

North Tyneside Council

Report to Director of Regeneration and Economic Development

Date: 2024

Title: Investment of Community Infrastructure Levy funds towards highway works to the junction of the A19 and the A1056 Killingworth Way

Report from Service

Area: Regeneration and Economic Development

Responsible Officer: Jackie Palmer, Head of Planning (Tel: (0191) 643 6336)

Wards affected: Killingworth, Camperdown & Valley

PART 1

1.1 Executive Summary:

This report seeks the authority of the Director of Regeneration and Economic Development to allocate monies collected via the Authority's Community Infrastructure Levy ("CIL") towards funding the A19 interchange works approved as part of Planning Application 19/01095/FULES. This report also seeks the authority of the Director of Regeneration and Economic Development for the Authority to enter into an agreement with Wynard Homes 2023 Limited and the Duke of Northumberland to require the Authority to transfer CIL funds to Wynard Homes 2023 Limited and/or the Duke of Northumberland subject to the satisfaction of conditions.

1.2 Recommendation(s):

It is recommended that the Director of Regeneration and Economic Development in consultation with the Deputy Mayor:

- (1) authorises, the allocation of monies up to the sum of £9,500,000, collected via the Authority's Community Infrastructure Levy, ("CIL") to Wynard Homes 2023 Limited and the Duke of Northumberland for use towards funding the A19 interchange works approved as part of Planning Application 19/01095/FULES; and
- (2) authorises the Head of Law to execute and complete the Highway Contribution Agreement attached to this report at Appendix 1 to contractually oblige the Authority to make payments to Wynard Homes 2023 Limited and the Duke of Northumberland in accordance with the terms of the Highway Contribution Agreement.

1.3 Forward Plan:

Twenty-eight days-notice of this report has been given and it first appeared on the Forward Plan that was published on 1 March 2024.

1.4 Council Plan and Policy Framework

This report relates to the following priority in the Our North Tyneside Plan 2021-2025, particularly:

- A thriving North Tyneside

1.5 Information:

1.5.1 Background

1.5.2 On 11 January 2024, the Authority's Planning Committee resolved that it was minded to grant Planning Permission for the development of residential dwellings at Killingworth Moor ("Application Site") with planning reference 19/01095/FULES subject to the satisfaction of certain conditions and the completion of an appropriate agreement under section 106 of the Town and Country Planning Act 1990 ("Section 106 Agreement").

1.5.3 The application requires the applicant for Planning Permission, Northumberland Estates Limited, to undertake highway improvement works to the junction of the A19 and the A1056 Killingworth Way.

- 1.5.4 The Authority's Investment Programme Board considered the proposal to spend CIL funds in February 2024 and indicated it was happy to support this proposal. The adoption of the Authority's CIL Charging Schedule and the review of the Infrastructure Funding List have been subject to internal and external consultation and was approved by Cabinet on 28 November 2022. The use of the CIL funds as proposed is consistent with the approved uses within the Infrastructure Funding List.
- 1.5.5 The use of the CIL funds towards the highway works will be governed by a Highway Contribution Agreement (a copy of which is attached to this report at Appendix 1) which is proposed to be entered into between (1) the Authority (2) Wynard Homes 2023 Limited and (3) The Most Noble Ralph George Algernon Twelfth Duke of Northumberland, The Honourable George Dominic Percy and the Honourable James William Eustace Percy (parties 2 and 3 above hereafter referred to as "the Developer").
- 1.5.6 In summary, the Highway Contribution Agreement will set out a staged approach towards the transfer of CIL funds from the Authority to the Developer as follows:
- (a) First tranche contribution – Once the Authority is in receipt of CIL funds equivalent to £5,000,000 from the Killingworth Moor development site, the Authority will, subject to receipt of financial records which evidence the actual costs incurred by the Developer towards the highway works, transfer to the Developer the sum of £5,000,000.
 - (b) Second tranche contribution – Once the Authority is in receipt of CIL funds equivalent to £2,000,000, the Authority will, subject to receipt of financial records which evidence the actual costs incurred by the Developer towards the highway works, transfer to the Developer the sum of £2,000,000.
 - (c) Third tranche contribution – Once the Authority is in receipt of CIL funds equivalent to £2,500,000, the Authority will, subject to receipt of financial records which evidence the actual costs incurred by the Developer towards the highway works, transfer to the Developer the sum of £2,500,000.
- 1.5.7 The transfer of the CIL funds is subject to the Authority being in receipt of the level of CIL funds required in order to transfer those CIL funds to the Developer.

- 1.5.8 The CIL funds proposed to be transferred will comprise CIL funds from the development of the Application Site, CIL funds from another development on the Killingworth Moor strategic site (20/01435/FULES) and an additional £500,000 from CIL funds already held by the Authority. The total CIL funds to be transferred to the Developer will not exceed £9,500,000.
- 1.5.9 The Section 106 Agreement to be entered into between the Authority and the Developer will separately detail that the Developer shall provide 11 affordable housing units. Although not specifically linked within the Section 106 Agreement to the trigger of the Authority providing the first tranche of CIL funds, the 11 affordable housing units required by the Section 106 Agreement are being offered on the basis that the Authority will transfer the first tranche of CIL funds. In exchange for the second tranche of CIL funds, the Developer will provide an additional 22 affordable housing units on the Application Site. In exchange for the third tranche of CIL funds, the Developer will provide a further additional 22 affordable housing units on the Application Site.

1.6 Decision options:

The following decision options are available for consideration by the Director of Regeneration and Economic Development:

Option 1

Agree with the recommendations of paragraph 1.2 of this report – the Authority will transfer CIL funds on a staged basis and will enter into the Highway Contribution Agreement with the Developer.

Option 2

Do not agree the recommendations as set out at paragraph 1.2 of this report – the Authority will not transfer CIL funds or enter into the Highway Agreement with the Developer.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is recommended for the following reasons:

The investment of CIL funds as described above would allow up to 10% affordable housing to be secured on the Application Site via a Section 106 Agreement, depending on the level of CIL transferred to the Developer.

1.8 Appendices:

Appendix 1 – Highway Contribution Agreement (final draft)

1.9 Contact officers:

Jackie Palmer, Head of Planning (0191 643 6336)

Julie Lawson, Development Control Area Manager (0191 643 6337)

Amar Hassan, Principal Accountant Investment and Revenue, (0191 643 5747)

Shaun Nattrass, Lawyer, Commercial Team, Legal Services (0191 643 5032)

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

(1) Planning application documents for 19/01095/FULES:

<https://idoxpublicaccess.northtyneside.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

(2) Minutes of Planning Committee dated 11 January 2024:

<https://democracy.northtyneside.gov.uk/ieListDocuments.aspx?CId=141&Mid=1235>

(3) **CIL Infrastructure List:**

<https://my.northtyneside.gov.uk/sites/default/files/web-page-related-files/Appendix%20-%20Infrastructure%20List%202022.pdf>

2.1 Finance and other resources

The Authority currently has circa £500,000 in its CIL budget received from developers. The Authority proposes to use these funds together with the CIL funds received from the Developer for the Application Site and CIL funds received from the other development on the Killingworth Moor strategic site to

fund the highway works. The proposed £9.5m capital investment will be added to the Authority's Investment Plan.

2.2 Legal

The recommendations , if approved, will be governed by a Highway Contribution Agreement.

In order to comply with subsidy control legislation, the CIL funds will be directed towards the costs of delivering open access infrastructure provided to the public at no charge. Therefore, the CIL funds will not be used to pay for the costs that ought to be borne by the Developer which will only benefit the proposed development e.g. the access spur off the new interchange to the estate. Rather, the CIL funds will cover 80% of the costs of delivering the A19 interchange works (on the basis that the overall cost of the A19 interchange works are currently estimated to be approximately £12m and the Authority will contribute up to £9.5m towards the interchange works from CIL funds).

There are no current specific delegations to officers which allow for this decision to be made. It is considered that General Delegation 6 of the Authority's Officer Delegation Scheme provides the necessary authority to the Director of Regeneration and Economic Development on the basis that the decision to be made falls within the managerial responsibilities of the Director of Regeneration and Economic Development . In particular, the Community Infrastructure Levy falls within the area of Planning which in turn falls within the Director of Regeneration and Economic Development's service area.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

Consultation has taken place with relevant service areas, the Investment Programme Board and the Local Plan Steering Group.

2.3.2 External Consultation/Engagement

No external consultation has been undertaken in respect of the proposal, other than with the Developer.

2.4 Human rights

There are no human rights implications directly arising from this report.

2.5 Equalities and diversity

There are no direct implications arising from this report.

2.6 Risk management

There are no direct implications arising from this report.

2.7 Crime and disorder

There are no direct implications arising from this report.

2.8 Environment and sustainability

There are no direct implications arising from this report. These issues were dealt with as part of the planning application process.

PART 3 – SIGN OFF

- Chief Executive
- Director(s) of Service
- Mayor/Cabinet Member(s)
- Chief Finance Officer
- Monitoring Officer
- Assistant Chief Executive