

Record of Officer Decision

This form is the written record of a key or significant operational decision taken by an officer.

Decision type	<input type="checkbox"/> Key Decision	<input checked="" type="checkbox"/> Significant Operational Decision
Contact person:	Helen Cerroti	Telephone number: 0113 378 8039
Subject¹:	Deferral of Developer Contribution Payments	
Decision details:	What decision has been taken? ² The Chief Planning Officer agrees for a period of three months, until 1 August 2020, subject to review, that on a case by case basis and with appropriate justification provided by the applicant / developer, to defer or extend payment periods for Section 106 and the Community Infrastructure Levy (CIL) during the lockdown period and an agreed period beyond lockdown.	
	A brief statement of the reasons for the decision ³ Construction has all but ceased on most sites and there has been a sudden reduction of new homes and premises being sold or rented out. This has led to cash flow issues for some developers. The government has put in place a number of financial measures to help businesses during the Covid-19 and on 13 May 2020 has produced guidance proposing to amend the Community Infrastructure Levy Regulations 2010 to give authorities more discretion to defer payment, to temporarily disapply late payment interest and to provide a discretion to return interest already charged where they consider it appropriate to do so for developers that have an annual turnover of less than £45 million, thereby targeting small and medium sized developers. In a wider context the Council is also committed to supporting larger businesses with a greater annual turnover at this difficult time and wishes to work with developers in considering requests for deferrals or extended payment periods of Section 106 and CIL payments. This will be done on a case by case basis, upon receipt of evidence and justification that the developer obligations cannot be met at this time, but could at a point in the future. This will also include suspending recovery action and delaying payment, but will build in a review date or revised payment date.	

¹ If the decision is key and has appeared on the list of forthcoming key decisions, the title of the decision should be the same as that used in the list

² Set out all necessary decisions to be taken by the decision taker including decisions in relation to exempt information, exemption from call in etc.

³ Include any significant financial, procurement, legal or equalities implications, having consulted with Finance, PACS, Legal or Equality colleagues as appropriate.

	<p>This supports the industry and safeguards the Council's relationship with the industry, necessary for the Council's inclusive growth agenda going forward and also protects the Council's developer contribution income flow in the medium term.</p> <p>Currently the amounts wishing to be deferred but with payment plans in place stands at £881K. Due to the fact that this will be paid to the Council, but just on a deferred basis, this is still being classed as a Significant Operational Decision rather than a Key Decision.</p> <p>A three month period is considered practical, given the uncertainties around the lockdown period.</p> <p>Under normal circumstances, the change in a S106 would require a deed of variation, however, after seeking legal advice this is not practical in the current circumstances and advice has been to take such a pragmatic approach, which would not place the Council at unnecessary risk.</p>
	<p>Brief details of any alternative options considered and rejected by the officer at the time of making the decision</p> <p>It was considered to not allow deferred payments and refuse developer requests. However, this places businesses at risk and would potentially mean the Council would not receive any developer contributions if that business ceased trading. A deferral or a longer payment period, means that income would still be received by the Council.</p> <p>The option of allowing all requests to automatically be agreed was also rejected; some businesses may not be affected by the pandemic and therefore still have the ability to pay. The request for developers to produce evidence and justification of their inability to pay is therefore considered to be reasonable and proportionate.</p>
Affected wards:	All
Details of consultation undertaken⁴:	<p>Executive Member Executive Member for Climate Change, Transport and Sustainable Development consulted on the 13 May 2020</p> <hr/> <p>Ward Councillors</p> <hr/> <p>Others Director of City Development, Chief Officer Financial Services, Legal Services</p>

⁴ Include details of any interest disclosed by an elected Member on consultation and the date of any relevant dispensation given.

Implementation	Officer accountable, and proposed timescales for implementation	
List of Forthcoming Key Decisions⁵	Date Added to List:-	
	If Special Urgency or General Exception a brief statement of the reason why it is impracticable to delay the decision	
	If Special Urgency Relevant Scrutiny Chair(s)	
	Signature	Date
Call In	Is the decision available ⁶ for call-in?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If exempt from call-in , the reason why call-in would prejudice the interests of the council or the public:	
Approval of Decision	Authorised decision maker ⁷ Chief Planning Officer (Section 106) Director of Communities and Environment (CIL)	
	Signature <i>David Feeney</i> David Feeney, Chief Planning Officer	Date: 13 May 2020

⁵ Complete this section for key decisions only

⁶ Significant operational decisions are never available for call in. Key decisions are always available for call in unless they have been exempted from call in.

⁷ Give the post title and name of the officer with appropriate delegated authority to take the decision.