

## CABINET

13 December 2022

# INDICATIVE CAPITAL ALLOCATIONS INCLUDING DEVELOPER CONTRIBUTIONS

### Report of the Portfolio Holder for Planning, Highways and Transport

Strategic Aim:	A Special Place  A Modern and Effective Council		
Key Decision: No		Forward Plan Reference: FP/160922	
Exempt Information		No	
Cabinet Member(s) Responsible:		Cllr Rosemary Powell - Portfolio Holder for Planning, Highways and Transport	
Contact Officer(s):	Penny Sharp, Strategic Director for Places		07973 854906 psharp@rutland.gov.uk
Ward Councillors	All		

### DECISION RECOMMENDATIONS

That Cabinet:

1. Approves the proposed indicative allocations of the Council's uncommitted capital funds as detailed in appendix 1 of the report.
2. Approves the proposed process for administering Developer Contributions expenditure to ensure alignment to strategic priorities for the Council and County.

## 1 PURPOSE OF THE REPORT

- 1.1 This report sets out the Capital funds currently held by the Council and proposes indicative allocations for investing the monies, including developer contributions (Community Infrastructure Levy (CIL), Section 106 monies and Oakham North Local Funding Agreement).
- 1.2 It seeks to align the capital resources to the Council's strategic priorities that are set out in the Corporate Strategy. The report also proposes governance and administrative arrangements for developer contributions.

## **2 BACKGROUND AND MAIN CONSIDERATIONS**

- 2.1 The Council holds various uncommitted Capital Funds as set out in Appendix 1 which totalled £13.039m at 31 August 2022. These funds come from various sources, such as, ring-fenced Government Grants, (e.g. Disabled Facilities Grant); non-ringfenced Government Grants (e.g. Highways Capital Maintenance), capital receipts; and developer contributions (Community Infrastructure Levy [CIL], s106 and the Oakham North Local Funding Agreement).
- 2.2 With some of these funds, there is no local choice or discretion on what they can be spent on. With the remainder of the capital funds, the Council does have some discretion as to how it chooses to invest the monies.
- 2.3 To date, the Council has purposefully retained the majority of CIL funding in order to align investment with the growth infrastructure priorities detailed in the Infrastructure Delivery Plan (IDP). With the development of a new Local Plan there will be a need to produce a new IDP, and this process is timetabled to begin next year.
- 2.4 Section 106 developer contributions have been secured against specific developments for specific purposes. Depending on the nature of the covenant, there can be some flexibility as to how the s106 is invested. Restrictions can relate to a particular geographical area or a specific purpose, e.g. specific highways schemes.
- 2.5 The Oakham North Local Funding Agreement provided capital funding of £3.213 million linked to the Barleythorpe development. As such, the funding is non-ringfenced with £3.168m remaining unallocated.
- 2.6 Given the current planning context (lack of 5-year housing land supply) there is a desire to understand how the Council intends to use its capital funds to alleviate the pressure on local infrastructure.
- 2.7 In addition, there is a need for the Council to report on its intended spend/allocation of developer contributions in the Annual Infrastructure Funding Statement that must be published in December each year.
- 2.8 There is a commitment in the Corporate Strategy for the Council to develop a 10year capital investment plan to guide future spending on infrastructure and facilities. As this will link to and be informed by the development of the new Infrastructure Delivery Plan (IDP) it is anticipated that capital investment plan will now be developed in the latter half of 2023.
- 2.9 In the interim, it is proposed that Cabinet agrees indicative allocations of the capital funds currently held. The indicative allocations will enable services and partners to develop their investment plans and bring forwards proposals for specific projects to meet the County's infrastructure needs and strategic priorities.

## **3 RUTLAND COUNTY COUNCIL'S CAPITAL INVESTMENT PRIORITIES**

- 3.1 Through the development of the Corporate Strategy, the Health and Wellbeing Strategy and key corporate projects (such as the waste services procurement) the Council has already identified a number of priority areas for investment. The proposed indicative allocations to support these strategic investment priorities are

set out in Appendix 1 against the sources of these funds.

### **3.2 Priority One: A Special Place: Total £3,981m**

- Investment in Highways, Heritage and Culture and the County's public spaces to improve the cultural offer, attractiveness, accessibility, and safety within the market towns and villages. This investment will enhance the public realm and support the development of the Council's cultural offer.
- It is proposed that a community grants scheme is established to promote and support the vibrancy of the County's communities. The community grants scheme will be the subject of a future report to Cabinet.

### **3.3 Priority Two: Sustainable Lives: Total £3,045m**

- Investment in the County's waste and recycling services and facilities to secure long-term resilience and value for money, and address the pressure of additional waste arisings created by growth.
- It is also proposed to invest in the redesign of a sustainable and integrated public transport network that supports the implementation of the approved Bus Service Improvement Plan, increases bus usage, and reduces the County's carbon footprint.

### **3.4 Priority Three: Healthy and Well: Total £1,797m**

- Investment in improvements and increased health provision that meets the needs of all the County's residents. This investment must increase provision and not just upgrade or maintain existing provision. The County's health services are under pressure and additional development means further investment is required to support local residents.
- Use of ring-fenced adult social care capital funds to support the care and independence of the County's residents.

### **3.5 Priority Four: A County for Everyone: Total £1,730m**

- Investment in the provision of services for early years, children, and young people and promoting the delivery of affordable housing within the County. The Council is exploring options for the provision of 'family hub' services which this investment could support.
- It is also proposed to work with Police and Fire and Rescue services to invest in ensuring Rutland remains safe and welcoming.

### **3.6 Priority Five: A Modern and Effective Council: Total £2,249m**

- Investment in optimising the use of assets to provide value for money and support future service delivery and the County's strategic priorities. The report to November cabinet on the high-level asset strategy will inform investment priorities and requirements for the Council's operational estate.

## **4 GOVERNANCE AND ADMINISTRATION OF DEVELOPER CONTRIBUTIONS**

- 4.1 Currently, the County Council is in receipt of developer contributions from Community Infrastructure Levy; Section 106 agreements related to specific planning permissions; and the Oakham North local agreement.
- 4.2 Community Infrastructure Levy: The purpose of the Community infrastructure Levy (CIL) is to raise funds from developers to help pay for infrastructure within the County.
- 4.3 Rutland County Council adopted the Community Infrastructure Levy on 1 March 2016. The CIL Charging Schedule sets out the rates of CIL that apply to specific types of new developments in Rutland. The Council as Charging Authority collects CIL moneys and determines how the money will be spent in accordance with Council and County priorities.
- 4.4 Legislation requires that a proportion of CIL funds arising from CIL liable development are passed on to Parish or Town Councils. The proportion of CIL depends on whether communities have an adopted Neighbourhood Plan prior to an application being approved (15% for those without an NP capped at £100 (indexed) per council tax dwelling, 25% (uncapped) for those with one). Communities with Parish meetings are eligible for 15% (capped) CIL funding which is retained by RCC for expenditure in the Parish. In addition, the County Council is able to use 5% of CIL receipts for the management and administration of CIL.
- 4.5 The Council is required to produce an annual Infrastructure Funding Statement (IFS). The IFS provides a summary of all financial and non-financial developer contributions relating to S106s and CIL and sets out the projects that have been supported by developer contributions within the County.
- 4.6 In July 2019 Cabinet delegated the approval and publication of the IFS to the Strategic Director of Places in consultation with the Section 151 Officer and relevant portfolio holders. In addition, in December 2021 Cabinet approved a prioritisation process for determining the expenditure of any future CIL funds. This is included for reference only at Appendix 2
- 4.7 CIL funded projects will be approved in line with the Financial Procedure Rules in the Council's constitution and subject to a decision by Cabinet or Council depending on value.
- 4.8 Outstanding Section 106 Agreements: Prior to the introduction of CIL, the Council secured developer contributions through legal agreements made under Section 106 of the Town and Country Planning Act 1990 (as amended by Section 12(1) of the Planning and Compensation Act 1991), normally in association with planning permissions for new development.
- 4.9 Section 106 planning obligations can only be used: "to make development acceptable in planning terms; where they are directly related to the development; and are fairly and reasonable related in scale and kind to the development". This means there can be restrictions on what and where s106 funds can be used.
- 4.10 Depending on the terms and clauses of the legal agreement, there may be expiry dates for the expenditure of S106 monies already received by the Council.

- 4.11 S106 agreements are still used in conjunction with CIL for specific matters such as affordable housing and open space.
- 4.12 Cabinet has delegated authority to the Director of Places, in consultation with the Portfolio Holder for Planning, Highways and Transport to approve s106 expenditure up to £500,000.
- 4.13 There is an internal Officer review process in place involving planning, finance, and the Director of Places to review, on an annual basis, the money we hold from S106, identifying what the money is for and what the deadlines for spend are. Once this base information has been identified service managers and directors are asked to identify schemes for spend within the year – this then forms part of the Council's capital programme. There is a focus on looking at agreements 18 months prior to any expiry dates to ensure contributions are committed and spent by due dates.
- 4.14 Oakham North local agreement: The Council entered into a negotiated legal agreement with the developer of Oakham North (Barleythorpe) and secured a financial contribution of £4.6 million. The Oakham North Local Agreement is drawn quite broadly. The only specific requirement is that £125,173 is to be spent on "Oakham and Uppingham Town Centre Facilities." The remainder is to be applied "for the specified purposes or such other purposes as the County Council in its absolute discretion considers appropriate."
- 4.15 An internal audit consultancy report undertaken in 2021 in relation to Oakham North recommended that "Given the nature of the contribution received and the commitment to act within the spirit of the original Section 106 agreement, the Council should consider including the remaining balance of the financial contribution within the proposed strategic decision-making regime in respect of CIL and Section 106 contributions." As a result, it is proposed that funds and expenditure related to the Oakham North Local Agreement are also reported in the Annual Infrastructure Funding Statement (IFS).

### **Administration of Developer Contributions Expenditure**

- 4.16 Projects relating to the indicative allocations will be brought forward for consideration in line with the Council's constitution and delegations. As such, this report provides an indication of intent, however, specific expenditure will require further approvals, including the proposed community grants scheme.
- 4.17 The proposed process for assessing, approving, and administering the expenditure of developer contributions is summarised in the table below:

<b>STAGE 1</b>	<b>Project Identification</b>	Service provider identifies need and completes Application for Developer Contributions proforma (detailing alignment to strategic priorities, amount of funding requested, total cost of project, delivery timescales, benefits and outcomes for residents/county)
<b>STAGE 2</b>	<b>Validation</b>	Application form checked for completeness
<b>STAGE 3</b>	<b>Review of Strategic</b>	Relevant Strategic Lead requested to confirm that application aligns with strategic priorities for

	<b>Alignment</b>	Council/County
<b>STAGE 4</b>	<b>Decision-making</b>	<p>Subject to confirmation that project aligns with strategic priorities it will progress to formal decision-making in line with Council Constitution and Financial Procedure Rules:</p> <ul style="list-style-type: none"> <li>- Delegated decision for CIL funding £100,000 and below; and s106 funding £500,000 and below (Note: depending on project a formal Cabinet/Council decision may be required even if meets delegated decision thresholds)</li> <li>- Cabinet Decision for CIL funding over £100,000 up to £1m; and s106 funding £500,000 and up to £1m</li> <li>- Council for CIL and s106 funding over £1m</li> </ul>
<b>STAGE 5</b>	<b>Release of Funds</b>	<p>Subject to approval the relevant service provider will be required to complete a funding agreement detailing the benefits and outcomes expected</p> <p>A project record will be established on Finance and CIL/s106 systems.</p>
<b>STAGE 6</b>	<b>Monitoring of Expenditure</b>	<p>Annually reported through the Infrastructure Funding Statement</p> <p>Service provider will be required to provide updates to inform the IFS and a project completion report once implemented.</p> <p>Sample audits may be undertaken on risk-based/sample basis</p>

- 4.18 This process will help ensure that infrastructure expenditure is aligned to strategic priorities and provide oversight of the benefits to be delivered. It is recommended that Cabinet approve this process for administering Developer Contributions expenditure.

## **5 CONSULTATION**

- 5.1 The Portfolio Holder for Planning, Highways and Transport and the Portfolio Holder for Finance have been consulted on the proposals in this report in addition to Corporate Leadership Team.
- 5.2 The Strategic Investment priorities are in line with the Council's Corporate Strategy which was developed following extensive public consultation through the Future Rutland Conversation.

## 6 ALTERNATIVE OPTIONS

- 6.1 The alternative option is not to agree indicative allocations for the Council's uncommitted capital funds (including Developer Contributions) and to wait for the development of the new Infrastructure Delivery Plan to identify investment priorities.
- 6.2 There is existing pressure on some of the infrastructure within the County, for example health provision, and a need to deliver on the Council's strategic priorities. Given this, it is proposed that in the interim the uncommitted capital funds are allocated on an indicative basis to assist services and partners to develop their infrastructure plans and bring forwards proposals for implementation.

## 7 FINANCIAL IMPLICATIONS

- 7.1 The Council currently has £13,039k of uncommitted capital funds as at 31 August 2022. Agreeing indicative allocations for these funds will provide a clear direction for the investment in line with Corporate and County priorities.
- 7.2 Appendix 1 details the uncommitted funds including developer contributions and the proposed allocations in line with strategic priorities. The table below summarises the financial position based on available capital funds (2022/23):

Capital Funds	Developer Contributions			Ringfenced other Capital £000s	Non-Ringfence Other Capital £000s	Totals £000s
	S106 £000s	CIL £000s	Oakham North Local Agreement £000s			
Total Uncommitted Funds	2,695	2,569	3,168	1,326	3,281	<b>13,039</b>
Total Indicative Allocations	2,695	2,500	3,000	1,326	3,281	<b>12,802</b>
Total Remaining Uncommitted	0	69	168	0	0	<b>237</b>

## 8 LEGAL AND GOVERNANCE CONSIDERATIONS

- 8.1 The management and administration of developer contributions are regulated by the CIL Regulations which were last amended in 2019. Decisions made by Council need to be in accordance with these regulations,
- 8.2 There is a requirement to publish an Annual Infrastructure Funding Statement (IFS) by 31 December which details income and expenditure relating to developer contributions (CIL and s106) for the previous financial year. It is proposed that future IFS publications also include details relating to the Oakham North Local Agreement.
- 8.3 This report details indicative allocations of capital funds. Authorisation of specific expenditure will be determined in accordance with the Council's constitution and existing delegations.

## **9 DATA PROTECTION IMPLICATIONS**

- 9.1 A Data Protection Impact Assessments (DPIA) has not been completed as there are no direct implication arising from this report.

## **10 EQUALITY IMPACT ASSESSMENT**

- 10.1 There are no direct equalities implications arising from this report.

## **11 COMMUNITY SAFETY IMPLICATIONS**

- 11.1 It is proposed to allocate funding to Police, Fire and Rescue and Community Safety initiatives to promote the safety and wellbeing of the County.

## **12 HEALTH AND WELLBEING IMPLICATIONS**

- 12.1 It is proposed to allocate funding to health and wellbeing infrastructure to support the provision of additional services for the County's residents.

## **13 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

- 13.1 This report recommends indicative allocations of Capital funds currently held by the Council, including developer contributions (Community Infrastructure Levy (CIL), Section 106 monies and Oakham North Local Funding Agreement).
- 13.2 Identifying indicative allocations for these funds will provide a clear direction for the investment in line with Corporate and County strategic priorities.
- 13.3 The report also proposes that the governance and administration of developer contributions is undertaken in accordance with the Council's constitution and existing delegations, including the publication of an annual Infrastructure Funding Statement. It recommends a process for administering developer contributions expenditure (section 4.17).

## **14 BACKGROUND PAPERS**

- 14.1 None

## **15 APPENDICES**

- 15.1 Appendix 1 – Proposed Indicative Allocations of Uncommitted Capital Funding (Available 2022/23)
- 15.2 Appendix 2 – CIL Prioritisation Process

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.