determine the standards of hygiene in accordance with (a) Food Safety & Hygiene (England) (General) Regulations 2013 and (b) EU Hygiene Regulations	<b>Assistant Director (Health and Environmental Services)</b>

	<b><u>Other Authorised Officer</u></b>
<p>20 To determine standards and requirements regarding the sale of food etc in accordance with the Food Safety Act 1990.</p> <p>21 To determine applications to install boilers in accordance with the provisions of the Clean Air Act 1993.</p> <p>22 To record notifications of aerial crop spraying in accordance with the provisions of the Control of Pesticides Regulations 1986.</p> <p>23 If no objections are raised from the keepers of takeaway food shop premises, to make Closing Orders under Sections 4 and 5 of the Local Government (Miscellaneous) Provisions Act 1982.</p>	<p><b>Assistant Director (Health and Environmental Services)</b></p> <p><b>Assistant Director (Health and Environmental Services)</b></p> <p><b>Assistant Director (Health and Environmental Services)</b></p> <p><b>Assistant Director (Health and Environmental Services)</b></p>
<p>24</p> <p>25 To revoke or modify any relaxation of the provision of Part II of the Private Water Supplies Regulations 1991 regarding the wholesomeness of private water supplied.</p> <p>26 To consider applications for authorisations, transfers, variations and renewals of authorisations in connection with air pollution control and to issue authorisations with appropriate conditions as considered necessary in accordance with the provisions of Sections 6,7,9,10 and 11 of the Environmental Protection Act 1990.</p> <p>27 To determine confidential matters for exclusion from public registers in accordance with Section 22 of the Environmental Protection Act 1990.</p> <p>28 To determine which samples of water or any land or articles shall be considered appropriate in any circumstances under Section 59(2) of the Water Act 1989.</p>	<p><b>Assistant Director (Health and Environmental Services)</b></p> <p><b>Assistant Director (Health and Environmental Services)</b></p> <p><b>Assistant Director (Health and Environmental Services)</b></p> <p><b>Assistant Director (Health and Environmental Services)</b></p>

	<b><u>Other Authorised Officer</u></b>
29 To require the provision of an alternative supply of water by a water undertaker under Section 79 of the Water Industry Act 1991 and to recover the costs from the owner or occupier of the premises so served or from any other relevant person.	<b>Assistant Director (Health and Environmental Services)</b>
30 To exercise the powers contained in Sections 1, 2, 4, 5, 8, 9, 12, 14, 20, 23, 33, 36, 51 and 57 of the Clean Air Act 1993.	<b>Assistant Director (Health and Environmental Services)</b>
31 To appoint casual/temporary manual workers.	<b>Assistant Director (Health and Environmental Services)</b>
32 To serve notices to remedy the condition of watercourses under Section 18 of the Land Drainage Act 1976	<b>Assistant Director (Health and Environmental Services)</b>
33 To exercise the powers concerned in Section 25 of the Land Drainage Act 1991 relating to powers to require works for maintaining flow of watercourses	<b>Assistant Director (Health and Environmental Services)</b>
34 To appoint staff as authorised persons in accordance with Section 64 of the Land Drainage Act 1991	<b>Assistant Director (Health and Environmental Services)</b>
35 To deal with all matters relating to the grant of exclusive rights of burial and to agreements for the maintenance of graves	<b>Assistant Director (Health and Environmental Services)</b>
36 To administer the provisions of the Refuse Disposal (Amenity) Act 1978 in respect of the Regulations (as amended) relating to the removal and disposal of abandoned vehicles and the recovery of costs.	<b>Assistant Director (Communities and Street Scene)</b>
37 To release CCTV footage in accordance with the Council's current protocol for the release/use of CCTV footage.	<b>Assistant Director (Communities and Street Scene)</b>

	<b><u>Other Authorised Officer</u></b>
38. To waive fees and charges for an allotment plot or plots, at a level and for a duration of his choosing, where he is satisfied that an individual or group is prepared to undertake work so as to bring a plot or plots into allotment cultivation.	<b>Assistant Director (Communities and Street Scene)</b>
39. To make decisions on lettings for the following purposes:  (a) use of sports pitches (b) use of parks, recreation grounds and other land or premises for special events provided that if no fee has been fixed for such the fee shall be determined by the relevant portfolio holder	<b>Assistant Director (Communities and Street Scene)</b>
40. To undertake the following actions and to authorise persons, whether employed by the Council or not, to act in a statutory role as appropriate to undertake duties and responsibilities, including but not limited to:-  Public Health Act 1936 Caravan Sites and Control of Development Act 1960 Local Government (Miscellaneous Provisions) Act 1982 Building Act 1984 Housing Act 1985 Local Government and Housing Act 1989 Environmental Protection Act 1990 Housing Act 2004 Housing Grants, Construction and Regeneration Act 1996 Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 Enterprise and Regulatory Reform Act 2013: The Redress Scheme for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc)(England) Order 2014 Energy Act 2013: Smoke and Carbon Monoxide Alarm (England) Regulations 2015 Housing and Planning Act 2016 <u>Protection From Eviction Act 1977</u>	<b>Assistant Director (Health and Environment)</b>
41. To approve financial grants to property owners and tenants to assist in the improvement, adaptation, conversion and renovation of dwellings and houses in multiple occupation.	<b>Assistant Director (Health and Environmental Services)</b>

		<b><u>Other Authorised Officer</u></b>
42	To take action in respect of the repair, closing or demolition of dwellings unfit for human habitation or otherwise in a state of disrepair, the designation and treatment of clearance and renewal areas, the abatement of overcrowding and the control of houses in multiple occupation	<b>Assistant Director (Health and Environmental Services)</b>
43	To decide on applications for home improvement grants and for home repairs assistance.	<b>Assistant Director (Health and Environmental Services)</b>
44	To serve notices for execution of repairs to privately owned dwellings, including houses in multiple occupation and, if necessary, to exercise the Council's powers to institute or secure the institution of works in default of compliance with such notices	<b>Assistant Director (Health and Environmental Services)</b>
45	To serve notices requiring abatement of overcrowding of dwellings and houses in multiple occupation.	<b>Assistant Director (Health and Environmental Services)</b>
46	Apply for Rent Repayment Order	<b>Assistant Director (Health and Environmental Services)</b>
47	Set Civil Penalties	<b>Assistant Director (Health and Environmental Services)</b>
48	To waive any unpaid Fixed Penalty Notices and Penalty Charge Notices issued under the Road Traffic Act, Clean Neighbourhood and Environment Act and the Dogs Fouling of Land Act	<b>Assistant Director (Health and Environmental Services)</b>
49	To authorise persons, whether employed by the Council or not, to act in a statutory role as appropriate to undertake duties and responsibilities, including Proper Officer, Alternative Proper Officers and Powers of Entry, under the following statutes and regulations and orders made thereunder, except where otherwise provided in this Constitution:	<b>Assistant Director (Health and Environmental Services)</b>

		<b><u>Other Authorised Officer</u></b>
	<p>Refuse Disposal (Amenity) Act 1978</p> <p>Pet Animals Act 1951</p> <p>Riding Establishments Act 1964 and 1970</p> <p>Animal Boarding Establishments Act 1963</p> <p>Breeding of Dogs Act 1973</p> <p>Dangerous Wild Animals Act 1976</p> <p>Environmental Protection Act 1990</p> <p>Dangerous Dogs Act 1991</p> <p>Dogs Fouling of Land Act 1996</p> <p>Animal Health Act 1981</p> <p>Noise and Statutory Nuisance Act 1993</p> <p>Noise Act 1996</p> <p>Controlled Waste Regulations 1992</p> <p>Parts 1, 2, 3 and 4 of the Anti-Social Behaviour, Crime and Policing Act 2014</p>	
50	To review applications following the request for a review of the way in which an application for a Community Trigger has been dealt with	<b>Assistant Director (Health and Environmental Services)</b>
51	To appoint inspectors in relation to the Animal Welfare Act 2006.	<b>Assistant Director (Health and Environmental Services)</b>

## **STRATEGIC DIRECTOR – HOUSING AND REGENERATION**

		<b>Other Authorised Officer</b>
1	To approve applications to be placed on the Council's Housing Register which fall within the criteria for acceptance.	<b>Assistant Director (Housing)</b>
2	To determine housing applications, including registration and priority rehousing.	<b>Assistant Director (Housing)</b>
3	To grant and determine Introductory, Secure, Demoted and Intervention Tenancies	<b>Assistant Director (Housing)</b>
4	To make nominations to RSLs and other agencies in accordance with the Council's approved housing allocation policies.	<b>Assistant Director (Housing)</b>
5	To authorise transfers and exchanges.	<b>Assistant Director (Housing)</b>
6	To authorise applications to the County Court for the possession of dwellings and for enforcing judgements obtained	<b>Assistant Director (Housing) or the Tenancy Services Manager</b>
7	To grant or refuse applications for aids and adaptations	<b>Assistant Director (Housing)</b>
8	To approve or refuse tenants' proposals for improvements	<b>Assistant Director (Housing)</b>
9	To promote energy efficiency measures within the District's housing stock.	<b>Assistant Director (Housing)</b>
10	To negotiate and approve the disposal of landlocked areas of land on Council Estates provided that: a) there is no potential for development for Affordable Housing; b) the land is incorporated into existing, and used for garden purposes; and c) the disposal is done subject to legal and planning guidance.	<b>Assistant Director (Housing)</b>

		Other Authorised Officer
11	To administer the provisions of the Refuse Disposal (Amenity) Act 1978 in respect of the Regulations relating to anything (other than motor vehicles) abandoned without lawful authority and the recovery of costs.	<b>Assistant Director (Housing)</b>
12	To undertake the following actions and to authorise persons, whether employed by the Council or not, to act in a statutory role as appropriate to undertake duties and responsibilities in accordance with the housing law framework, including but not limited to:-  Parts 1, 2, 3 and 4 of the Anti-Social Behaviour, Crime and Policing Act 2014 Environmental Protection Act 1990 Public Health Act 1936	<b>Assistant Director (Housing)</b>
13	To appoint Consultants where necessary within the budget to ensure compliance with the Council's Capital Works Programme, or to provide technical advice on work of a specialist nature.	<b>Assistant Director (Housing) and Assistant Director (Growth and Regeneration)</b>

**PROVIDED THAT** a tenant dissatisfied with any decision taken under items 1, 2, 3, 4, 5, 7 and 8 will be entitled to appeal against it to the Housing Appeals Panel.



**29. Licensing Act 2003 and Gambling Act 2015 Hearings Procedure**

The Committee was sitting as the Licensing Committee of the Licensing Authority under the Licensing Act 2003 and Gambling Act 2005. Councillor Tony Speakman withdrew from the Committee during the consideration of this item due to the fact that he was a substitute member and not a full member of the Committee.

The Licensing Officer:

- a. presented a report to the Committee which proposed some minor changes to the Constitution and changes to the procedures;
- b. advised that one change to be made was to Article 8, clause 8.2 'Proceedings of Regulatory and other Committees' in the Constitution. Therefore 8.2(iii) would read 'The Licensing Committee and Licensing Sub-Committee when acting in accordance with the Licensing Act 2003 and the Gambling Act 2005 should conduct the proceedings in accordance with their own hearing procedure';
- c. explained that in the Access to Information Procedure Rules, in section 6 an additional sentence would be added to read 'Meetings held under the Licensing Act 2003 and the Gambling Act 2005 would have only their agenda published';
- d. requested that reports and related documents would only be available to those who were party to the proceedings at that time;
- e. suggested that under the 2003 and 2005 Act Committees there was not a requirement for minutes to be typed up, only that the record of any decision be kept on a permanent basis;
- f. invited members' questions and comments.

Members asked for clarification that there would be a record kept of the handwritten notes of these meetings. This was confirmed.

RESOLVED that the above recommendations be forwarded to full Council for adoption.

This page is intentionally blank.

**Council – 5 December 2017**

**Proposed changes to committee membership**

Council is requested to consider the following changes to committee membership:

- Councillor Lucinda Preston to be appointed to the Community Leadership Scrutiny Committee in place of Councillor Paul Gowen.
- Councillor Lucinda Preston to be appointed to the Performance Scrutiny Committee in place of Councillor Paul Gowen.

Council is requested to appoint a member of the Labour Group to vacancies on the following committees/bodies:

- Commons Advisory Panel
- Dawber Trust
- Select Scrutiny Committee

This page is intentionally blank.