



Committee name: Scrutiny

Committee date: 07/12/2023

Report title: Consideration of Cabinet decision to award Exceptional Circumstances Relief (ECR) from the payment of the Community Infrastructure Levy (CIL) in respect of phases 1 and 2 of the redevelopment proposals at Anglia Square which received planning permission on 18 July 2023.

Portfolio: Councillor Stonard, Leader of the council and cabinet member for inclusive and sustainable development

Report from: Head of planning and regulatory services

Wards: Mancroft

OPEN PUBLIC ITEM

Purpose

For members of the scrutiny committee to consider a call-in of the cabinet decision of 22 November 2023 to award Exceptional Circumstances Relief (ECR) from the payment of the Community Infrastructure Levy (CIL) in respect of phases 1 and 2 of the redevelopment proposals at Anglia Square which received planning permission on 18 July 2023.

Recommendation:

The scrutiny committee can decide to either:

- a) support the cabinet decision, in which case it can then be implemented, or
- b) It can be referred back to cabinet for reconsideration.

Policy framework

The council has five corporate priorities, which are:

- People live independently and well in a diverse and safe city.
- Norwich is a sustainable and healthy city.
- Norwich has the infrastructure and housing it needs to be a successful city.
- The city has an inclusive economy in which residents have equal opportunity to flourish.
- Norwich City Council is in good shape to serve the city.

This report meets the “Norwich has the infrastructure and housing it needs to be a successful city” and “The city has an inclusive economy in which residents have equal opportunity to flourish corporate aims” priorities.

This report addresses the corporate aim 3 that Norwich has the infrastructure and housing it needs to be a successful city. In particular:

- to develop and regenerate areas such as East Norwich and Anglia Square;
- to provide and encourage others to provide new homes, open spaces and infrastructure for residents;

This report helps to meet the housing, regeneration and development objective of the COVID-19 Recovery Plan.

Report details

1. At its meeting on 22 November 2023, cabinet made the decision that:
 - a. There are exceptional circumstances (within the meaning of the CIL Regulations 2010 as amended) that justify the grant of Exceptional Circumstances Relief in respect of phase 1 Anglia Square development (REF 22/00434/F) and that it is therefore expedient to grant Exceptional Circumstances Relief;
 - b. To grant Exceptional Circumstances Relief for the phase 1 of the Anglia Square development (22/00434/F) in accordance with the Council’s adopted Exceptional Circumstances Relief policy.
 - c. There are exceptional circumstances (within the meaning of the CIL Regulations 2010 as amended) that justify the grant of Exceptional Circumstances Relief in respect of phase 2 Anglia Square development (REF 22/00434/F) and that it is therefore expedient to grant Exceptional Circumstances Relief;
 - d. To grant Exceptional Circumstances Relief for the phase 2 of the Anglia Square development (22/00434/F) in accordance with the Council’s adopted Exceptional Circumstances Relief policy
2. This decision was called in by Councillors Ackroyd, Davis and Osborn under the terms of the council’s constitution.
3. Please note that the call-in does not challenge the viability assessment nor specifically identify if there are aspects of the Council’s CIL ECR Policy it is felt the application does not comply with. Instead, it primarily focuses on important procedural requirements and whether these have been complied with.
4. The reason given for the call in is that the Cabinet Meeting on 22 November left several key questions unanswered, both about the grounds for the decision and the decision-making process. In the interests of robust decision-making, the Members requesting the call in felt that an opportunity should be used to investigate these questions.
5. The following questions were submitted to form the call in and will be answered by officers and the portfolio holder at the meeting. A summary table of these

questions and officer's responses can be found at Appendix B, alongside the EQIA at Appendix C.

1) The Cabinet report states in paragraphs 54-57 the following:

54. Members should note that at present, the HIF contract with Homes England includes a clause which states that 'the Local Authority shall confirm that CIL ECR has been granted on phase 1 prior to the drawdown of any funding (Schedule 4, clause 1.16).

55. This clause is considered to fetter Members' discretion when considering whether to grant or otherwise the CIL relief. As such officers are working to reword the clause to seek clarification that a decision has been made, not that the relief has been granted. The suggested new wording is as follows: 'The Local Authority shall confirm that a determination has been made in respect of CIL ECR on the Works prior to any drawdown'.

56. Homes England has confirmed verbally that it sees no reason why this clause cannot be amended but formal sign off to the change is required from the Board of Homes England on this point. This will only be secured when the fully revised Deed of Variation to the Contract is agreed which is not expected until the end of the calendar year.

57. As such, Members should note this in their decision making and be mindful that any decision to refuse the CIL relief may still pose a risk to the ability to draw down the HIF funding of £15m.

At the Cabinet Meeting, members asked questions about how much weight to give the existing written contract with Homes England as against the verbal agreement that the £15m funding would not be dependent on the CIL ECR being granted. However, it became evident in the meeting that legal advice did not appear to have been sought over whether these circumstances (making a decision based on a verbal agreement not on a written contract) could leave the council open to judicial review. **Further scrutiny is therefore needed to provide members with details of legal implications and legal risks to the council.**

2) At the Cabinet meeting, a member of the public (a representative of the Norwich Over the Wensum (NOW) Neighbourhood Forum covering the area around Anglia Square), drew attention to the fact that the Cabinet report did not detail CIL-funded projects that could have been funded through the Anglia Square CIL contribution. The Council Leader stated that this was due to the uncertainty over the Anglia Square development meaning that projects that would use CIL from Anglia Square had not been planned. However, the fact that projects had not been planned does not mean that the CIL funding could not have been utilised. Cabinet Members were assured that the decision they were making did not, like a planning application, have to take material factors into consideration, but instead should be a weighing up of the benefits and disadvantages of the decision for the city. **Cabinet Reports should always consider alternative options and their possible outcomes, and in this case Cabinet should have more fully considered the outcomes of not awarding CIL exemption.** The advantages of projects that could have been CIL-funded in an alternative scenario were not fully addressed. Scrutiny could

fairly consider that laying out potential CIL-funded projects would form a thorough part of decision-making, as part of the review of options.

3) The NOW representative asked whether any consultation had been carried out with representatives of the local area, including the neighbourhood forum, ahead of the decision being made. There was no such consultation. **Scrutiny should consider whether neighbourhood groups, local businesses, local schools / school governors, the county council, and other partners with a stake in the infrastructure of the wider area should have been consulted, and whether such consultation would have led to more thorough decision-making.** Scrutiny could usefully consider evidence from these groups and whether their input could add value to the decision-making process.

4) The Cabinet Report did not make clear what the Equalities impact or the Health and Social impacts of the decision would be.

- a. The Equality and Diversity section of the Statutory Considerations at the end of the report states that “The Subsidy Control Assessment made as referenced in paragraph 78 sets out in detail how equality is achieved.” However, the paragraphs about the Subsidy Control Assessment in the report provide no detail on equality, only on competition and trade considerations. **Scrutiny may request further detail on the Equalities Impact of the decision, including an Equalities Impact Assessment.**
- b. The “Health, social and economic impact” section of the Statutory Considerations states that “It is not considered there are any health or social impacts arising from this decision.” This seems surprising given that CIL can provide green space (of benefit to health) and community facilities. **Scrutiny may request an assessment of the health and social impacts of the decision.**

5) The report does not detail the impact that the decision could have on pooled CIL arrangements with Broadland and South Norfolk councils or relationships with the GNGB. Some questions were asked about this at the Cabinet meeting; however, no formal consultation was done with these partners. **Scrutiny could ask to see evidence of consultation with Broadland, South Norfolk and the GNGB.**

6) At the Cabinet meeting, the Council Leader stated that he had “had it from the horse’s mouth” that Weston Homes had made a loss in the last two years. Company reporting shows that Weston Homes made a pre-tax profit of £18.2m in the year to July 2022, and a profit of £2.9m in the previous year. Clarification is therefore needed as to which of these versions of accounts is correct. **Scrutiny could request clarification of the financial position of Weston Homes and whether this could be considered a factor in the decision-making of the Cabinet.**

7) Clarification is also needed as to the extent of engagement between Weston Homes and the Leader and/or Cabinet Members. Questions from members of the public highlighted that there had been no engagement with the local community, neighbourhood forum, or other partners, yet the Leader’s comment suggested that there had been ongoing discussions with Weston Homes. Clarification is therefore needed as to the due process for the discussions with Weston Homes. **Scrutiny could request records of**

meetings, including minutes, and correspondence between Weston Homes and the Leader and Cabinet Members. Scrutiny should also consider whether any non-pecuniary interests should have been declared in relation to lobbying either for or against the decision.

8) The Corporate Risk Register lists as risk CORP15 “Failure to draw down £15m of Housing Infrastructure Fund (HIF) money previously secured from Homes England (HE) to assist with the delivery of Anglia Square”. The residual risk score is listed at 12, with a target of 8. The Cabinet report could have set out the details of this risk, why it remained higher than target, and how the risk was calculated and what risk mitigation was in place. The details behind this risk score could have provided information to inform the Cabinet’s decision-making. **Scrutiny could request details of how this risk has been calculated, risk mitigation that is in place, and could consider whether this information could have formed part of decision-making.**

9) To inform Cabinet Members’ decision, it would have been helpful to consider precedents of where CIL exemption applications have been made, whether other councils decided to award or reject CIL ECR, and the results of the award or rejection. Although the Anglia Square CIL ECR application should naturally be considered on its own merits, Cabinet could have considered any lessons learned from previous cases, as would normally be done with any other financial or policy decision. **Scrutiny could therefore request details of previous CIL ECR applications at other councils and their outcomes.**

To summarise the information that we believe Scrutiny could request:

- 1) Details of legal implications and legal risks associated with a decision being made on the basis of a verbal agreement regarding HIF while an extant contract specifies a different agreement.
- 2) Details of alternative options to awarding the CIL ECR and how these were considered.
- 3) Consultation with neighbourhood representatives.
- 4) Details on the Equality and Diversity and Health and Social impacts of the decision.
- 5) Consultation with Broadland, South Norfolk and the GNGB and details of how the decision could impact on pooled CIL.
- 6) Clarification regarding the financial position of Weston Homes and how this may impact on decision-making.
- 7) Details of meetings and correspondence between the applicant and Weston Homes and the Leader and Cabinet Members.
- 8) Details of how CORP15 was calculated and whether this could inform decision-making.
- 9) Where nationally and locally there have been other CIL ECR applications and, if they have been turned down, how that impacted on developments.

Consultation

Please see the cabinet report attached at appendix A

Implications

Financial and resources

Please see the cabinet report attached at appendix A

Legal

Please see the cabinet report attached at appendix A

Statutory considerations

Please see the cabinet report attached at appendix A

Risk management

Please see the cabinet report attached at appendix A

Other options considered

6. Please see the cabinet report attached at appendix A

Reasons for the decision/recommendation

7. Under the council's constitution, the scrutiny committee is entitled to call in any decision made by cabinet.

Background papers: None

Appendices:

- 1) Cabinet report - For cabinet to consider granting Exceptional Circumstances Relief (ECR) for the payment of Community Infrastructure (CIL), in respect of phases 1 and 2 of the redevelopment proposals at Anglia Square which received planning permission on 18 July 2023.

Link [here](#)

- 2) Officer response table

- 3) EQIA

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Scrutiny Call-in: CIL exemption – Officer responses

Point of examination	Detail	Provisional response
<p>Details of legal implications and legal risks associated with a decision being made on the basis of a verbal agreement regarding HIF while an extant contract specifies a different agreement</p>	<p>At the Cabinet Meeting, members asked questions about how much weight to give the existing written contract with Homes England as against the verbal agreement that the £15m funding would not be dependent on the CIL ECR being granted. However, it became evident in the meeting that legal advice did not appear to have been sought over whether these circumstances (making a decision based on a verbal agreement not on a written contract) could leave the council open to judicial review. Further scrutiny is therefore needed to provide members with details of legal implications and legal risks to the council.</p>	<p>Fundamentally, the risks are straightforward: the current agreement requires that the HIF funding would be contingent on CIL relief. If Cabinet was minded to approve the application(s) the risk of the specific clause is mitigated. If Cabinet does not approve the application(s), then the Council cannot meet the terms of the current agreement and therefore could not obtain the £15m HIF funding, unless the deed of variation was agreed by Homes England.</p> <p>The Council has been working with Homes England on a deed of variation to the HIF agreement, which originally related to the 2018 application. There are several revisions required, such as the deadlines for compliance, which, in the original agreement, were based on the earlier application. The need for obtaining a deed of variation to that agreement is clear and agreed by both parties. Throughout, the Council has sought and obtained legal advice. The report, and the wording of this section, was subject to review by the legal advisors.</p>

Point of examination	Detail	Provisional response
		<p>The relevant clauses being referred to here make the assumption Homes England will only award HIF if CIL relief is granted. The rationale for this clause, and why the position and risk profile for Homes England has shifted, was explained at the Cabinet meeting.</p> <p>The decisions on the two CIL ECR applications are stand-alone decisions. There are consequences of these decisions for the HIF funding, but the clause in the contract (as currently worded) does not fetter Members decision making ability, it highlights the consequence of not granting the relief, i.e., the funding falls away. In hindsight, the wording of the Cabinet report could have been clearer. Members are not bound to agree the relief but should be mindful of the consequence of refusing the applications.</p>
<p>Details of alternative options to awarding the CIL ECR and how these were considered</p>	<p>At the Cabinet meeting, a member of the public (a representative of the Norwich Over the Wensum (NOW) Neighbourhood Forum covering the area around Anglia Square), drew attention to the fact that the Cabinet report did not detail CIL-funded projects that could have been funded through the Anglia Square CIL contribution. The Council Leader stated</p>	<p>The options before the Cabinet were either to award CIL relief, to not award CIL relief, or to award partial CIL relief. The report presented to Cabinet the implications and requirements in making a decision, and it was then for Cabinet to determine which option to take.</p> <p>As explained at the meeting, Norwich City Council pools its CIL contributions with 2 other Local</p>

Point of examination	Detail	Provisional response
	<p>that this was due to the uncertainty over the Anglia Square development meaning that projects that would use CIL from Anglia Square had not been planned. However, the fact that projects had not been planned does not mean that the CIL funding could not have been utilised. Cabinet Members were assured that the decision they were making did not, like a planning application, have to take material factors into consideration, but instead should be a weighing up of the benefits and disadvantages of the decision for the city. Cabinet Reports should always consider alternative options and their possible outcomes, and in this case Cabinet should have more fully considered the outcomes of not awarding CIL exemption. The advantages of projects that could have been CIL-funded in an alternative scenario were not fully addressed. Scrutiny could fairly consider that laying out potential CIL-funded projects would form a thorough part of decision-making, as part of the review of options.</p>	<p>Authorities: Broadland District Council and South Norfolk District Council.</p> <p>At the point where CIL is collected following the grant of <i>any</i> planning application, the CIL monies go into a general infrastructure pool, and it is not known where it would be spent within the CIL charging area.</p> <p>80% of the contribution would have gone into the Greater Norwich pool and would be spent on projects across the Greater Norwich area.</p> <p>The neighbourhood element of retained CIL (15%) is not, as advised, spent in north, south, east, and west areas. It is simply pooled and spent on projects throughout the city. Again, whilst contributing to the wider area, any retained neighbourhood CIL may not necessarily have benefitted the immediate area around Anglia Square.</p> <p>The presentation and responses to Members questions outlined a number of S106 obligations and on-site provisions directly related to 3 of the 4 areas CIL is spent on: transport, green infrastructure and community infrastructure. The monetary value of this is circa £4.5million, more than the CIL requirement.</p>

Point of examination	Detail	Provisional response
		<p>The presentation also outlined why an education contribution was not considered necessary.</p> <p>Further, if the development does not proceed because the viability without the CIL relief does not 'stack up' for the developer, then no CIL will be realised at all.</p>
<p>Consultation with neighbourhood representatives</p>	<p>The NOW representative asked whether any consultation had been carried out with representatives of the local area, including the neighbourhood forum, ahead of the decision being made. There was no such consultation. Scrutiny should consider whether neighbourhood groups, local businesses, local schools / school governors, the county council, and other partners with a stake in the infrastructure of the wider area should have been consulted, and whether such consultation would have led to more thorough decision-making. Scrutiny could usefully consider evidence from these groups and whether their input could add value to the decision-making process.</p>	<p>Unlike a planning application, a formal consultation is not required. The planning application for the site included extensive consultation. The report on the CIL ECR decisions was subject to significant input from the Council's legal advisors.</p>

Point of examination	Detail	Provisional response
<p>Details on the Equality and Diversity and Health and Social impacts of the decision</p>	<p>The Equality and Diversity section of the Statutory Considerations at the end of the report states that “The Subsidy Control Assessment made as referenced in paragraph 78 sets out in detail how equality is achieved.” However, the paragraphs about the Subsidy Control Assessment in the report provide no detail on equality, only on competition and trade considerations. Scrutiny may request further detail on the Equalities Impact of the decision, including an Equalities Impact Assessment.</p> <p>The “Health, social and economic impact” section of the Statutory Considerations states that “It is not considered there are any health or social impacts arising from this decision.” This seems surprising given that CIL can provide green space (of benefit to health) and community facilities. Scrutiny may request an assessment of the health and social impacts of the decision.</p>	<p>The EQIA is attached as an appendix to the report to scrutiny committee.</p> <p>There are a number of S106 obligations and on-site provisions directly related to transport, green infrastructure and community infrastructure. The monetary value of this is circa £4.5million, more than the CIL requirement and it is known what would be delivered through this route, unlike the CIL route (see response above).</p> <p>Further, if the development does not proceed because the viability without the CIL relief does not ‘stack up’ for the developer, then no CIL will be realised at all.</p> <p>Health facilities are not funded through the CIL process. CIL receipted within the Greater Norwich area is allocated through the Infrastructure Investment Fund (IIF). Applications to the IIF are restricted to the four thematic groups of Transport, Education, Green Infrastructure and Community, as agreed within the Greater Norwich adopted CIL charging policy. The so-called Regulation 123 list confirming the eligibility for CIL was withdrawn from legislation in September 2019, and government has since announced that CIL will be replaced by a new type of Infrastructure Levy.</p>

Point of examination	Detail	Provisional response
		<p>Until the future of CIL is more certain, the Greater Norwich authorities are required to proceed with their adopted CIL charging policy. The IIF continues to be ringfenced to the original four thematic groups, which does not include healthcare.</p>
<p>Consultation with Broadland, South Norfolk and the GNGB and details of how the decision could impact on pooled CIL.</p>	<p>The report does not detail the impact that the decision could have on pooled CIL arrangements with Broadland and South Norfolk councils or relationships with the GNGB. Some questions were asked about this at the Cabinet meeting; however, no formal consultation was done with these partners. Scrutiny could ask to see evidence of consultation with Broadland, South Norfolk and the GNGB.</p>	<p>Norwich City Council is both a CIL charging and CIL collecting authority. As such, the CIL Regulations enable us to make decisions on CIL ECR applications in accordance with the legislation and against our own policy requirements. Whilst we pool our CIL with neighbouring authorities, there is no requirement in law to consult with them in our decision-making processes.</p> <p>The GNGB has been aware for several years that this application would be likely to request consideration of exemption from CIL due to the exceptional circumstances of developing the site. The officer presentation did set out the ‘foregone’ CIL amounts which are set out here again for clarity:</p> <p>Admin fee - £108,125 Neighbourhood CIL - £324,322 Pooled CIL - £1,729,702</p>

Point of examination	Detail	Provisional response
		<p>There have been no issues with relationships with the GNGB because of this application.</p>
<p>Clarification regarding the financial position of Weston Homes and how this may impact on decision-making</p>	<p>To inform Cabinet Members' decision, it would have been helpful to consider precedents of where CIL exemption applications have been made, whether other councils decided to award or reject CIL ECR, and the results of the award or rejection. Although the Anglia Square CIL ECR application should naturally be considered on its own merits, Cabinet could have considered any lessons learned from previous cases, as would normally be done with any other financial or policy decision. Scrutiny could therefore request details of previous CIL ECR applications at other councils and their outcomes.</p>	<p>Having sought legal advice, it is clear that from a legal perspective the financial position of the applicant (Here Sackville Properties) is irrelevant for the purposes of the ECR applications. What has to be considered are the tests set out in the Regulations, specifically Regulation 55(3) as set out in the report.</p> <p>The Regulations are clear that the assessment should be made on the economic viability of the specific phase/chargeable development. There is no mention of the assessment including any consideration of the overall profitability of the claimant.</p> <p>In accordance with the CIL Regulations 2010 the claimant for the CIL ECR must be the person with a material interest in the land. In this case: Columbia Threadneedle (company names are Sackville UK Property select II (GO) No 3 Limited and Sackville Property select II Nominee (3) Limited) (the legal landowner) and not Weston Homes (the developer).</p>

Point of examination	Detail	Provisional response
		<p>Under Regulation 55(3) it is stated that a charging authority may only grant relief for exceptional circumstances if:</p> <p>(a) it has made relief for exceptional circumstances available in its area;</p> <p>(b) a planning obligation under section 106 of TCPA 1990 has been entered into in respect of the planning permission; and</p> <p>(c) the charging authority considers that to require the payment of CIL charged by it in respect of the development would have an unacceptable impact on the economic viability of the development.</p> <p>In accordance with the CIL Regulations (57(4)(ii), the ECR application has been accompanied by an assessment of the economic viability of the chargeable development (the individual phase(s)). The Regulations require this to be carried out by an independent assessor, appointed by the claimant with the agreement of the charging authority.</p>
<p>Details of meetings and correspondence between the applicant and Weston Homes and the Leader and Cabinet Members</p>	<p>Clarification is also needed as to the extent of engagement between Weston Homes and the Leader and/or Cabinet Members. Questions from members of the public highlighted that there had been no</p>	<p>In respect of process, in accordance with the CIL Regulations 2010 and the City Council's CIL ECR Policy and Guidance, a pre-application meeting occurred, and officers had visibility of the viability information before submission of the two applications.</p>

Point of examination	Detail	Provisional response
	<p>engagement with the local community, neighbourhood forum, or other partners, yet the Leader’s comment suggested that there had been ongoing discussions with Weston Homes. Clarification is therefore needed as to the due process for the discussions with Weston Homes. Scrutiny could request records of meetings, including minutes, and correspondence between Weston Homes and the Leader and Cabinet Members. Scrutiny should also consider whether any non-pecuniary interests should have been declared in relation to lobbying either for or against the decision.</p>	<p>This included agreement to the use of the independent assessor, again in accordance with the CIL Regulations.</p> <p>Given that Weston has been the applicant for the planning application (and their development is driving the HIF), there will have been engagement through the planning application. Provided that Members didn't come to the decision on the CIL ECR applications with a closed mind, then the decision should not be vulnerable in accordance with the Localism Act S25(2). The extent of any meetings between parties was not a determining factor in the decision and therefore is not an appropriate reason for call-in.</p>
<p>Details of how CORP15 was calculated and whether this could inform decision-making</p>	<p>The Corporate Risk Register lists as risk CORP15 “Failure to draw down £15m of Housing Infrastructure Fund (HIF) money previously secured from Homes England (HE) to assist with the delivery of Anglia Square”. The residual risk score is listed at 12, with a target of 8. The Cabinet report could have set out the details of this risk, why it remained higher than target, and how the risk was calculated and what risk mitigation was in place. The details behind</p>	<p>Corporate risk 15 was calculated in line with the methodology in the Council’s risk assessment strategy.</p> <p>It is accepted the Cabinet report did not specifically reference CORP15 albeit the risk assessment section of the report did reference the risks associated with CORP15 – that the Council does not get the £15m HIF grant and therefore the development could not proceed.</p>

Point of examination	Detail	Provisional response
	<p>this risk score could have provided information to inform the Cabinet's decision-making. Scrutiny could request details of how this risk has been calculated, risk mitigation that is in place, and could consider whether this information could have formed part of decision-making.</p>	<p>The situation on the HIF grant was outlined in the report and has been subject to separate scrutiny consideration as above.</p> <p>In practice, mitigation of CORP15 was inherent to the cabinet's decision and so specific reference to the named risk was unlikely to add value to the decision.</p>
<p>Where nationally and locally there have been other CIL ECR applications and, if they have been turned down, how that impacted on developments.</p>	<p>To inform Cabinet Members' decision, it would have been helpful to consider precedents of where CIL exemption applications have been made, whether other councils decided to award or reject CIL ECR, and the results of the award or rejection. Although the Anglia Square CIL ECR application should naturally be considered on its own merits, Cabinet could have considered any lessons learned from previous cases, as would normally be done with any other financial or policy decision. Scrutiny could therefore request details of previous CIL ECR applications at other councils and their outcomes.</p>	<p>It was officers view that this was not necessary. Each application for CIL ECR on any development site, in any area, should be made on its own merits and considering the site-specific viability assessments for that development and in accordance with the process as set out in the Regulations.</p> <p>Awards or refusals of the grant would be so site specific that they would be of little or no relevance to the decision Cabinet Members were making. Officers can provide a list of other CIL ECR applications and outcomes, but without knowledge of the site specifics of each case, it is not considered this would add much value to the decision-making process.</p>

High level equality impact assessment for strategic programmes

Programme title	Application of NCC ECR Policy – Anglia Square, and claims for ECR for phase 1 and phase 2 development	Programme start date	Immediate
Team	Development	Directorate	Development and City Services
Senior leadership team sponsor	Sarah Ashurst	Role	Head of Planning and Regulatory Services
Officer completing	Tracy Armitage	Role	Senior Planner

What are the main aims or purpose of the programme?

The CIL Regulations 2010 set out the provisions for exemptions and relief from the payment of Community Infrastructure Levy (CIL). Regulation 55 relates to discretionary relief for exceptional circumstances and regulation 57 sets out the relevant procedure. On 1 July 2019 relief for exceptional circumstances was made available within the Norwich city administration area. Norwich City Council's Exceptional Circumstances Relief (ECR) Policy and accompanying guidance set out the relevant CIL Regulations and local requirements that apply to Norwich.

The policy allows Norwich City Council, as a CIL charging authority, to grant relief from the payment of CIL, provided statutory and local requirements are met.

According to National planning practice guidance, an exceptions policy enables charging authorities to avoid rendering sites with specific and exceptional cost burdens unviable.

A claim for exceptional circumstances relief has been made in relation to phases 1 and 2 of the development scheme approved for Anglia Square (Planning reference 22/00434/F - approved 18 July 2023). The report to Cabinet dated 22 November 2023 (the Report) considers the two claims and the recommendation to grant relief from CIL for Phase 1 amounting to £2,224,657.91 and for Phase 2 amounting to £592,112.02.

The grant of relief will facilitate the delivery of the approved development scheme for Anglia Square.

How does it fit with other services and policies, and how does it support our [corporate objectives](#)?

The council has 5 corporate objectives. The Report to cabinet meets the 'Norwich has the infrastructure and housing it needs to be a successful city' and the 'The city has an inclusive economy in which residents have equal opportunity to flourish' priorities.

The Report addresses the corporate aim 3 that Norwich has the infrastructure and housing it needs to be a successful city. In particular:

- to develop and regenerate areas such as East Norwich and Anglia Square;
- to provide and encourage others to provide new homes, open spaces and infrastructure for residents;

This Report helps to meet the housing, regeneration and development objective of the COVID-19 Recovery Plan.

What outcomes do we want to achieve, why and for who?

The grant of relief will facilitate the delivery of comprehensive development of Anglia Square.

Anglia Square is a significant regeneration opportunity in the northern part of the city centre and one of Norwich City Council's most important strategic priorities for regeneration. The Development plan and other policies of Norwich City Council have reflected this objective for a significant number of years. These policies have sought the promotion of housing and the revitalisation of both Anglia Square and other brownfield and underutilised sites for productive use including for mixed development comprising commercial, retail, housing and significantly improved public realm.

The assessment of the planning application for the development at Anglia Square (ref: 22/00434/F) identified a broad range of regeneration benefits. These were outlined in detail in the report to [Planning Applications Committee](#) (PAC) dated 7 April 2023. The planning application was accompanied by a significant number of evidence documents including an Environmental Impact Assessment (including an assessment of socio-economic impacts) and a Health Impact Assessment. The report to PAC included a detailed assessment of development impacts, including negative impacts. The table below summarises impacts.

Topic	Receptor	Impact area	Duration of impact	Residual Effect (including mitigation)
Construction Effects				
Employment (jobs created) Direct: average 276 per annum Indirect: 280per annum	Local labour market (construction phase)	Wider	Medium-term, temporary	Moderate beneficial
Existing uses/ employment	Local Labour market	Local	Short term	Minor adverse
Operational Effects				
Employment Direct: 288 Indirect:72-186 Uplift on existing: 104(net) Indirect:40-106	Local labour market (operational phase)	Local	Long-term permanent	Moderate beneficial
		Wider	Long-term permanent	Minor
Population Approx. 2321 people	Existing population	Local/ wider	Long-term, permanent	~
Resident expenditure	Local economy	Local	Long-term permanent	Moderate beneficial

£21.9-36.4m				
Deprivation	Levels of deprivation	Local/wider	Long-term permanent	Moderate-major beneficial
Housing Up to 1100 dwellings	Housing targets/ housing need	Local	Long-term, permanent	Moderate to major beneficial
		Wider	Long-term, permanent	Moderate beneficial
Crime	Residents' safety	Local	Long-term, permanent	Moderate beneficial
Education early years, primary/secondary	Pupil and school capacity	Local	Long-term permanent	Negligible
Healthcare	Capacity of local services	Local	Long-term permanent	Negligible
Community facilities	Provision of community facilities	Local/wider	Long-term permanent	Minor beneficial
Community Cohesion	Existing population	Local	Long term permanent	Minor beneficial
Open-space, sport and recreation	Provision of open-space and facilities	Local	Long-term permanent	Minor beneficial

The overall benefits of development were summarised as follows:

- With developer costs in the order of £280million, the level of investment will be a 'statement of confidence in the city of Norwich and act as a catalyst for wider development by boosting the city's profile and attractiveness to inward investment;
- unlock a large-scale brownfield site for regeneration;

- remove highly prominent underutilised and physically deteriorating vacant buildings, that currently blight the area;
- mitigate contamination associated with previous land uses;
- enhance the physical appearance of the site through the construction of high quality buildings, streets and public realm that have regard to both the historic environment and the unique character of Anglia Square
- boost the city's housing supply through the creation of a highly sustainable residential quarter, with up to 1100 new homes, which will have good connectivity to the existing surrounding community
- by providing at least 10% affordable homes assist in meeting local housing need for social rented and intermediate homes
- through the introduction of new housing and improvements to the quality and viability of the retail offer at Anglia Square, support the long-term role and vitality of the Anglia Square and Magdalen Street Large District Centre (benefiting the businesses and the community it serves)
- create much-needed local employment for Norwich residents including construction jobs with apprenticeship opportunities and skills training in the eight-year building development stage.
- deliver outcomes capable of having a permanent, moderate to major beneficial impact on levels of deprivation in this part of the city.
- supply a much-needed stimulus to rejuvenate other neglected or derelict sites within the city.

These impacts will benefit the population of the local neighbourhood, the city and the wider Greater Norwich area.

Furthermore, in paragraph 781 of the PAC report the following benefits were also identified:

- 10% of new homes to comply to meet 2015 Building Regulations M4(2) for accessible and adaptable dwellings (replaces the Lifetime Homes standard).
- Improved access across the development (currently a split-level precinct)
- The provision of public toilets including the provision of a Changing Places facility
- Public realm planned to be accessible and inclusive.

Will anyone be disproportionately affected by the programme (customers, employees, those with protected characteristics or groups in the wider community)?

The grant of ECR for phase 1 and phase 2 development relieves the developer from payments of CIL, amounting to £2,162,419 (after Social Housing Relief). This amount if paid would be distributed as follows:

- CIL Administration (5%): £108,125
- Neighbourhood Community Infrastructure (NCIL)(15%): £324,322
- Greater Norwich Growth Board Pooled (80%): £1,729,702

In the event of ECR not being granted, there is a high risk that development would not proceed and therefore CIL would not be paid and the identified regeneration benefits would not be realised.

Considering the consequences of development proceeding without the payment of CIL and whether this would impact those with characteristics or groups in the wider community. There is the potential for reduced CIL availability to impact on infrastructure provision and funding of neighbourhood projects. However, at the point where CIL is collected, following the grant of any planning application, the majority of CIL monies go into a general infrastructure pool. It is not ring fenced for infrastructure requirements associated with a specific development and would be spent on projects across the Greater Norwich area. The neighbourhood (Norwich) element of retained CIL (15%) is also pooled and not ring fenced for projects within a particular geographical area of the city. It is spent on projects throughout the city. Information about NCIL, how it is used and allocated is available on the [council's website](#). Projects funded in [2021-22](#) included a wide range of projects, many of which were connected to greenspace improvements. Given that CIL payments are non-specific it is not possible at this time to quantify the impact of ECR on infrastructure/ projects that may benefit particular groups within the community. However, in the event of the development not contributing CIL, this does not preclude groups seeking funding from the NCIL fund, the NCIL fund for 22/23 amounts to £275,000. The same principle applies to any infrastructure improvements found to be necessary and which are funded from the general pool.

Negative consequences of CIL not being paid are therefore minimised and in any event are substantially outweighed by the socio-economic benefits associated with the development. A disproportionate impact of granting ECR upon either the wider community or any particular group in it is therefore unlikely.

If yes, will these be adverse impacts (specify whether high, medium or low impacts)?

In the unlikely event of adverse impacts, the planning decision to approve the Anglia Scheme (22/00424/F) was conditional on the imposition of planning conditions and an agreed S106 obligation. These mechanisms secured infrastructure and funded strategies to both minimise negative impacts of development and secure identified benefits. Social-economic benefits secured via the S106 are set out the table below.

Planning requirement	Details	Cost (where applicable)
Affordable housing provision	<ul style="list-style-type: none"> • Provision of min of 10% affordable dwellings • 85% social rent, 15% intermediate tenure. 	
EGI (Enhanced Green Infrastructure)	Payment to fund EGI on Wensum and Gildencroft Parks	£61,140
Car club	<ul style="list-style-type: none"> • Provision of car club spaces – min of 3 and subject to review up to 5. Active EV provision. • Funding of car club incentives for new (first) households (£100 per household) • Management and maintenance arrangements 	£110,000
Under the Flyover	<p>Phase 1 - Delivery of a public realm scheme for land under the flyover</p> <p>Either delivered directly by the developer or by the council with a commuted sum</p>	£284,589 (only payable in the event of the council delivering the scheme)

Public Toilet and Changing Places facility.	<p>Submission and agreement of Management Plan.</p> <p>Requirement for owners to construct, manage and maintain or procure the management and maintenance of the Public Toilets and Changing Places Facility in accordance with the agreed plan</p>		
Community Hub	<p>Submission and agreement of a management plan. To include</p> <ul style="list-style-type: none"> • Provision of 'village' hall and community hub 		
Anglia Square Management Plan	<p>Agreement and implementation of a strategy: measures to mitigate the impact of the development on existing businesses and tenants.</p>	£30,000	
Employment and Skills Strategy	<p>To optimise the local labour supply chain and procurement:</p> <ul style="list-style-type: none"> • Reasonable endeavours to source site-based staff from the Norwich policy area • To liaise with local agencies for eligible staff positions • Covenant to offer training (NVQ or other work-related training) • Monitor and report. • Requirement to apply to subcontractors. 		

	<p>To optimise engagement with education - covenant to liaise with local agencies to arrange for secondary school pupils who are considering choice of GCSEs to visit the Development construction site.</p>		
Sustainable Communities Strategy	<p>Agreement and implementation of a strategy: measures for achieving an inclusive community and encourage social cohesion between the new and existing communities. Strategy to include (but not limited to) arrangements and measures for new residents, proactive marketing of Anglia Square as a shopping and community destination; measures to optimise community use of public spaces (including for events and cultural activities); measures to foster communication and engagement with the existing community (including residents, businesses, local organisations and charities).</p>		
Public access rights	<p>Agreement of a Public Realm Strategy and the requirement to manage and maintain the public realm for the lifetime of the development.</p> <p>Strategy to include: Delivery quality; maintenance and management body; delivery timeframe; construction period; use of the entire public realm (including</p>		

	access rights for the public at large on foot and bicycle and to foster use as a social and civic space); arrangements for carrying out works.	
Healthcare Floorspace Reservation	<p>Blocks J3 (in phase 2) and F (in phase 4) Owner to notify Norfolk and Waveney ICS of commencement of phases 2 and 4</p> <p>Owners to undertake reasonable endeavours to liaise with ICS and enter into contract for lease of units within each phase for medical and health services.</p> <p>Owners to reserve the units for 6 months</p>	

The total payments secured through legal agreement amount to £4.5m.

Planning conditions secure infrastructure improvements to make the development acceptable. These include highway and public transport improvements and the creation of multi-functional public realm comprising a new public square and garden.

The planning conditions and legal agreement are designed to ensure that the socio-economic benefits of the approved scheme are realised.

If yes, can the impacts be	a) justified? Yes (see above)	b) mitigated? Yes (see above)
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What is the reason for the proposal or change (financial, legal etc)? *The Equality Act requires us to make this clear.*

This proposal has been made through concern over the potential negative impact of paying CIL upon the financial feasibility of delivering the redevelopment of Anglia Square. The council have evaluated the benefits of the development going ahead and

understand these to greatly outweigh the potential and unquantifiable benefits of using the CIL funding on projects that have not been identified at the point in which this proposal to waive the CIL funding was made.

Ultimately the reason for this proposal is to ensure that the benefits associated with the approved development scheme for Anglia Square are delivered. The benefits are wide ranging and cover elements such as: job creation, increased accessibility of the developed area, increase in the number of affordable homes, boost in local resident expenditure, provision of new facilities to benefit the community and promote community cohesion etc.

Officer completing EqIA	Tracy Armitage	Date	29/11/2023
SLT sponsor	Sarah Ashurst	Date	29/11/2023
Equality lead (strategy team)	Joe Siggins	Date	29/11/2023