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PricewaterhouseCoopers and Denton Wilde Sapte

‘Growing Cambridgeshire’

Towards A Variable Rate Infrastructure Tariff

A Report for Cambridgeshire Horizons

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Executive Summary

Growth in Cambridgeshire

The economic success of Cambridgeshire has made it one of the most attractive places to live and work in the UK. Maintaining this economic growth, however, is dependent on the financing and delivery of new homes and communities, and the enabling infrastructure necessary to support them. This enabling infrastructure can take many forms ranging from “hard” infrastructure such as transport or utilities to “softer” kinds of infrastructure required to support communities, such as community centres, schools and healthcare facilities, and public realm facilities such as open space and recreation.

Cambridgeshire Horizons – the not-for-profit partnership organisation working to meet this objective – is charged with driving the delivery of over 73,000 new homes and over £4bn of supporting infrastructure in the Cambridge Sub-region by 2021. This represents a significant ‘infrastructure challenge’; and given current limitations on available finance, one that is likely to require a range of new and innovative financing solutions if sufficient levels of investment are to be achieved.

In order to help meet such infrastructure challenges, the Government is currently consulting on the introduction of the Community Infrastructure Levy (‘CIL’). Introduced in the 2007 Planning Bill, the CIL is currently designed to sit alongside Section 106 (‘S106’) and although the specific details of how it will operate in practice are limited, it could represent a concrete step towards streamlining the planning process. At a conceptual level, the CIL approach will involve the levying of a charge that is calculated by reference to the quantum of new development expected across a particular area and the cash costs of infrastructure to support such development. Much work remains, however, before government crystallizes detailed proposals on the CIL, and therefore it is likely to be some time before local planning authorities receive the relevant new powers, or know precisely how CIL will operate, and what its relation to current S106 legislation will be.

With these factors in mind, this report explores one infrastructure funding option that Cambridgeshire could pursue in the short to medium term – the introduction of a variable rate tariff. An adaptation of the “roof tax” model pioneered in the UK by Milton Keynes and elsewhere, a variable rate tariff applied to new homes across the sub-region would have the potential to rationalise and simplify the traditional S106 agreement negotiation process for developer contributions on all (or a fixed subset of) new homes across the Cambridge sub-region and so capture greater value for infrastructure investment. The report outlines a series of ‘tariff scenarios’ for

the Cambridge sub-region, and provides a range of initial 'draft' tariff levels which could, subject to robust viability tests, be implemented across the sub-region. It does not, however, seek to provide a comprehensive implementation plan for a variable rate tariff. Rather this report is intended to highlight the potential benefits of a variable tariff approach to securing developer contributions across the Cambridge sub-region, explore the key issues surrounding its introduction, and provide an analysis of the options available to Cambridgeshire Horizons to progress towards a workable solution in the future.

The rationale for a tariff-based approach

- Currently, local planning authorities (LPAs) across the Cambridge sub-region pursue negotiated S106 agreements on larger and strategic development sites in order to secure developer contributions towards the cost of the enabling infrastructure required to support new communities.
- Despite a track record of securing good deals with developers on certain sites, a lack of dedicated resource means that the coverage of S106 across the sub-region is patchy. For example in the period 2001 – 2007, East Cambridgeshire District Council secured agreements on around 60% of the 3870 housing units completed, and Fenland District Council secured agreements on some 45% of the 3069 units completed in their district between 2005 and 2007.
- One factor which explains these percentages is that S106 agreements are often not concluded for smaller and non-strategic development sites under 100 units, meaning that a significant number of new developments currently do not contribute to the funding of infrastructure.
- Based on projections for housing growth up to 2016, and recent patterns of development in the sub-region, it can be estimated that around 30% of the 58,000 units set out in the Regional Spatial Strategy predicted to be built between 2006 and 2021 will be on sites of under 100 homes. This represents a significant quantum of development that could, potentially, make no monetary contribution towards infrastructure in the sub-region. This is despite the fact that every new home puts some additional pressure on already overworked infrastructure.
- There is however, an existing mechanism utilised in the Cambridge sub-region which points to a possible way forward. Cambridge City Council deploys a regime of "local standard charges", or tariffs, in order to secure a fixed contribution from every new housing unit, the revenue from which is then used to forward fund the infrastructure required to support housing growth. By using this kind of arrangement, Cambridge City Council is able to secure developer contributions from virtually every new residential unit built. The Cambridge City tariff does place restrictions, however, on the infrastructure against which tariff contributions can be legitimately gathered towards (so wider transport infrastructure beyond the city boundary could not be included for example).

- These kinds of tariff arrangements have been implemented in a number of towns and cities across the UK, and they offer a number of potential advantages. Because of their simplicity, clarity, transparency and certainty, tariff arrangements can be used to capture value from all (or pre-determined proportions of) developments, thus ensuring that all contribute to the vital infrastructure needed to make growth viable (including small and non-strategic sites). Tariffs also offer the potential for significant time and resource savings, as once arrangements have been established and tariff levels set, there would no longer be a need to continually engage in lengthy S106 negotiations with developers on a site by site basis. Tariff levels would however, need to be subject to regular reviews, to ensure that they adequately reflect the differing development economics in the sub-region.
- The income from a tariff arrangement would constitute an ongoing “revenue stream”, and therefore it is feasible that long term tariff revenues could be used to underpin or secure fund raising for up-front infrastructure investment. For example, the implementation of a tariff arrangement would support a case for investment by the EEDA proposed Regional Infrastructure Fund on key projects in Cambridgeshire. In the longer term, and once tariff revenue streams become more predictable and stable, it may also be possible to raise private finance against those revenues to support investment in the region.

A variable rate tariff for Cambridgeshire

- Using similar principles, and implementing a planning tariff on a sub-regional basis, either as a complement to or a replacement for traditional S106 negotiations, could therefore significantly increase the volume and value of developer contributions secured across the Cambridge sub-region.
- The typical flat-rate standard planning charges implemented by Cambridge City Council would prove very difficult to implement across the Cambridge sub-region. The main reason for this is that housing markets across the sub-region are far less homogenous than in individual local authorities, and therefore any tariff would need to adjust to local development economics and land values.
- As a result of these factors, it is entirely possible that any flat rate tariff or charge would have a negative impact on development viability in some parts of the sub-region, while failing to capture a fair proportion of the uplift in land value in others. Such a situation would have serious market implications, and would most likely lead to any tariff being contested by developers in certain parts of the region.
- In response, and in order to reflect the market conditions and differing development economics of the Cambridge sub-region, a *variable* rate planning tariff should be considered. In such a system, different

levels of tariff would be levied in different parts of the region, depending on and reflecting the development economics of specific areas.

- The revenues from these different charges could then be pooled across the sub-region, allowing for the prioritisation of key sub-regional and local infrastructure investments, the cross-subsidisation of some projects, and potentially a more effective and efficient procurement of infrastructure improvements.
- This variable rate tariff model offers several advantages, namely;
 - Unlike the less than comprehensive application of S106 agreements, tariff arrangements (whether variable or standard) could be used to cover all (or pre-determined proportions of) development sites, thus ensuring that all developers contribute to the infrastructure needed to make new communities viable, including the small and non-strategic sites that currently often make no contribution at all;
 - There is evidence from the Department for Communities and Local Government to suggest that when a tariff is in place, a local authority is likely to receive on average a higher level of financial contributions from development than from traditional, independent S106 negotiations;
 - A variable tariff arrangement offers more flexibility than many of the standard tariff systems being pursued in some single local authorities across the UK, allowing for the differing land values and development demands of different parts of the sub-region to be taken into account when setting different tariff rates. As noted above, this flexibility is important to avoid the tariff unduly distorting rates of development.
 - In addition, if funds were pooled centrally for allocation to priority infrastructure projects, the potential to raise funds for critical infrastructure across the sub-region is likely to increase, removing to a large extent, direct dependence on the housing market most local to that critical piece of infrastructure. This could potentially improve wider development viability, facilitate future growth and enhance the quality of life for all within the sub-region.
 - Given that the income from a variable tariff would constitute an ongoing “revenue stream” for the Cambridge sub-region, it is also feasible that these revenues could be used to underpin loan financing, for example from the proposed EEDA-led Regional Infrastructure Fund, which could provide a significant opportunity to access funds for up-front infrastructure investment.

How much could a sub-regional variable planning tariff generate?

- It is beyond the scope of this report to present accurate projections of the scale of developer contributions that a variable rate tariff could secure on all projected development sites across the sub-region up to 2021.
- Based on the assumption that 30% of the c58,000 units still to be built in the Cambridge sub-region up to 2021 could be on sites of less than 100 units, an initial set of calculations has been undertaken in order to determine what potential additional revenue for infrastructure investment could be secured from those units.
- As S106 agreements are often not concluded for smaller and non-strategic development sites of less than 100 units, it is reasonable to assume that the majority of these c20,000 units could, under current arrangements, make no financial contribution to the infrastructure, both locally and sub-regionally, on which their development is dependent.
- In order to estimate the additional funds which could be secured by ensuring that these developments contribute to the cost of supporting infrastructure, we have illustrated a series of four hypothetical 'tariff bands' which could be introduced to encompass these sites – ranging from £20,000 per unit, to £5,000 per unit. Tariff bands would be designed to take into account the different development economics of different parts of the Cambridge sub-region. As the spatial distribution of these smaller developments across the Cambridge sub-region is not known (and therefore the specific development economics of sites could not be analysed) it has not been possible to estimate the proportion of these sites which would fall into specific 'tariff bands'.
- Table 1, below, presents figures which assume that every unit is subject to the same rate – a situation which is, as we have discussed, highly unlikely to be practical, given the varying market conditions and differing development economics of the Cambridge sub-region. Nevertheless, the figures presented in Table 1 illustrate that depending on the proportion of sites which are allocated to each discount band, implementing a variable rate tariff on these c20,000 units could potentially secure a range of contributions in the region of between £100m to £400m for infrastructure investment across the Cambridge sub-region.

Table 1: Indicative tariff rates for development sites of less than 100 units

Tariff band	Proposed tariff level	Potential revenue generated from sites of less than 100 units across the sub-region up to 2021
Standard tariff rate	£20,000	£400m
25% discount	£15,000	£300m
50% discount	£10,000	£200m
75% discount	£5,000	£100m

- This illustration does not include the potential to raise additional funds from larger developments currently not captured by S106 arrangements. It is, however, important to note that these figures are strictly indicative, and that all tariff levels would need to be set subject to detailed viability testing before being implemented.

Challenges to implementing a variable tariff

Despite having the potential to offer a range of benefits to the Cambridge sub-region, there are a series of challenges to implementing a variable tariff, including;

- **Legal and policy:** Any variable tariff arrangement must be designed to withstand challenge, whether by way of an appeal where planning permission is refused, or by judicial review. In general terms, a tariff which is based on clear and robust evidence, which has been subject to consultation and which is applied consistently across the sub-region should be able to meet any challenges. The law surrounding securing developer contributions still requires a “direct link” to be made between will be more difficult to justify a variable tariff for than others. Although a contribution towards most forms of infrastructure can be justified a balance needs to be drawn between the cost of doing so and the amounts potentially recovered.
- **Coverage of the tariff:** Both local authority members and developers will be keen to understand the way on which large, strategic sites would be dealt with in any new system. There is a danger that the significant amount of effort expended on dealing with the impacts of these large sites will be perceived as having been wasted by those concerned if a new system is imposed. Decisions will have to be taken whether to include or exclude such sites. Where any are excluded, it might be prudent to provide for a variable tariff to apply to those sites if progress towards their development is not made (or made quickly enough) by a certain date.

- **Political practicalities:** Understandably, local planning authorities may tend to focus more on their own “local” challenges to a greater extent than on those of the surrounding area. As a result, there is the potential for political tensions to develop between local authorities when negotiating over the policy backing necessary to underpin a variable rate planning tariff for the Cambridge sub-region. Cambridgeshire Horizons faces a challenge in this regard in that it will need to convince its local authority stakeholders that a variable rate tariff would benefit all areas. This means that a co-ordinated approach is absolutely vital in order to achieve buy in. With its track record in partnership working, Cambridgeshire Horizons is well placed to play a leading role in demonstrating the benefits of and facilitating agreement to a variable tariff.

- **Securing developer “buy-in”:** The variable charge will only be a success if developers in the region buy into it. More needs to be done to highlight the potential advantages to developers of removing the uncertainty and protracted negotiations associated with individually negotiated S106 agreements. In particular, the following benefits should be emphasised:
 - **Certainty:** The tariff would provide certainty for developers, allowing for better allocation of resources, more strategic planning of development, and reduced financial risk.
 - **Clarity:** The tariff would represent a relatively easy to understand basis for developer contributions to be calculated and levied.
 - **Flexibility:** The tariff would take into account differing land values and development demands when setting levels of financial contribution to be made by developers.
 - **Fairness:** The tariff would reflect additional demands placed on infrastructure by growth – a tariff would ensure all development contributes towards local and sub-regional infrastructure.
 - **Effectiveness:** Increased developer contributions will provide a firmer basis for infrastructure delivery, as the tariff will be backed by a robust delivery plan for infrastructure projects and a greater potential to secure funding towards that investment
 - **Time savings:** Once the work is done to calculate the tariff levels, significant management time will be saved by both local authorities and developers through avoidance of lengthy S106 negotiations promoting more timely delivery of development.

- **Delivery arrangements and responsibilities:** The collection of developer contributions is of course only one element of the significant growth challenge facing the Cambridge sub-region. The main challenge is in driving forward the delivery of the infrastructure necessary to underpin growth. Agreement

will need to be reached as to which body would be responsible for collecting and allocating the tariff revenue to key projects and in procuring and delivering the investment. The arrangements already in place in Cambridgeshire for handling the Housing Growth Fund monies could provide a replicable model.

Next steps

Should stakeholders wish to move forward towards the introduction of a variable rate tariff, we recommend a number of actions to move this policy proposal forward to practical implementation.

- **A detailed and robust infrastructure plan:** A detailed and robust infrastructure plan would need to be undertaken before the setting of tariff levels could commence. The latest infrastructure needs of the region would need to be costed, along with estimates of what is already funded, whether by the public or private sector, so as to accurately identify the funding requirement that the tariff would contribute towards. Authorities in Cambridgeshire are well-placed because it would be feasible to build upon and update the work done in the Long Term Delivery Plan and the emerging Carbon Appraisal. An updated infrastructure business plan would set out what infrastructure is required, how and when it will be provided, by whom, and with indicative costs.
- **Calculating the tariff levels:** This report outlines a range of tariff scenarios to be considered. The potential benefits of each are discussed in detail in the main body of the report. Regardless of the nature of the variable tariff implemented, a detailed methodology would need to be drawn up to calculate tariff levels. Tariff levels would need to be clear, understandable, and able to stand up to rigorous scrutiny by the development industry. The value of the tariff will be influenced by the costs identified in the revised strategic infrastructure plan, and the development economics in different parts of the region, such that tariff levels do not deter investment. In addition, both variable tariff levels and the infrastructure plan would need to be subject to regular review.
- **A legal framework for implementation:** For the foreseeable future, the legal obligation to pay tariff charges will continue to be secured by S106 agreements, enforceable against the land in respect of which planning permission is granted. The planning obligations will not be complex, the only variables being the timing and phasing of payments (which will depend on the timing of development).
- **New governance arrangements to collect and administer the levy and deliver infrastructure:** Governance arrangements for collection and administration of a variable rate tariff, as well as clarity on who takes on the responsibility for the subsequent delivery of the infrastructure across and within multiple local authorities would need to be established. Currently, the County Council is the main infrastructure authority, and works with the District Councils. The local planning authorities (including the County Council) are able to secure contributions using S106 agreements, but responsibility for delivering

the infrastructure resides in a range of public bodies. The region finds itself at an advantage in comparison to other parts of the country, given that Cambridgeshire Horizons is an established organisation already overseeing shared resources in a partnership incorporating the sub-regional planning and infrastructure authorities. However, new fiscal and governance arrangements would need to be crafted in order to manage procurement processes and the appointment of delivery teams, as well as to ensure a coordinated approach is adopted across the sub-region.

- **Consultation:** The introduction of a variable rate tariff across the Cambridge sub-region would, necessarily, follow a process of consultation. The consultation can be carried out by the individual planning authorities, but CH could co-ordinate the process and collate the results. It would need to be based on a clear explanation of the nature of the proposed tariff, the evidence base used to support it, and would need to set out the proposed governance and delivery proposals. Respondents would need to be given sufficient time to develop proposals and the timescale for the whole process should build in time to consider and respond to consultation responses.
- **Helping local planning authorities to introduce proposals:** Once the calculation of tariffs has been completed, tested and agreed, a tariff arrangement could be introduced fairly quickly. The medium-term aim would be to incorporate the tariff in the Local Development Framework ('LDF') processes of each of the relevant local planning authorities. There is no requirement that the proposed variable tariff be adopted as a Supplementary Planning Document (SPD) within the LDF before it can be used by the various local planning authorities. Indeed, there is a danger that doing so could allow unnecessary delay for commercial reasons by landowners/developers. If there is a desire to move at greater speed then this can be achieved relatively quickly, assuming that the quantitative work has been completed and agreed as robust and that delivery and governance issues have been addressed.
- **Incorporating policy developments into plans:** Any moves to implement a variable rate planning tariff are likely to be pursued against a background of continuing uncertainty regarding the latest CIL policy developments, at least for the short-term future. One of the potential threats posed by the CIL proposals is that they could undermine confidence in existing and emerging tariff arrangements. Any variable tariff will need to be "sensitivity tested" against emerging CIL proposals and against other changes in law and policy, to ensure that they do not conflict. It should be noted that the proposed variable tariff arrangements for the Cambridge sub-region are generally in line with the principles underpinning the CIL legislation, judging from our review of current proposals.