

## HAMPSHIRE COUNTY COUNCIL

### Decision Report

<b>Decision Maker:</b>	Cabinet
<b>Date:</b>	22 December 2010
<b>Title:</b>	Funding for Infrastructure Implications of Recent Government Announcements
<b>Reference:</b>	2394
<b>Report From:</b>	Director of Environment

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### 1. Executive Summary

1.1. The purpose of this paper is to highlight the implications for the County Council of a number of recent Government announcements. It flags concern about the cumulative impacts of these various announcements on the County Council's ability to secure the finance necessary to deliver infrastructure and its services in an efficient and effective manner. Individually the impact of the policy announcements are of concern. Cumulatively, they are of much greater significance. There is a particular concern at the prospective loss of developer funding to support the provision of strategic infrastructure. This has been the most significant source of funding for such provision in Hampshire in recent years.

1.2. The report addresses three specific policy announcements:

- The Local Growth White Paper, including the Regional Growth Fund and Tax Increment Finance;
- The New Homes Bonus;
- The Community Infrastructure Levy.

1.3. The report summarises the implications of these announcements and recommends that the County Council write to the Secretary of State for Communities & Local Government reminding him of the statutory duties which, even under the emerging localism agenda, still fall to upper tier authorities and of the need for those authorities to be able to raise the necessary funding to deliver those statutory duties.

1.4. It is recommended that further work be carried out to investigate the full impacts of these announcements on the County Council's roles, responsibilities and finances and that further work be carried out on these

matters once the details of the Government's Localism Bill are available and have been analysed. At the time of drafting the report, the Localism Bill has not been published, but is imminent, and a verbal update will be provided on the relevant parts of the Bill at the Cabinet meeting. It is suggested that the County Council should work to highlight the implications of the proposals in terms of delivery of strategic infrastructure, and also campaign for the return of a County level strategic planning role to ensure a proper strategic and democratically accountable framework for the planning and delivery of strategic development and infrastructure. Finally, it is recommended that the Leader be given delegated authority to approve the County Council's response to the New Homes Bonus Consultation Paper, which has to be submitted by 24 December 2010.

## **2. Contextual information**

2.1 Government has recently issued a number of policy and related announcements which potentially affect the County Council's ability to secure the necessary funding to deliver its services at a local level. These include the Community Infrastructure Levy (CIL), the New Homes Bonus (NHB) consultation paper as well as proposals for the Regional Growth Fund (RGF) and Tax Increment Finance (TIF) set out in the Local Growth White Paper. All have implications for the way in which the County Council secures funding from different sources to deliver its services. These announcements will shortly be followed by the Localism Bill. The intention is to achieve a shift of power away from the national and regional level and down to the local (district council and neighbourhood) level. This, in turn, means a shift in funding mechanisms down to the more local level, although the overall level of funding is unlikely to match the increase in local expectations which these changes will create. It is suggested that without some form of strategic planning between the national and the local level, there is little prospect of proper co-ordination and planning of the future infrastructure needs and provision to ensure the effective delivery of sustainable communities in the future. County Councils, in two-tier areas, are ideally placed to take such a responsibility on.

2.2 A summary of these various Government policy announcements and their implications, particularly the financial implications, for the County Council is set out below.

### **The Community Infrastructure Levy**

2.3 The 2008 Planning Act contained enabling clauses for a CIL in England and Wales. The Levy will be a charge on development which local planning authorities can choose to set and which is designed to help fund needed infrastructure. It will be paid primarily by developers or owners of land which is developed. It will partially replace developer contributions secured under Section 106 of the Town and Country Planning Act 1990 (Section 106 will be restricted to deal with affordable housing and provisions directly related to the proposed development).

- 2.4 At its meeting on 26 October 2009 Cabinet considered the Government's proposals for the implementation of CIL and objected on a number of key points:
- the Levy was impractical and likely to reduce funding for provision of strategic infrastructure;
  - the exclusion of County Councils from the definition of Charging Authorities did not recognise their leadership and co-ordination role in strategic investment planning and delivery of critical public services;
  - the restriction of the scope of Section 106 contributions;
  - the risk of a "postcode lottery" for developers across Hampshire; and
  - the charging of CIL on HCC and other public service developments.
- 2.5 The government has now announced that it will retain CIL with some amendments, including the requirement that a "meaningful proportion" of levy revenues raised in each neighbourhood be allocated back to that neighbourhood. Whilst other details have yet to be published, it seems none of the issues raised by Cabinet will be addressed.
- 2.6 Over the past 5 years (2005/6 to 2009/10) the County Council has collected £44m through 'developer contributions' (via Section 106 of the 1990 Town and Country Planning Act) for highways and education schemes and facilities. In addition to the monies that have been collected there are currently legal agreements securing a total of £51,960,679 for education and £40,716,404 for transport which will be payable in the future as developments progress (as at September 2010 – see Report to Cabinet of 8 September 2010).
- 2.7 In addition to the contributions currently sought, it has been identified that libraries, archives, adult services, waste management and countryside services would benefit from securing contributions towards new infrastructure and services made necessary by development. The Library Service has already progressed work to define additional facilities required as a result of new development in order to seek contributions.
- 2.8 What this means for the County Council is that current tariff-based schemes for collecting developer contributions for transport and Children's Services facilities under Section 106 will be unlawful from April 2014. Agreements could potentially be challenged at appeal or by Judicial Review if the planning obligations are considered to be unlawful, regardless of whether a developer has agreed or not.
- 2.9 After April 2014, unless CIL is implemented in each district, there will be no mechanism available to secure developer contributions on a pooled basis towards HCC services.

- 2.10 The key point for the County Council is that CIL must be implemented by each district authority adopting a Charging Schedule produced as part of their Local Development Framework preparation process. The County Council would only be a consultee on the preparation of these charging schedules.
- 2.11 The County Council will have to engage with district councils in Hampshire to set out infrastructure requirements relating to HCC services (transport, education etc). This will involve providing evidence of requirements, costs and funding sources and appearance at Public Examinations.
- 2.12 As it stands, CIL would also be charged on County Council developments such as school buildings. HCC will have to consider its approach with regards to providing evidence to district councils to support any lower rate or exemption for CIL on public facilities.

### **The New Homes Bonus**

- 2.13 The New Homes Bonus is intended to provide an incentive to local authorities and local communities to accept new housing development and so increase housing supply.
- 2.14 The scheme will reward local authorities with a New Homes Bonus, equal to the national average for the council tax band on each additional property paid for six years as an unringfenced grant. Currently this means that the amount of grant relating to an additional council tax band D property would be about £1,439 per annum or £8,634 over six years (£959 per annum for a band A property). The government proposes an enhancement for affordable homes of £350 per year in addition to the above. It also proposed to reward local authorities for bringing empty properties back into use through the New Homes Bonus.
- 2.15 For the incentive to be most powerful, the Government considers that it must be strongest where the planning decision sits – the lower tier in two tier areas. However, they recognise the role of the upper tier in the provision of services and infrastructure and the contribution they make to strategic planning. The Government therefore proposes to split the payment of the New Homes Bonus between local authority tiers: 80 per cent to the lower tier and 20 per cent to the upper tier, as a starting point for local negotiation. It appears likely that the funding will be paid initially to the lower tier authorities as they complete the Council Tax Base annual return on which the payments will be based. Upper tier authorities will need to negotiate their share of the funding. The consultation suggests that local authorities are best placed to negotiate the split to help ensure that there is timely delivery of infrastructure for the new development.
- 2.16 The consultation paper also suggests that the pooling of some New Homes Bonus at the level of the Local Enterprise Partnership could have benefits, including ensuring that the money is reinvested into shared priorities which

support long-term prosperity for the area, increased efficiency and increased potential for alignment with other partner sources of funding.

- 2.17 This raises a number of issues for the County Council, the most significant of which is the proposal to split the payment of the New Homes Bonus between the tiers, 80% to the lower tier and 20% to the upper tier, as a starting point for local negotiation. This fails to reflect the extent of the involvement of upper tier authorities in the delivery of local services and infrastructure by upper tier authorities. By way of illustration, Hampshire County Council receives approximately 80% of Council Tax revenues with only 20% going to lower tier authorities.
- 2.18 Secondly, this impact is exacerbated by the fact that the scheme will be revenue neutral. £900m has been set aside to fund the scheme in 2011/12 and contribute £250m per annum in the following three years. This is largely derived from the abolition of the Housing & Planning Delivery Grant. Hampshire County Council only received a modest sum from the H&PDG largely related to its Minerals & Waste planning powers. The additional funding required will come from top slicing Formula Grant. Therefore this is not a bonus in terms of new funding, rather it redirects existing funding with the specific objective of encouraging local communities to accept new housing development. Whilst upper tier authorities are only expected to receive 20% of the Bonus it must be assumed that the top-slice of Formula Grant to pay for it will apply across the board. Therefore, in effect, funding will be disproportionately removed from the upper tier authorities, who are responsible for the great majority of services and provision of strategic infrastructure, and predominantly redistributed to local councils.
- 2.19 Thirdly, it is proposed that a proportion of the Bonus could, if local authorities wished, be pooled through LEPs to deliver a range of benefits. It is also suggested money could be pooled by allocating more to upper tier authorities to deliver strategic infrastructure.
- 2.20 However, Hampshire County Council would need to negotiate the proportion of the bonus that it received. The 20% suggested by the government seems low given the infrastructure and services provided by the County Council. Whilst the suggestion of voluntary allocations of higher percentages to upper tier authorities is welcome, our starting point in responding to this consultation must be to secure a more balanced split between upper and lower tier authorities in the first place.
- 2.21 The response to the consultation will argue for this. It will also suggest that other means be found to finance the bonus rather than through reductions in Formula Grant. It will suggest that more funding may need to be made available in order to provide the incentive effect sought. If the Bonus is to be funded through a top-slicing of Formula Grant, the response will argue that top-slicing should be proportionate (proportionate to the New Homes Bonus benefit received) rather than applied uniformly across the board. It will also raise concern about the pooling of the Bonus through LEPs.

- 2.22 The deadline for consultation responses is 24 December 2010. This consultation period is half the normal length at only 6 weeks due to the Government's desire to announce the final scheme alongside the local government finance settlement early in the new year. Hence it was not possible to have a draft response prepared by the time this report needed to be circulated. Approval is sought for the Leader to approve and submit a response on behalf of the County Council along the lines highlighted above.

**The Local Growth White Paper – Regional Growth Fund, Tax Increment Finance and Local Enterprise Partnerships**

- 2.23 The White Paper explains that the Government's economic ambition is to create a fairer and more balanced economy. A new approach to local growth is proposed, shifting power away from central government to local communities enabling all parts of the country to benefit equally from sustainable economic growth but with approaches to achieve this tailored to reflect local circumstances. It is based on the assumption that the previous arrangements acted as a barrier to growth, stifled natural and healthy competition, inhibited growth and exacerbated disparities between regions.
- 2.24 The White Paper proposes the creation of Local Enterprise Partnerships (LEPs) in place of Regional Development Agencies and the creation of a Regional Growth Fund. It allows authorities to use Tax Increment Financing arrangements and proposes changes to the planning system (including a community Right-To-Build, a statutory duty to cooperate and a New Homes Bonus). It also envisages a form of strategic planning operating at the sub-regional LEP level.

**Local Enterprise Partnerships**

- 2.25 LEPs are intended to provide clear vision and strategic leadership to drive sustainable private sector-led growth and job creation in their area. The Government wishes to *“particularly encourage partnerships working in respect to transport, housing and planning as part of an integrated approach to growth and infrastructure delivery.”*
- 2.26 The White Paper envisages LEPs having roles such as “setting out key investment priorities”... “making representations on the development of national planning policy”... “strategic housing delivery”. It envisages LEPs will be able with partner planning authorities to “develop strategic planning frameworks to address economic development and infrastructure issues”. The White Paper also states that if constituent local authorities agree, LEPs will be able to “take on other planning related activities, including enabling timely processing of planning applications for strategic development and infrastructure”.
- 2.27 Government considers it vital that business and civic leaders work together and expects that business representatives will form half the board of LEPs with a prominent business leader in the chair. The White Paper confirmed the creation of the first 24 LEPs including the Solent LEP covering south

Hampshire and the Isle of Wight. Accompanying announcements clarified that other LEPs could be confirmed in due course.

### **Regional Growth Fund (RGF)**

2.28 Secondly the White Paper proposes the creation of a Regional Growth Fund which will be used to encourage private sector enterprise, create sustainable private sector jobs and help localities which are currently reliant on the public sector to make the transition to sustainable private sector led growth. It will be worth £1.4bn and operate from April 2011 to April 2014. The two objectives for the Fund are to :

- stimulate enterprise by providing support for projects and programmes with significant potential for economic growth and create additional sustainable private sector employment; and
- support, in particular, those areas and communities that are currently dependent on the public sector to make the transition to sustainable private sector-led growth and prosperity.

2.29 The first round of bidding (bids should be for a minimum of £1million) will close on 21 January 2011. Bids must demonstrate that they have significant private sector leverage, and public sector-only bids will not be accepted. LEPs will be able to coordinate bids or bid directly to the Fund but will not be given preferential treatment against bids from other private or public-private partnerships.

### **Business Reforms**

2.30 The final tranche of proposals in the White Paper aims to create other financial incentives to growth and includes incentives such as:

- the Business Increase Bonus
- enabling councils to retain locally raised business rates and
- a new Tax Increment Financing (TIF) mechanism whereby councils can borrow against anticipated future growth in business rate revenue streams to fund the key infrastructure and capital projects necessary to support locally driven economic development and growth.

2.31 Initially at least TIF will be introduced through a bid-based process to help minimise the risks to both local and central government. This new borrowing mechanism could represent a significant opportunity for the County Council subject, of course, to the design of the scheme not involving the Council in taking substantial risks. The Council would also like to see an agreement from Government that additional business rate income deriving from a new development should be retained by the relevant local authorities rather than going into the national pool.

## Conclusions

- 2.32 Whilst there may be opportunities for the County Council to make bids to the Regional Growth Fund to rebalance the economies of some Hampshire communities and capitalise on the opportunities afforded by the proposed business reforms, perhaps the biggest implication for the County Council is in respect of strategic planning. Until now it was thought that strategic planning was dead, but the White Paper paves the way for partner authorities and other stakeholders to come together to address strategic issues which affect them on a wider-than-local-but-smaller-than-regional level.
- 2.33 This need for strategic planning was articulated by the County Council (and many others) in evidence to the Communities and Local Government Select Committee inquiry into the abolition of Regional Strategies. That evidence called for county councils to be given a lead/coordinating role. (The Leader of the County Council gave evidence at that Inquiry on 22 November).
- 2.34 Hampshire County Council is a key partner in the delivery of local services through its role as education, highways, and minerals and waste planning authority. It has other statutory duties in social care, in welfare and to prepare an economic assessment for the county, as well as significant new statutory duties arising out of the Flood and Water Management Act. We also have substantial knowledge and expertise in transport and other infrastructure planning, housing issues and economic planning which puts the County Council in pole position to play a leading role in LEP's strategic planning; indeed given these substantial roles and duties it is almost inconceivable that LEPs could effectively prepare 'strategic planning frameworks' without considerable input from the County Council.
- 2.35 If the County Council were not involved in that work, the likely result would be disjointed and inefficient service delivery, and, a loss of influence over the future direction of development and change. Remaining outside of LEPs might also make it more difficult for the County Council to secure funding for transport and other infrastructure improvements. It is therefore proposed that a strategic planning role for County Councils should form part of the proposed reforms of the planning system in England.

## 3 Cumulative Impact

- 3.1 Taken individually these various announcements are likely to have major impacts on the ability of the County Council to deliver its services. Cumulatively, however, they comprise a substantial erosion of power and influence for upper tier authorities in local decision-making. While that is to be expected to a degree as a consequence of the localism agenda, the extent of the erosion of both power and the ability to raise finance to fund what remain as statutory duties for upper tier authorities is, perhaps, unexpected.
- 3.2 It is considered that these are unintended consequences of legislation and policies produced very quickly by civil servants with limited understanding of

the way decisions are made and services provided in two tier areas. However, even if unintended, these are the consequences of these policy announcements.

- 3.3 In unitary authority areas those authorities both reap the rewards from CIL and the NHB at the same time as having Formula Grant cut (making the impacts overall neutral). In two tier areas the impact is very different, the lower tier receives the bulk of the benefit whilst the upper tier pays a disproportionate (in relation to the benefit received) share of the cost. There is the real risk of a loss to the County Council of substantial sums of funding for highways and education schemes currently sought through the operation of its developer contribution policies. The cumulative impact of these various policy initiatives is, in effect, a transfer of funding from the upper tier to the lower tier whilst, at the same time, the upper tier's statutory responsibilities remain.
- 3.4 The purpose of this report is to highlight these impacts and suggest that the County Council bring these consequences to the attention of Government and make strong representations wherever possible to ensure Hampshire's interests are not compromised.
- 3.5 The major uncertainty in all of this is in terms of what the precise effects will be, as we do not know what the impacts on Formula Grant will be. Another significant uncertainty is what the Localism & Decentralisation Bill will say on these matters. That Bill should have been published by the time of this meeting. It is proposed that further consideration will be needed on the implications of the Bill, including the duty to cooperate. It is further proposed that the County Council should also develop a more concerted and co-ordinated campaign to ensure the ability of the statutory authorities to provide strategic infrastructure and services is not further eroded. This should go further than addressing the specific financial implications of individual pieces of legislation but could be a wider commentary on the duty to co-operate and, picking up on comments made on behalf of the County Council in evidence to the CLG Select Committee Inquiry.

#### **4 Recommendations**

- 4.1 That the County Council write to the Secretary of State for Communities and Local Government reminding him of the statutory duties which, despite the emerging localism agenda, still fall to upper tier authorities and of the need for those authorities to be able to raise the necessary funding to deliver those statutory duties.
- 4.2 That authority be delegated to The Leader to approve the County Council response to the New Homes Bonus Consultation Paper, on the basis of the commenting in Section 2 of the report.
- 4.3 That approval be given for the development of a co-ordinated campaign to highlight the implications of recent Government policy announcements for the

timely provision of adequate infrastructure to ensure that new development produces sustainable communities, and not housing estates with no facilities or infrastructure.

- 4.4 That, in order to secure a proper strategic framework with appropriate democratic accountability, to guide the planning and delivery of strategic infrastructure and development, the County Council also campaigns for the creation of a strategic planning role at County level within the proposed reforms to the planning system in England.

**CORPORATE OR LEGAL INFORMATION:****Links to the Corporate Strategy**

<b>Hampshire safer and more secure for all:</b>	yes
Corporate Improvement plan link number (if appropriate):	
<b>Maximising well-being:</b>	yes
Corporate Improvement plan link number (if appropriate):	
<b>Enhancing our quality of place:</b>	yes
Corporate Improvement plan link number (if appropriate):	

**Section 100 D - Local Government Act 1972 - background documents**

**The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)**

DocumentLocation

None

## **IMPACT ASSESSMENTS:**

### **1. Equalities Impact Assessment:**

1.1 Equalities issues have been considered and no adverse impact identified.

### **2. Impact on Crime and Disorder:**

2.1 These proposals will have no impact on crime and disorder.

### **3. Climate Change:**

a) How does what is being proposed impact on our carbon footprint / energy consumption?

No specific impacts have been identified.

b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

No specific measures have been identified.