

## Shared Services Joint Committee Wednesday 17<sup>th</sup> August 2022

<b>Report Title</b>	Development Services, Section 106 Disaggregation variation request
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<b>Executive Member</b>	Councillor David Brackenbury Executive Member Portfolio Holder for Growth & Regeneration, NNC Councillor Rebecca Breese, Portfolio Holder for Planning WNC

<b>Key Decision</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Is the decision eligible for call-in by Scrutiny?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Are there public sector equality duty implications?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Does the report contain confidential or exempt information (whether in appendices or not)?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Applicable paragraph number/s for exemption from publication under Schedule 12A Local Government Act 1972</b>	

### Contributors/Checkers/Approvers

Approver	Officer Name	Date Officer Approved Report
North MO	Adele Wylie	07/06/2022
North S151	Janice Gotts	07/06/2022
Other Director/SME	Lisa Hyde	07/06/2022
West MO	Catherine Whitehead	07/06/2022
West S151	Martin Henry	07/06/2022
Other Director/SME	Stuart Timmis (WNC) George Candler (NNC)	06/06/2022

### List of Appendices

None

### 1. Purpose of Report

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- 1.1. To seek approval of the recommendations to disaggregate the former NCC Development Services – Section 106 service.
- 1.2. To seek approval of the recommendation following the completion and review of an Impact Assessment, set out within this report for the Committee's consideration, based on Officers' assessment for both authorities in relation to

the disaggregation of the former NCC Development Services – Section 106 service.

## **2. Executive Summary**

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- 2.1.** The NNC team (2 posts and no vacancies) manage the ex-Northamptonshire County Council (NCC) Section 106 (S106) for Education, Fire and Rescue, libraries, and Broadband with additional monitoring responsibilities for Highways and Public Transport. The team currently provide services to West Northamptonshire Council (WNC) under the IAA (Inter Authority Agreement) as a host authority.
- 2.2.** A change request asking for an extension to this arrangement until April 2023 was considered by the Shared Services Joint Committee (SSJC) on 27th April 2022. In accordance with the decision made by SSJC the former NCC S106 service will now disaggregate by September 2022 as per original blueprint.
- 2.3.** To meet the required disaggregation timelines, it is proposed handover of the function will take place by the end of September 2022. Staff TUPE activity to follow as soon as practicable once vacant posts within both authorities are recruited to. A collaborative working arrangement (CWA) will be required to ensure that a robust handover of live s106 negotiations and agreements can take place and that any risks identified can be minimised. To ensure that the CWA can function effectively, delegated authority will be requested for the appropriate officers to deal with matters until such a time as full handover is achieved

## **3. Recommendations**

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### **3.1.** That the Shared Services Joint Committee:

- a) Approve the disaggregation of the former NCC Economic Growth and Regeneration Development Services, Section 106 function by 30th September 2022, with staff transfer to follow as soon as practicable thereafter.
- b) Approve the proposed arrangements for disaggregation, budget, staffing, contract and cost implications, as set out in section 5 and section 7.
- c) Grant delegated authority to the Monitoring Officers for North Northamptonshire Council and West Northamptonshire Council to complete the decisions and actions necessary to give effect to the recommendations and conclude the requirements for the exit plan, collaborative working arrangements and associated officer delegations, as well as any required variation to the IAA.

### **3.2.** Reasons for recommendation

- a) The proposed option to disaggregate the former NCC Economic Growth and Regeneration – Section 106 (S106) adopts the local government reform blueprint, whereby a service has been led for a period of time before

- it can safely and legally disaggregate and reflects the Joint Committee decision on to disaggregate by the blueprint timeline of September 2022.
- b) Ensures TUPE process and staff transfer are carried out in accordance with appropriate guidelines and timescales and allows for new staff to be recruited and trained in role before fully disaggregating.
  - c) Ensures a robust collaborative working arrangement is in place so that knowledge sharing, negotiations and relationship management of Section 106 agreements can smoothly transition minimising any operational or reputational risks.
  - d) Disaggregation of the former NCC Development Services, Section 106 service function can be completed by 30th September 2022.

### **3.3. Alternative Options Considered**

- a) The former NCC Development Services – Section 106 service is currently delivered as a host authority service in accordance with the Administrative Agreement for the hosted/ lead provision of functions and services between North Northamptonshire Council (NNC) and West Northamptonshire Council (WNC). NNC provides management and operational duties to both North Northamptonshire and West Northamptonshire administrative areas. This arrangement could continue until April 2023 (Option 2 shown below at 5.1.2)

## **4. Report Background**

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- 4.1.** The Growth and Regeneration – Section 106 (S106) service manage, the ex-NCC S106 for Education, Fire and Rescue, libraries, and Broadband with additional monitoring responsibilities for Highways and Public Transport S106.
- 4.2.** Since the launch of the two new unitary authorities in April 2021, the Growth and Regeneration – S106 service has been led by North Northamptonshire Council (NNC) who currently deliver the service for both NNC and West Northamptonshire Council (WNC).
- 4.3.** Disaggregation of the service will facilitate both NNC and WNC integrating the former NCC Economic Growth and Regeneration – Section 106 (S106) functions and agreements into their respective organisational restructures and operations.
- 4.4.** A request to extend the host arrangement to April 2023 to allow services to complete operational redesign and wider staff restructure prior to disaggregation was presented to the Shared Services Joint Committee on 27th April 2022. The Committee resolved “That the reprofiling of the timeline to disaggregate the Section 106 function to be concluded by 1st April 2023 not be approved”. Disaggregation by the original deadline of September 2022 is required.
- 4.5.** An Impact Assessment has been completed and options and recommendations around the approach to disaggregation considered. The outcome of this work and timescale limitations has resulted in an approach which proposes disaggregation of the function by September 2022 with staff TUPE to follow as soon as practicable following recruitment and training of new Section 106 staff.

## 5. Issues and Choices

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5.1 The following options were considered:

**Option 1** – Disaggregation of the function by September 2022 with staff TUPE to follow as soon as practicable thereafter. New roles to be created and recruited to in both authorities to allow for staff training, knowledge sharing and ensure a robust handover of negotiations prior to staff disaggregation.

**Option 2** – Delay disaggregation to April 2023.

5.1.1. **Option 1** is the recommended option for the following reasons:

- A change request asking for an extension to this arrangement until April 2023 was considered by Shared Services Joint Committee on 27th April 2022. In accordance with the decision made by Shared Services Joint Committee the S106 service will disaggregate by September 2022 as per original blueprint.
- Fulfils the strategic vision to disaggregate the service and form two independent teams.
- S106 staff roles can be aligned to organisational restructure and new team formation taking place within both authorities.
- Ensures that any staff vacancies identified can be recruited to and new staff are in role and appropriately trained to mitigate any operational and reputational risk arising from disruption of service.
- Ability to put in place any necessary collaborative working arrangements to ensure smooth handover.
- Ability to improve and tailor services, policies and processes to the strategic vision and priorities of the individual authorities.
- Ability for each authority to create robust operational processes to ensure oversight of how S106 funds are managed and can be considered as a whole, rather than the current management in silos
- Ability to offer developers and residents services/negotiations aligned to any local consultation and engagement feedback.

Mitigations required to enable option 1 are:

- Staff costs will need to be considered by the services, and budget identified as the required duplication of staff in both authorities will incur additional costs.
- Current negotiations, management, and monitoring of the S106 agreements will require a robust handover. Relationships will need to be developed between developers and new team members and live negotiations fully handed over. There is a risk to both authorities reputationally and financially that must be considered, collaborative working arrangements, appropriate officer delegations and a robust handover process must be in place to mitigate this.
- There is a possibility of cross financial impacts where 106 funding is provided by developers across the borders of WNC and NNC areas. These need to be further understood and clear joint working arrangements considered.

### 5.1.2 **Option 2** – Delay disaggregation until April 2023

The service would continue as currently under the host arrangement with an extension until April 2023 to allow for staff TUPE and handover to be jointly completed.

- This option was considered was considered by Shared Services Joint Committee on 27th April 2022. In accordance with the decision made the S106 service will disaggregate by September 2022 as per original blueprint.

## 5.2 **Core Impact and Considerations**

5.2.1 **Policy/Service Delivery** – Through disaggregation of the service both authorities will integrate the former Northamptonshire County Council (NCC) Section 106 delivery into their relevant NNC and WNC services. This includes disaggregation of the staff, contracts, policies, statutory processes, GDPR requirements, IT and business support provision.

5.2.2 **Staff** – There are 2 members of staff, and it is proposed these roles will be split between North and West. Agreement is required on how the staff split will be delivered as the affected staff currently have different levels of responsibility and experience. A full and proper consultation will be undertaken with all staff directly affected by the disaggregation.

5.2.3 **Resources** – Although a North led service this is a joint project between West and North, it has been agreed that the West will provide a lead Project Manager, with a Project Manager also assigned in the North as a supporting role. Additional resources will be required from the enabler services to support the disaggregation process and TUPE of staff.

5.2.4 **Assets/ Equipment** - As per the Inter Authority Agreement (IAA, the agreement that sets out the general terms on which the hosted and lead functions and services will be discharged and delivered between the Councils). All equipment in WNC/NNC is owned by the appropriate authority and will remain at the existing locations.

## 5.3 **Benefits**

The core benefits of this proposed approach are:

5.3.1 Meets the request of the Shared Services Joint Committee for disaggregation of the service by September 2022 with provision for staff changes soon after.

5.3.2 Delivers all the benefits as identified in the options appraisal section 5.1.1.

5.3.3 Allow the Councils to set their own processes, procedures and policies aligned with their own council strategy and priorities.

5.3.4 To integrate the Section 106 staff within equivalent functions in each respective council, offering opportunities for full management of the ex-NCC Section 106 agreements and income generation enabling enhanced service delivery and efficiency.

## **6. Next Steps**

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- 6.1. Should the Shared Services Joint Committee approve the recommendations shown in section 3 above, an exit plan and any collaborative working arrangements would be developed in accordance with the requirements of the Inter Authority Agreement (IAA) for the hosted provision of functions and services between North Northamptonshire Council and West Northamptonshire Council.

## **7. Implications (including financial implications)**

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### **7.1. Resources and Financial**

- 7.1.1. Payments and receipts (AP/AR): In line with any transfer of contracts, respective contractors must be set up in the relevant Authority's ERP to ensure contractors can be paid in a timely manner and any receipts taken.

### **7.2. Legal and Governance**

- 7.2.1. Legal resource will be required to support the development of the IAA Exit plan and collaborative working agreement for the proposed approach. This should include elements such as outstanding financial and obligatory commitment from developers.
- 7.2.2. Legal services hold Section 106 agreements, and these will need to sit within the appropriate authorities.
- 7.2.3. There are statutory requirements around time limits to respond to planning applications in line with planning regulations. There are also legal obligations attached to each S106, which place obligations on the Council to monitor spending of S106 and delivery of related infrastructure.
- 7.2.4. Each Council also has a statutory responsibility to publish an Infrastructure Funding Statement annually, which report on S106 funding secured, collected, and spent by the authority.
- 7.2.5. A Memorandum of Understanding (MOU) is in place with Fire and Rescue Service and arrangements will need to be made regarding future management.

### **7.3. Relevant Policies and Plans**

- 7.3.1. The proposal will assist delivery of the North Northamptonshire Corporate Plan 2021-2025 "modern public services" priority.
- 7.3.2. The proposal will assist delivery of the West Northamptonshire Council Plan 2021-2025.

### **7.4. Risk**

- 7.4.1. Risks are regularly reviewed by the Project and Programme teams and will be monitored via approved project governance.

7.4.2. There has been a significant risk identified around resourcing and the impact of a full September disaggregation, which would not allow sufficient time for the required staff to be recruited and trained and a robust handover completed. This has been mitigated by the proposal that the function is to disaggregate by September with the staffing element to follow as soon as practicably possible with collaborative working arrangements in place to mitigate any risks identified during disaggregation activity.

7.4.3. A recent audit completed by NNC has identified a number of areas for improvement within the Section 106 function. Delivering the action plan arising from this audit to the timeframe agreed by NNC's Audit & Governance Committee may impact the resource required to support disaggregation and could affect the ability to disaggregate the function by September. An exercise to prioritise and align identified actions with disaggregation tasks wherever possible will be required to mitigate this risk.

## **7.5. Consultation**

7.5.1. Service areas from North and West have been consulted in this report with both Executive Directors agreeing the approach. The public facing element of the service is not changing.

7.5.2. There is no statutory requirement for public consultation.

7.5.3. Consultation with affected staff, supported by the Trade Unions, will commence from 18th August 2022.

## **7.6. Consideration by Executive Advisory Panel**

7.6.1. No considerations arising from this report.

## **7.7. Consideration by Scrutiny**

7.7.1. No considerations arising from this report.

## **7.8. Equality Implications**

7.8.1. At this point in the process, it is not possible to fully assess the actual impact on all protected characteristic groups. The disaggregation proposal and processes are restricted to the method of delivery of the service rather than changes to service delivery itself, as such it is unlikely that there will be an impact of the proposal on equality groups. However, during consultation the situation will be reviewed and as any impact becomes apparent, appropriate mitigating action will be taken (where this is possible).

7.8.2. Standard Council HR policies and procedures will apply, and all of these have been equality impact assessed.

## **7.9. Climate Impact**

7.9.1. There are minimal impacts arising from this change.

## **7.10. Community Impact**

7.10.1. There are no direct community impacts arising from this change.

## **7.11. Crime and Disorder Impact**

7.11.1. None arising from this report.

## **8. Background Papers**

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### **Appendix A**

Section 106 Change Request