

Decision Date – 25 January 2024

Key Decision – Yes

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**Application for Exceptional Circumstances Relief – Cokerhurst Farm,  
Wembdon, Bridgwater**

Executive Member(s): Councillor Ros Wyke, Lead Member for Economic Development, Planning and Assets.

Local Member(s) and Division: Councillor Duddridge, Councillor Slocombe (Bridgwater West), Councillor Bolt, Councillor Caswell (Cannington)

Lead Officer: Alison Blom-Cooper Head of Planning/Chief Planning Officer

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**Summary / Background**

1. Somerset Council North (former Sedgemoor District Council) offered Exceptional Circumstances Relief (ECR) from the Community Infrastructure Levy (CIL). More recently the Planning and Transport Policy Executive Sub-Committee considered a report recommending an updated and consistent ECR Policy for the three charging areas within Somerset Council. This policy includes criteria against which to assess applications for ECR.
2. The developer of the Cokerhurst Farm site, part of the western strategic housing allocation in the adopted Sedgemoor Local Plan for 1,200 homes, has applied for 50% ECR. This is on the basis that the approved development is delivering early years and primary education on-site secured through a s.106 agreement, rather than through CIL, and will also fund entirely a new junction that will additionally enable further development to the south promoted by a different housebuilder to come forward. An independent Viability Assessment has been completed by a company called JLL and has been independently reviewed on behalf of the Council by Ki-an. The report concluded that given the value of obligations secured through s.106, even with a 50% reduction in CIL the site could only provide 11.6% affordable housing compared to a policy target of 30%.

3. Further to the review, an additional contribution for off-site highway works (signalisation of Dunball roundabout) was identified resulting in a further reduction in the affordable housing to 7.11%. Planning consent was granted in August 2023 therefore based on an assumed 50% reduction in CIL with a s.106 agreement securing significant off-site highway contributions, an on-site serviced site for a new primary school, financial contributions for early years and primary education, and 7.11% affordable housing in addition to other provisions for community facilities and public open space.

### **Recommendations**

4. The Planning and Transport Policy Sub-Committee agrees
  - a. that 50% CIL Exceptional Circumstances Relief for land at Cockerhurst Farm, South of Wembdon Hill and North of Quantock Road, Bridgwater (Planning Reference 51/19/00003) be approved.

### **Reasons for recommendations**

5. Granting of ECR consistent with the Development Committee's considerations when resolving to grant planning permission, will enable development to finally commence. It is necessary to have any application for ECR approved prior to a commencement of development to avoid the application being disqualified. Officers are in regular discussions with the developers, and it has been confirmed that a start on site will be made as soon as the ECR application is approved, this is likely to be in February 2024. This site is a critical strategic site allocated in the local plan. Commencement of this major strategic site will be an important milestone supporting delivery in line with assumptions set out in the current 5 Year Housing Land Supply.

### **Other options considered**

6. There is no other realistic option to consider. The viability evidence has been independently reviewed and confirms that ECR is necessary to enable this site to come forward.

### **Links to Council Plan and Medium-Term Financial Plan**

7. Council Plan link - A fairer, ambitious Somerset. The approval of ECR will ensure that this strategic housing site commences development. It will deliver a range of house types and whilst the first phase has a reduced affordable housing

component, subsequent phases are likely to provide higher proportions. The scheme will also deliver a serviced site and financial contributions for a new primary school.

8. Medium Term Financial Plan -. Delivery of new housing will add to the overall assumed Council Tax base. The proposal secures a site and contribution for a new primary school and still secures significant CIL contribution that will be used to deliver other infrastructure priorities.

**Financial and Risk Implications**

9. Collection of a reduced amount of CIL results in less CIL funding available for other strategic infrastructure projects and (potentially) less funding passed to the Town or Parish Council for local infrastructure and community projects. However, in this case significant infrastructure and financial contributions are secured through a s.106 agreement. These include a new light-controlled junction, contributions to Dunball roundabout, education contributions of over £8m, a serviced site for the new primary school, a serviced site for a community facility, on-site open space and formal play areas, and affordable housing. The first phase of 238 dwellings would also still have a CIL liability of over £600,000. It is clear therefore that the value of secured s.106 contributions is significantly greater than the value of the ECR.

<b>Please enter risk description</b>					
Reduced CIL receipts available for spend on other identified infrastructure.					
<b>Likelihood</b>	<b>5</b>	<b>Impact</b>	<b>2</b>	<b>Risk Score</b>	<b>10</b>
S.106 agreement secures direct investment into infrastructure, in particular early years and primary school education that are normally secured by CIL, as well as a range of other infrastructure. The value of the S.106 is significantly greater than the ECR and there will still be a significant amount of CIL available for other infrastructure and the local contribution. Granting the ECR will enable the site to come forward quickly, thus securing the wider investment.					

**Legal Implications**

10. The former Sedgemoor District Council area had an existing ECR policy. Somerset Council has now extended ECR relief to cover all charging areas within

Somerset and has also set out additional guidance as to how applications for CIL relief will be assessed. This is set out in an updated ECR policy.

Any application for ECR must be consistent with the Subsidy Control Act. s.7(2) which states that 'an activity is not to be regarded as an economic activity if or to the extent that it is carried out for a purpose that is not economic.' For example: Public Infrastructure – Hospitals, Flood Defence, Highways, Schools (not classed as public task). For the provisions of Subsidy Control to apply there must be economic activity and in that circumstance CIL relief would be regarded as a subsidy as it represents the forgoing of revenue that would otherwise be due.

As the relief is necessary to provide education infrastructure (secured through a s.106 agreement), this is not an economic activity. Therefore, the CIL relief is not considered to be subsidy and the provisions of the Subsidy Control Act do not apply.

### **HR Implications**

11. There are no HR implications.

### **Other Implications:**

### **Equalities Implications**

12. Cokerhurst Farm is part of the B2 Land at West Bridgwater strategic housing allocation in the adopted Sedgemoor District Local Plan. Granting ECR will enable commencement of this strategic site in early 2024 and ensure that a comprehensive package of infrastructure is delivered that includes a new school, serviced site for a community centre, public open space, and affordable housing. Policy B2 was subject to an EIA as part of the local plan examination process, this concluded that the proposal had no impact on protected groups.

### **Community Safety Implications**

13. There are no direct community safety implications from the report. Community safety implications will also have been considered as part of the development management planning process.

### **Climate Change and Sustainability Implications**

14. There are no direct climate change or sustainability implications from the report. The site itself is allocated through the adopted local plan that was subject to a detailed sustainability appraisal. Sustainability and climate change have also been considered as part of the Development Management process and includes active travel routes, sustainable drainage, locally accessible services and new primary school, and extensive new landscaping and tree planting.

### **Health and Safety Implications**

15. There are no direct health and safety implications from the report.

### **Health and Wellbeing Implications**

16. There are no direct health and wellbeing implications from the report. Health and wellbeing form part of the wider sustainable development considerations considered as part of the Development Management process.

### **Social Value**

17. This is not applicable to the report and recommendations. Social value is secured through the development management process where possible, for example using local labour agreements.

### **Scrutiny comments / recommendations:**

18. The proposed decision has not been considered by a Scrutiny Committee.

### **Background**

19. The application for ECR relates to an approved hybrid scheme for up to 675 homes with 238 homes being in full, a primary school, neighbourhood centre and two new access points on to A39. The first phase is required to deliver the main access into the site that will also serve development to the south of the A39 that is subject to a separate planning application. In addition, the scheme has a requirement to provide a serviced site for a new primary school, a serviced site for community facilities, a contribution towards the improvements to Dunball roundabout, and contributions toward early years, primary, and secondary education.
20. Within the former Sedgemoor District Council Local Plan area most infrastructure is secured through CIL including contributions towards the

provision of education. Except for two specific allocated sites in the adopted local plan, all education contributions are secured through CIL. The exceptions are the two strategic allocations at Bridgwater that include specific on-site provision. In these cases, early years and primary education provisions are secured through s.106 and provided on-site.

21. This represents a greater and more secure education contribution for the LEA than CIL but has clear impacts on the overall viability of development given that this represents a significant additional charge over and above other infrastructure and CIL payments. In the case of this scheme, the value of the education contribution secured through s.106 is £3.687m. Effectively without any reduction in CIL, the development is being asked to pay twice for the same infrastructure.
22. As referred to above, the s.106 secured additional contributions for other infrastructure in addition to primary school funding, the key components considered as part of the viability were therefore,
  - Primary Education £3,687,984
  - Early Years Education £580,250
  - Three way signalled Junction additional costs £3.687m
  - Travel Plan Co-ordinator £303,296
  - Bus service £600,000
  - Contribution towards Dunball roundabout £865,652\*

\*This requirement was added after the review of the viability resulting in a further reduction in affordable housing.

23. As part of the negotiations with the developers in advance of the consideration by Committee viability was raised as a significant issue given in particular the requirement to fund on-site education provision in addition to CIL. A viability report was prepared that was independently reviewed on behalf of the Council. The submitted viability report assumed that CIL relief of 50% would be granted on the basis that early years and primary education contributions were secured directly by s.106 and to maintain an acceptable though reduced level of affordable housing for the first phase.
24. The viability review tested a range of scenarios given that there were uncertainties around potential third party contributions to the principal junction and that until an application for CIL relief was considered, it was not certain that this would be granted. It concluded that the scheme was not viable with a policy

compliant 30% affordable housing. The scenario that was considered to be the most realistic was -

***Assuming 50% CIL reduction and NO contribution from adjoining developer for***

***Junction.*** *The benchmark land value met with 11.6% Affordable housing provision based on a 50/ 50 tenure split and a total 78 Affordable Homes for the first phase.*

25. Whilst this scenario was viable it resulted in only 11.6% affordable housing compared to a policy target of 30% although there would be a review mechanism that would increase this should contributions for the junction ultimately be secured. It was this scenario that was considered by Development Committee when they resolved to grant permission subject to a s.106 agreement.
26. After this as part of a wider funding strategy to deliver improvements to Dunball roundabout/J.23 required by National Highways to enable continued growth in and around Bridgwater, an additional off-site highway contribution of £865,652 was agreed. When this additional financial requirement was added to the viability appraisal, in order to maintain the scheme viability to the level previously agreed, the affordable housing component had to be reduced further to 7.11%. It was accepted that the first phase did have a disproportionate infrastructure burden and that subsequent phases might be able support higher levels of affordable housing.
27. Planning consent was finally issued on 8<sup>th</sup> August 2023 on the assumed basis that ECR of 50% would be granted and that affordable housing of 7.11% was secured with the provision of an uplift clause should third party contributions towards the main junction be secured or any of the off-site financial contributions were not needed.
28. The Council now has a new ECR policy that includes criteria against which to assess any applications. Whilst this ECR application can be determined against the existing ECR policy that applied to the former SDC area, it has also been assessed against the new policy as follows.
  - Is the site included within the Councils 5 Year Housing Land Supply and/or allocated in an adopted local plan – **Yes.**

- The planning benefits of the proposal are considered equal or greater benefit than the value of any ECR granted – **Yes**, as detailed above the scheme secures for example £3.7m for primary education and £865k for off-site highway works.
  - The s.106 agreement has a direct financial impact on development viability as evidenced by the viability report - **Yes**.
  - Sites should not be artificially sub divided – **No**, the site is phased logically but there is a requirement for significant front loading of infrastructure.
  - Exceptional circumstances would normally exclude matters that should reasonably have been considered at the planning stage – **Yes** the primary reasons are related to s.106 on-site education provision and additional off-site highway contributions that were not anticipated in the local plan.
  - If Development Committee have already considered viability supported by an independent viability assessment including any assumed ECR, relief will be granted – **Yes**, as detailed above viability was fully considered and 50% ECR was assumed as part of this.
  - All ECR must be compatible with UK subsidy Control legislation – **Yes**, as the relief is necessary to provide education infrastructure that is not an economic activity this would not be considered subsidy.
29. The ECR request therefore meets all the policy criteria and the recommendation above is that a reduction of 50% be approved.




**Report Sign-Off (if appropriate)**

	Officer Name	Date Completed
Legal & Governance Implications	David Clark	11/01/2024
Communications	Peter Elliot	11/01/2024
Finance & Procurement	Nicola Hix	15/01/2024
Workforce	Alyn Jones	N/A
Asset Management	Oliver Woodhams	N/A
Executive Director / Senior Manager	Mickey Green	11/01/2024
Strategy & Performance	Alyn Jones	N/A
Executive Lead Member	Cllr Ros Wyke	5/01/2024
<b>Consulted:</b>	Councillor Name	
Local Division Members	Cllr Duddridge, Cllr Slocombe (Bridgwater West), Cllr Bolt, Cllr Caswell (Cannington)	11/01/2024
Opposition Spokesperson	Cllr Mark Healey	11/01/2024
Scrutiny Chair	Cllr Dimery	11/01/2024

## Somerset Equality Impact Assessment

Before completing this EIA please ensure you have read the EIA guidance notes – available from your Equality Officer or  
[www.somerset.gov.uk/impactassessment](http://www.somerset.gov.uk/impactassessment)

<b>Organisation prepared for (mark as appropriate)</b>	 <b>Somerset</b> Council					
<b>Version</b>		<b>Date Completed</b>	<b>10/01/2024</b>			
<b>Description of what is being impact assessed</b>						
CIL ECR for land at Cokerhurst Farm, Bridgwater, part of policy B2 of Sedgemoor adopted local plan						
<b>Evidence</b>						
<b>What data/information have you used to assess how this policy/service might impact on protected groups?</b> Sources such as the <a href="#">Office of National Statistics</a> , <a href="#">Somerset Intelligence Partnership</a> , <a href="#">Somerset’s Joint Strategic Needs Analysis (JSNA)</a> , Staff and/or <a href="#">area profiles</a> ,, should be detailed here						
Sedgemoor Local Plan Equalities Impact Assessment						

**Who have you consulted with to assess possible impact on protected groups and what have they told you?** If you have not consulted other people, please explain why?

No additional consultation. The report seeks ECR in order to enable delivery in conformity with policy B2 of the local plan. The EIA was independently examined through the local plan public local inquiry.

**Analysis of impact on protected groups**

The Public Sector Equality Duty requires us to eliminate discrimination, advance equality of opportunity and foster good relations with protected groups. Consider how this policy/service will achieve these aims. In the table below, using the evidence outlined above and your own understanding, detail what considerations and potential impacts against each of the three aims of the Public Sector Equality Duty. Based on this information, make an assessment of the likely outcome, before you have implemented any mitigation.

Protected group	Summary of impact	Negative outcome	Neutral outcome	Positive outcome
Age	<ul style="list-style-type: none"> <li>•</li> </ul>	□	⊗	□
Disability	<ul style="list-style-type: none"> <li>•</li> </ul>	□	⊗	□

<b>Gender reassignment</b>	<ul style="list-style-type: none"><li>•</li></ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Marriage and civil partnership</b>	<ul style="list-style-type: none"><li>•</li></ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Pregnancy and maternity</b>	<ul style="list-style-type: none"><li>•</li></ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Race and ethnicity</b>	<ul style="list-style-type: none"><li>•</li></ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Religion or belief</b>	<ul style="list-style-type: none"><li>•</li></ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Sex</b>	<ul style="list-style-type: none"><li>•</li></ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<b>Sexual orientation</b>	•	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Armed Forces (including serving personnel, families and veterans)</b>	•	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Other, e.g. carers, low income, rurality/isolation, etc.</b>	•	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### Negative outcomes action plan

Where you have ascertained that there will potentially be negative outcomes, you are required to mitigate the impact of these. Please detail below the actions that you intend to take.

Action taken/to be taken	Date	Person responsible	How will it be monitored?	Action complete
	Select date			<input type="checkbox"/>
	Select date			<input type="checkbox"/>
	Select date			<input type="checkbox"/>
	Select date			<input type="checkbox"/>
	Select date			<input type="checkbox"/>

	Select date			<input type="checkbox"/>
	Select date			<input type="checkbox"/>
	Select date			<input type="checkbox"/>

**If negative impacts remain, please provide an explanation below.**

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<b>Completed by:</b>	<b>Nick Tait</b>
<b>Date</b>	<b>16/01/2024</b>
<b>Signed off by:</b>	
<b>Date</b>	
<b>Equality Lead sign off name:</b>	
<b>Equality Lead sign off date:</b>	
<b>To be reviewed by:</b> (officer name)	
<b>Review date:</b>	

