



Notice of a public meeting of

Decision Session - Executive Member for Housing, Planning and Safer Communities

To: Councillors Pavlovic

Date: Thursday, 18 July 2024

Time: 3.30 pm

Venue: West Offices - Station Rise, York YO1 6GA

AGENDA

Notice to Members – Post Decision Calling In:

Members are reminded that, should they wish to call in any item* on this agenda, notice must be given to Democratic Services by **4:00 pm** on **Tuesday 23rd July 2024**.

*With the exception of matters that have been the subject of a previous call in, require Full Council approval or are urgent, which are not subject to the call-in provisions. Any called in items will be considered by the Corporate Services, Climate Change and Scrutiny Management Committee.

Written representations in respect of items on this agenda should be submitted to Democratic Services by **5.00 pm** on **Friday 12th July 2024**.

- 1. Declarations of Interest** (Pages 1 - 2)
At this point in the meeting, the Executive Member is asked to

declare any disclosable pecuniary interest, or other registerable interest, they might have in respect of business on this agenda, if they have not already done so in advance on the Register of Interests. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

[Please see attached sheet for further guidance for Members].

- 2. Minutes** (Pages 3 - 4)
To approve and sign the minutes of the Decision Session held on **28th February 2024**.

- 3. Public Participation**
At this point in the meeting members of the public who have registered to speak can do so. Members of the public may speak on agenda items or on matters within the remit of the committee.

Please note that our registration deadlines have changed to 2 working days before the meeting. The deadline for registering at this meeting is at **5.00pm on Friday 12th July 2024**.

To register to speak please visit www.york.gov.uk/AttendCouncilMeetings to fill out an online registration form. If you have any questions about the registration form or the meeting please contact the Democracy Officer for the meeting whose details can be found at the foot of the agenda.

Webcasting of Public Meetings

Please note that, subject to available resources, this public meeting will be webcast including any registered public speakers who have given their permission. The public meeting can be viewed on demand at www.york.gov.uk/webcasts.

- 4. E-petition - Releasing Section 106 Funds to Osbaldwick Sports Club** (Pages 5 - 20)

The purpose of this report is to provide the Executive Member with information and response to an e-petition the Council received in respect of Section 106 Agreements, specifically in relation to Osbaldwick Sports Club and planning obligations.

5. Leveraging more retrofit investment into (Pages 21 - 56) York

The council has been successful in applying for and utilising significant grant funding alongside our own investment to deliver retrofit projects to many council homes as well as those in the private sector. It is developing a 'retrofit one stop shop' which it is hoped will both develop demand for retrofit and remove barriers to delivery.

This report looks to supplement this activity through taking a proactive approach to bringing further retrofit investment into the city through Energy Company Obligation 4 LA Flex ("ECO4") funding, a government energy-efficiency scheme designed to tackle fuel poverty and help reduce carbon emissions.

6. Urgent Business

Any other business which the Executive Member considers urgent under the Local Government Act 1972.

Democracy Officer: Ben Jewitt
Telephone No: 01904 553073
Email: benjamin.jewitt@york.gov.uk

For more information about any of the following please contact the Democratic Services Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

Alternative formats

If you require this document in an alternative language or format (e.g. large print, braille, Audio, BSL or Easy Read) you can:



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We can also translate into the following languages:

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی میا کی جا سکتی ہیں۔ (Urdu)

Declarations of Interest – guidance for Members

- (1) Members must consider their interests, and act according to the following:

Type of Interest	You must
Disclosable Pecuniary Interests	Disclose the interest, not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Directly Related) OR Non-Registrable Interests (Directly Related)	Disclose the interest; speak on the item <u>only if</u> the public are also allowed to speak, but otherwise not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Affects) OR Non-Registrable Interests (Affects)	Disclose the interest; remain in the meeting, participate and vote <u>unless</u> the matter affects the financial interest or well-being: (a) to a greater extent than it affects the financial interest or well-being of a majority of inhabitants of the affected ward; and (b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest. In which case, speak on the item <u>only if</u> the public are also allowed to speak, but otherwise do not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.

- (2) Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.
- (3) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations,

and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.

City of York Council

Committee Minutes

Meeting	Decision Session - Executive Member for Housing, Planning and Safer Communities
Date	28 February 2024
Present	Councillor Pavlovic (Executive Member)
Officers in Attendance	Peter Holt - Accounts and Assets Team Leader, Housing Tenancy Kate Grandfield – Housing Management Service Manager, Supported Housing

9. Declarations of Interest (10:02am)

The Executive Member was asked to declare, at this point in the meeting, any disclosable pecuniary interests, or other registerable interests he might have in the respect of business on the agenda, if he had not already done so in advance on the Register of Interests. None were declared.

10. Minutes (10:03am)

Resolved: That the minutes of the previous meeting held on 20 September 2023 be approved and then signed as a correct record by the Executive Member.

11. Public Participation (10:03am)

It was reported that there had been one registration to speak at the meeting under the Council's Public Participation Scheme.

Charlotte Roberts of the National Energy Foundation (NEF) spoke on the issue of Fuel Poverty within York. She stated that over 50 calls had been received from North Yorkshire so far this year, seeking advice over energy solutions from people without heat or in debt. She advised that the NEF work alongside the services offered by the local authority. "Better Housing, Better Help" scheme, provides help and advice on fuel efficiency. She had come to speak today to raise awareness with York residents, as while many might not reach out directly to the charity directly they may reach out to the council and the NEF would be happy to work with the council to help these people. The Executive Member noted that Ms Roberts had sent through information on the services offered by the NEF and this could be made available to officers or residents on request.

12. Review of Council Garage Licence Agreement (10:08am)

The Executive Member considered a report presented by the Accounts and Assets Team Leader, Housing Tenancy and the Housing Management Service Manager, Supported Housing. This report sought review of the Council's current Garage Licence Agreement as the current arrangement did not contain a mechanism to annually adjust the licence fee. Upon agreement with full council, the new proposal would allow for automatic annual increases to licence fees, negating the need for officers to do this manually.

The Accounts and Assets Team Leader, Housing Tenancy advised that this had been through consultation, and legal advice had been taken, resulting in the recommendation that subject to Executive Member's approval, the current agreement would be terminated and tenants would be required to sign a new one within 28 days to agree to the new charging mechanism.

The Executive Member highlighted poll responses from 127 residents, 83% of whom agreed that information on the changes was clearly conveyed and 61% agreed that 4 weeks' notice for the proposed fee increase was acceptable.

The Executive Member noted that the final wording of the new agreement was still to be determined, pending legal advice, as discussed in the report. Officers clarified that the legal team were happy that everything proposed was legally compliant. The Executive Member asked whether there would be any recourse for people who needed a garage for health/disability reasons and refused to sign the new agreement for any reason. Officers confirmed that mitigating circumstances such as these would be taken into consideration.

Resolved: That Option 2 set out in paragraph 27 of the report be approved, to agree, in principle, the proposed changes to the licence agreement, to allow an automatic licence fee increase and exclusions from the waiting list due to housing related debt.

Reason: To ensure that Garage License Agreements remain fit for purpose and fees can be applied in a timely and less resource intensive manner.

Councillor Michael Pavlovic, Executive Member
[The meeting started at 10.02 am and finished at 10.17 am].



Meeting:	Decision Session – Executive Member for Housing, Planning and Safer Communities.
Meeting date:	18/07/2024
Report of:	James Gilchrist – Director of Environment, Transport and Planning
Portfolio of:	Cllr Michael Pavlovic

Decision Report: Osbaldwick Sports Club, Section 106 Funding (e-petition).

Subject of Report

1. The purpose of this report is to provide the Executive Member with information and response to an e-petition the Council received in respect of Section 106 Agreements, specifically in relation to Osbaldwick Sports Club and planning obligations.
2. The e-petition stated:

We the undersigned petition the council to release the £10,986 s106 funds allocated to Osbaldwick Sports Club. We the undersigned call upon the City of York Council to release the s106 funds that have been allocated to Osbaldwick Sports Club from local developments (Derwenthorpe and Burnholme) and are currently stuck within the log jam of planning gain funds that CYC currently hold from developments all over the city that now totals over £10million of accumulated funds. We would also lobby for a further allocation, for the Osbaldwick Sports Club, from the potentially available £45,000 from the Burnholme housing scheme from the Derwenthorpe Phase Five s106 agreement. To date after many years of discussions between the Sports Club facilitated by Councillor Warters and various officials at CYC no progress has been made in getting the funds passed over.

Osbaldwick Sports Club is a successful, volunteer run organisation that is attracting increasing numbers of children, recently formed

have been four new junior football teams and three junior cricket teams to add to the adult teams.

Storage space for equipment and additional changing facilities for the girls football team are urgently needed and this petition is a way of trying to get City of York Council moving with releasing funds to the club so essential improvements can take place. Please sign the petition if you value the work Osbaldwick Sports Club carries out.

3. The petition received a total of 125.no signatories.

Benefits and Challenges

4. The securing of planning obligations is vital to ensuring that development, which would otherwise be unacceptable in planning terms is made acceptable. The primary aim of planning obligations is to deliver the infrastructure required to support new development and offset the impact of new development. This can be either by via securing tangible physical infrastructure, such as on-site affordable housing, or primary school or via securing financial contributions toward the provision of infrastructure off site; this could include contributions to provide bus services or bus stops – or as is the example cited within the e-petition to provide additional or enhanced facilities at local sports clubs or other community facilities.
5. Any obligations secured will only ever come to fruition if the planning permission to which they relate is implemented and that the agreed trigger point is reached. The Local Planning Authority, once it has granted planning permission, cannot compel a developer to then undertake that development. There are a wide range of external factors which can contribute to whether or not a development is implemented.

Policy Basis for Decision

6. This report is prepared for information. However, the securing of planning obligations is a key component which contributes to the overall growth and prosperity of the city. Development across the city contributes to the wider objectives of the Council Plan. Many of the priority actions within the Council Plan ultimately promote growth; whether that be through promoting or enhancing skills, which require schools, colleges and training facilities. Addressing

housing affordability will require the provision of new housing stock. The economic opportunities provided by devolution will bring forward development opportunities. All of these will in some shape or form require development.

Financial Strategy Implications

7. The information contained within the report does present some minor financial strategy implications insofar as that the subject matter relates to monetary planning obligations. These monies will be available to the Council or their appointed third parties to spend assuming that the specified trigger point to which the obligation relates is met and that the intended spending of that monetary obligation is in accordance with the provisions of the Section 106 Agreement which secures the obligation. Monies secured via Section 106 Agreement will only be spent when the monies have been received by the Council and will either cover the full cost of delivering a particular piece of infrastructure or part fund a larger project; obligations are not spent speculatively with the assumption that obligations will be received at future date to offset the use of Council resource.

Recommendation and Reasons

8. The Executive Member is asked to:
Note the contents of the report within the context of responding to the queries that have been raised within the e-petition that has been received.

Reason: To ensure that executive is aware of the current position in respect of the queries raised within the received e-petition and the wider context to planning obligations.

Background

9. The e-petition received by the Council requests that a series of monies, which the signatories believe to be held by the Council, are released to Osbaldwick Sports Club. Specifically, it requests that £10,986 of Section 106 funds allocated to Osbaldwick Sports Club are released. The petition then goes on to request further allocations are made to Osbaldwick Sports Club, from the potentially £45,000 from the Burnholme housing scheme and Derwenthorpe Phase Five Section 106 Agreement.

10. The monies that are referred to within the received e-petition are monies which have been secured, subject to triggers being hit via planning obligation from developments which are taking place within the city.
11. Planning obligations are legal obligations entered into to mitigate the impacts of a development proposal. The primary mechanism by which these obligations are secured are via an agreement entered into under Section 106 of the Town and Country Planning Act 1990 by a person with an interest in the land and the local planning authority; or via a unilateral undertaking entered into by a person with an interest in the land without the local planning authority. Planning obligations run with the land, are legally binding and enforceable. A Unilateral Undertaking cannot bind the Local Planning Authority because they are not party to it.
12. The purpose of a planning obligation is to assist with mitigating the impacts of unacceptable development to make it acceptable in planning terms. However, Planning Obligations may only constitute a reason for granting planning permission if they meet the necessary legal tests. They must be necessary to make the development acceptable in planning terms, directly related to the development; and fairly and reasonably related in scale and kind to the development. Planning obligations are negotiated between the LPA and the applicant/developer. The LPA would typically resolve to grant Planning Permission subject to the completion of an associated Section 106 Agreement. This means that in practice the LPA withholds the granting of planning permission until such time a negotiated and agreeable Section 106 Agreement is secured.
13. Section 106 Agreements would typically secure two types of obligation. Monetary and Non-monetary obligations. A monetary obligation is where a developer pays an agreed sum of monies to the Council at an agreed trigger point which the Council must then use to fund infrastructure elsewhere. A non-monetary planning obligation is one whereby the developer provides the required infrastructure 'in kind'; this is often on the site of the development. Within the context of the e-petition that has been received the obligations that are referenced are monetary obligations.

14. When negotiating and securing planning obligations the accompanying Section 106 Agreement will specify the obligation that is to be provided and where necessary specify the mechanism and timing of when and how that obligation will be delivered.
15. Focusing on monetary obligations it is common practice for an obligation to be a specified sum of monies. These monies will often be index linked so as to provide a degree of protection against inflation. The obligation will be subject to a specific trigger point within the lifetime of the development; this could be upon commencement of development, or at the point where a specified point such as number of housing units are completed. The completed agreement will also specify what the secured monies will be used towards; the specificity of the spending can vary from agreement to agreement. In some cases, monetary obligations can also be time limited. Meaning that the Council has a specified time period within which to spend the monies for their intended use or they may need to be repaid to the developer.
16. Moving specifically to the developments that have been cited within the received e-petition. Derwenthorpe is a large multi-phase development situated to the East of the city within the Osbaldwick and Derwent Ward. The Burnholme development relates to land to the South of Burnholme Sports Centre which forms one of the Councils Housing Delivery Programme sites situated within the Heworth Ward.

Derwenthorpe Development (Phase 3A)

17. The grant of Planning Permission for the Derwenthorpe Development was subject to the completion of a Section 106 Agreement. This Section 106 has then been subject to a series of Deeds of Variation as the development has evolved over time. A Deed of Variation is a modification to the Section 106 Agreement which the signatories of the agreement can enter. These are not uncommon particularly on large scale or multi-phase developments. Variations tend to occur in tandem with revisions to the grant of planning permission this is to ensure that the association legal agreement and obligations secured keep pace with the approved development.

18. The obligation referred to in the e-petition in relation to the Derwenthorpe development was secured via a supplemental deed on 20th February 2020 via Section 106 Agreement between the Council and The Jospeh Rowntree Housing Trust who are the landowner and promoter of the scheme. The agreement was in respect of planning application 18/01778/FULM which relates to the erection of 40.no dwellings with associated roads, landscaping and public open space. Within the agreement the development is referred to as Phase 3A due to its location adjacent to Phase 3 of the Derwenthorpe Development; Phase 3 is the element accessed via Fifth Avenue.
19. The agreement secured a 'Phase 3A Off Site Recreational Facilities Contribution'. Within the agreement this is subsequently defined as a sum of £25,986 (index linked). Paragraph 5 of the First Schedule requires the developer to pay this contribution to the Council 'prior to the first occupation of the first residential unit within the Phase 3A development.
20. Paragraph 1.5.2 of the Second Schedule sets out the Councils covenants in respect of how the Phase 3a Off-Site recreational Facilities Contribution are to be spent. Paragraph 1.5.1.1 allocates £15,000 towards the provision of pitches, outdoor sport and ancillary facilities at Burnholme Sports Centre. Paragraph 1.5.1.2 allocates £10,986 towards improvements in at Osbaldwick Sports Club; it is this obligation that is specifically referenced within the e-petition that this report is the subject of.
21. At the time of writing this report the trigger point as set out within Paragraph 5 of the Frist Schedule, namely, 'prior to the first occupation of the first residential unit within Phase 3A'; has yet to be reached. Discussions with the developer indicate that the first occupation of the first residential unit within Phase 3A could be imminent. The developer is aware of their obligations in respect of the secured Section 106 Agreement and the Local Planning Authority will ensure that once the relevant trigger is reached the obligation be paid to the Council.
22. The secured obligation of £25,986 will be subject to indexation. Therefore, when the monies are paid to the Council the actual amount will vary from that which is stated within the agreement.

Given the position with inflation the expectation would be that the actual amount due to the Council will be higher than the stated figure. At the point in time where the obligation becomes due to the Council the indexation will be calculated by the Council's finance section.

23. When the monies due are received by the Council and as part of the wider development monitoring process the 'spending' service; that is the service area within the Council who originally sought to secure the obligation will be notified the monies have been received. It will then be incumbent on the spending service to determine when those monies would be drawn down and spent. Any spending must be in accordance with the provisions of the agreed Section 106.
24. Taking the example cited within this case of the £10,986 obligation towards improvements at Osbaldwick Sports Club. The Community Sports Development Team would be the spending service within the Council and would be notified of the monies having been received. The Community Sports Development Team would then liaise with representatives of Osbaldwick Sports Club to understand what scope exists for spending the obligation and whether that would be in accordance with the provisions of the Section 106 agreement.
25. As part of the internal monitoring process the Community Sports Development Team would then submit a release form to Planning and Development Services requesting the monies be released to them and outlining what the monies are to be spent on. The intended spend will then be reviewed by Planning and Development Services to ensure that the spend would be in accordance with the provisions of the Section 106 agreement. Assuming that the spend would comply with the Section 106 agreement then the monies are released to the Community Sports Development team to spend on behalf of or release the funds to the Sports Club for spending on the agreed works or project. Once the monies are spent this will be reported back to Planning and Development Services by the Community Sports Development Team.

Burnholme Green Development

26. Planning permission was granted under application 20/01916/OUTM for the erection of 83.no dwellings with associated parking, landscaping, access and ancillary works with no matters reserved expect for the appearance, scale and internal layout of 5.no self-build plots in terrace 5. This meant in practice that 78.no of the dwellings received full planning permission with the 5.no self-build plots requiring a further Reserved Matters application at a later date.
27. The Burnholme Green Development forms part of the wider CYC Housing Delivery Programme a project to deliver 600 homes on Council owned sites.
28. The obligations secured as part of the development at the Burnholme site differ slightly. As the developer of the site was the Council, albeit under their Housing Delivery function. It was not possible to enter into a Section 106 Agreement. This is because the Local Planning Authority cannot covenant with itself, which would be the case here albeit they are two distinct and separate functions of the Council. In the event of a breach the LPA cannot enforce against itself. Therefore, in these cases negatively worded conditions have been used. These conditions prevent any development from taking place until such time details for offsite sports facilities or alternative arrangements have been agreed in writing with the LPA.
29. Condition No.12 of the permission granted under reference 20/01916/OUTM states:

Amenity Space - Sport

No development shall commence unless and until details of provision for off-site sports facilities or alternative arrangements have been submitted to and approved in writing by the Local Planning Authority. The facilities shall thereafter be provided in accordance with the approved scheme or the alternatives arrangements agreed in writing by the Local Planning Authority and thereafter implemented, prior to first occupation of the development.

Reason: In order to comply with the provisions of Policy GI6 of the Publication Draft Local Plan which requires that all new

housing sites make adequate provision for the open space needs of future occupiers.

INFORMATIVE:

The requirements of the above condition could be satisfied by the completion of a planning obligation made under Section 106 of the Town and Country Planning Act 1990 by those having a legal interest in the application site, requiring a financial contribution towards off site provision of sport. The obligation should provide for a financial contribution calculated at £45,795.

30. Condition 12 required the submission of details relating to the provision of off-site sports provision. It also provided an indication as to the extent of the financial obligation that would be required. The calculation of which will have been informed by the established frameworks and calculation methods used by the Community Sports Team. Within their comments submitted at consultation stage on the planning application an amount of £45,795 had been calculated with the provision of/ or improving to sport and active leisure facilities at Burnholme Sports Centre, Osbaldwick Sports Club or Hull Road Park and/or another project within the Ward or connecting Wards, the need for which directly arises from the Development. The comments went on to state that following conversations with England Hockey that City of York Hockey could also be a potential beneficiary for these funds.
31. At the time of writing the monies secured via Condition 12 were received in May 2022 and are presently held within the ring-fenced Planning Obligations account. These monies are available for the Community Sports Team to allocate towards projects which fall within the scope of uses that were identified within the comments that were made at application stage.
32. The £45,795 secured from the Burnholme Green development is a single contribution which has the potential to be used in full or in part at any of the identified recipient sports facilities or clubs. In this case, unlike the earlier example at Derwenthorpe, the obligation is not then apportioned to a specific facility or club as part of the agreement or condition. As such there can be no, absolute, guarantee as to the exact proportion of this obligation that would be available to Osbaldwick Sports Club. It could be the case that the other intended recipients of the obligation may justify

being the beneficiaries of a larger proportion of the obligation spend. Ultimately the proportion of spend will be determined by the Community Sports Team in their capacity as the spending service. Planning and Development Services would seek to ensure that any spend is in accordance with the originally stated objectives.

Accumulated Funds held by the Council & securing further funds.

33. Finally, within the submitted petition reference is made to *'planning gain funds that CYC currently hold from developments all over the city that now totals over £10million of accumulated funds. We would also lobby for a further allocation, for the Osbaldwick Sports Club, from the potentially available £45,000 from the Burnholme housing scheme from the Derwenthorpe Phase Five s106 agreement.'*

The Council is obliged to publish and [Annual Infrastructure Funding Statement \(IFS\)](#) the IFS for the financial year 2022-23 does outline that as at 31st March 2023 planning obligations totalling £10,345.590.48 were held by the Council. It is important to note however this cumulative amount is across the organisation and includes areas such as Transport, Highways and Sustainable Travel; Housing; Education and Sport, Recreation and Open Space.

34. As has been outlined by the earlier sections of this report each planning obligation that is secured must have a degree of specificity insofar as the amount secured and where that is intended to be spent. As such the accumulated funds held by the Council cannot be regarded as an open fund. All of the monies held within the planning obligations holding account are, by virtue of their associated Section 106 agreement or in the case of the conditions securing that obligation, already, to some degree, earmarked for spending.
35. With regard to the specific reference within the petition for Osbaldwick Sports Club to secure a higher proportion of the monies secured from the Burnholme Green development. This could be possible as the obligation secured from this development is earmarked for a series of potential recipients and does not have the same level of specificity as the obligation secured from Derwenthorpe Phase 3A. However, the proportion of spend attributed to a specific facility or sports club would be at the

discretion of the spending service, namely the Community Sports Team, as they are the service which has the existing relationships with sports clubs and the understanding of potential projects which could benefit from receiving funding secured by Planning Obligations.

Consultation Analysis

36. This report is provided to Executive for information and in response to the abovementioned e-petition that has been received. As a result there is no consultation required within the Council or with external partners or third parties. With regard to the securing of Planning Obligations these are ultimately arrived at as a result of the statutory consultation process undertaken as part of the consideration and assessment of a planning application by the Local Planning Authority (LPA).

Options Analysis and Evidential Basis

37. The Executive is asked to note the contents of this report in response to the e-petition that has been received and the background within which planning obligations are secured, administered and spent by the Council.

Organisational Impact and Implications

38. The various implications of this report are summarised below:

Financial

39. This report presents some financial implications insofar as it relates to monetary planning obligations. However, there are no direct financial implications arising from this report.

Human Resources (HR)

40. There are no HR implications.

Legal

41. Section 106 of the Town and Country Planning Act 1990 provides for 'Any person interested in land in the area of a local planning authority may, by agreement or otherwise, enter into an obligation enforceable to the extent mentioned in subsection (3) which restricts the development in or use of the land in a specified way; requires specified operations or activities to be carried out in, on,

under or over the land; and if it requires a sum or sums to be paid, require the payment of a specified amount or an amount determined in accordance with the instrument by which the obligation is entered into and, if it requires the payment of periodical sums, require them to be paid indefinitely or for a specified period.

42. Such obligations are enforceable by the authority identified against the person entering into the obligation and against any person deriving title from that person. The instrument by which a planning obligation is entered into may provide that a person shall not be bound by the obligation in respect of any period during which he no longer has an interest in the land.

Procurement

43. There are no specific procurement implications arising from this report. There will be instances where the spending of monetary planning obligations may require the future procurement of specialist goods or services to deliver a particular obligation or piece of infrastructure. Such procurement will be subject to the relevant procurement guidelines/regulations and will include liaison with CYC Procurement and Legal teams as necessary.

Health and Wellbeing

44. There are no specific Health and Wellbeing implications arising from this report. The successful securing and spending of planning obligations for areas such as Sport and Recreation, Public Open Space and Health provision can contribute to the wider Health and Wellbeing Priorities of the Council.

Environment and Climate Action

45. There are no specific Environment and Climate Action implications arising from this report. Planning obligations can more generally, where considered necessary and relevant to offsetting the impacts of a development, secure measures in areas such as sustainable transport. Such measures can be utilised to effect change in people's attitudes and behaviours which can assist in contributing the wider Environmental and Climate related priorities of the Council.

Affordability

46. Monetary planning obligations are secured following negotiation with the developer or group promoting or seeking to secure planning permission for a particular development. The amount of

obligations sought by the Council are informed by frameworks from specific spending service areas who have the operational knowledge of their particular sector. In some instances such as in Education a single monetary planning obligation will not normally cover the entire costs of a particular piece of infrastructure and this will ultimately be supplemented by other funding from capital budgets or grants from external bodies or partners. Typically financial obligations secured via Section 106 Agreement are indexed linked. Indexation can assist with offsetting inflationary changes between the time at which the obligation is secured and the time at which it becomes due for payment. Once paid monetary obligations are held in an interest-bearing account. Both these measures can assist with maximising the resource of monetary obligations.

Equalities and Human Rights

47. The Council recognises, and needs to take into account its Public Sector Equality Duty under Section 149 of the Equality Act 2010 (to have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it in the exercise of a public authority's functions).
48. At the time of writing there are no equalities implications identified in respect of the matters discussed in this report, which is brought to Executive for information only. The Public Sector Equality Duty and the obligations it places upon the authority are considered as part of the assessment of a planning application.

Data Protection and Privacy

49. This report is brought to Executive for information purposes. As there is no personal data, special categories of personal data or criminal offence data being processed, there is no requirement to complete a Data Protection Impact Assessment (DPIA). This is evidenced by completion of DPIA screening questions AD-07499.

Communications

50. Planning Obligations are secured as part of the planning process. A process which is open to public scrutiny. When assessing planning applications, the requests for planning obligations received from technical consultees are published and are then

subsequently fed into the decision making process all of which is outlined within the relevant planning case report. Post planning decision copies of Section 106 Agreements are publicly available via the online planning register. Allowing interested parties to review them and understand the obligations that have been secured to offset the impacts of a particular development.

Economy

51. The economic development and achieving the economic aspirations of the city are inextricably linked to physical development itself. Planning obligations can assist with offsetting the impacts of development making development acceptable in planning terms. Cumulatively contributing to the economic objectives of the city.

Risks and Mitigations

52. The purpose of planning obligations is to offset and mitigate the impacts of a particular development and make a development acceptable in planning terms. Failure to do this could place an additional burden upon the public bodies who it would then fall to provide such infrastructure, such as the Council. Such impacts could be felt in multiple areas such as within the Council's roles of Local Highway Authority, Local Education Authority and as a provider of public spaces and community sports and recreation facilities.

Wards Impacted

53. Heworth Ward and Osbaldwick and Derwent Wards in respect of the e-petition that has been received. However, the securing, monitoring and delivery of infrastructure secured via planning obligations impacts all wards.

Contact details

For further information please contact the authors of this Decision Report.

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Background papers

- City of York Council Annual Infrastructure Funding Statement 2022-2023:
<https://www.york.gov.uk/downloads/file/9380/infrastructure-funding-statement-2022-to-2023>
- Osbaldwick Sports Club s106 funding e-petition:
<https://modgov.york.gov.uk/mgEPetitionDisplay.aspx?ID=350&RPID=86788550&HPID=86788550>

Annexes

All annexes to the Decision Report must be listed.

- Annex A: City of York Council Annual Infrastructure Funding Statement 2022-2023
<https://www.york.gov.uk/downloads/file/9380/infrastructure-funding-statement-2022-to-2023>
- Annex B: Osbaldwick Sports Club s106 funding e-petition:
<https://modgov.york.gov.uk/mgEPetitionDisplay.aspx?ID=350&RPID=86788550&HPID=86788550>

List of Abbreviations Used in this Report:

CYC: City of York Council.

IFS: Infrastructure Funding Statement.

LPA: Local Planning Authority.

DPIA: Data Protection Impact Assessment

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Meeting:	Decision Session – Executive Member for Housing, Planning and Safer Communities
Meeting date:	18/07/2024
Report of:	Pauline Stuchfield, Director of Housing and Communities
Portfolio of:	Councillor Michael Pavlovic, Executive Member for Housing, Planning and Safer Communities

Decision Report: Leveraging more Retrofit Investment into York – Energy Company Obligation Wave 4 and Great British Insulation Scheme LA Flex Arrangement

Subject of Report

1. City of York Council (the “Council”) are seeking to maximise the opportunities available to private residents, to enable them to improve the energy efficiency of their homes. In so doing, residents would benefit from warmer and healthier homes, save money on fuel bills, and reduce carbon emissions, therefore contributing to the ambition for York to be a net zero and climate ready city by 2030.
2. The council has been successful in applying for and utilising significant grant funding alongside our own investment to deliver retrofit projects to many council homes as well as those in the private sector. The council is also leading on advice work for properties which are listed, in conservation areas and Gypsy and Traveller accommodation. The council is developing a ‘retrofit one stop shop’ which it is hoped will both develop demand for retrofit and remove barriers to delivery.
3. This report looks to supplement this activity through taking a proactive approach to bringing further retrofit investment into the city through Energy Company Obligation 4 LA Flex (“ECO4”) funding, a government energy-efficiency scheme designed to tackle fuel poverty and help reduce carbon emissions.
4. ECO4 is an obligation placed on energy companies to deliver energy efficiency measures to domestic premises. ECO4 focusses

- on improving the least energy efficient homes and households in fuel poverty, as only properties in bands D-G can be treated.
5. This report seeks to increase York's share of ECO4 funding by supporting vulnerable York residents in gaining access to the funding. We are seeking to achieve this through a partnership with Agility Eco Services Ltd ("Agility Eco") who are a B-Corp Business. Agility Eco provide services to other Local Authorities, managing the ECO4 LA Flex application process.
 6. To support a greater uptake of available government funding, the council would publish a Statement of Intent that would widen eligibility of the existing ECO4 scheme to a larger pool of residents. The proposal involves the creation of a referral mechanism for residents and interested installers to access the ECO4 LA Flex scheme and a partnership whereby the day-to-day management of the scheme will be handled by Agility Eco with no charge to the Council.

Benefits and Challenges

7. The Home Energy Efficiency Team, within the Healthy and Sustainable Homes Team entirely consists of fixed-term, grant-funded resource and as such, no full-time or permanent resource can be assigned to manage and administer the Council's ECO4 LA Flex obligations which are made with no funding from central government.
8. The main benefit of working with Agility ECO is the opportunity to hand over main management of the scheme, while still being included in the approval declaration stage and being able to report back to Ofgem.
9. The main risk in not supporting the proposed partnership approach with Agility ECO is that the Council would not be able to make use of available government funding to improve the energy efficiency of properties in York.

Policy Basis for Decision

10. The Council Plan for City of York for 2023 to 2027, 'One City, for all' sets out priorities for the next 4 years focus on helping everyone, wherever they live in the city, have happier and healthier lives.
11. The proposals align with several of the Council's commitments, including:
 - 3) Climate – reducing carbon emissions by providing financial assistance to York residents to undertake thermal efficiency measures to their homes using ECO4 funding.
 - 4) Health – improving the health of residents of York through improvement to properties thermal efficiency to help people stay warm in their homes. The proposed partnership with Agility Eco will give eligible customers the opportunity to keep comfortable and healthy in their own homes, benefit from a reduction in bill prices and contribute to reducing the carbon emissions of their home, benefitting the City as a whole.
12. In addition, they will also support the Council Plan priorities and the Council's ambition to be a net zero carbon city by 2030.

a) Health and wellbeing: A health generating city, for children and adults.

Exposure of residents to excess cold exacerbates a range of health conditions and contributes to increased hospital admissions during the winter months. Older people and disabled people are particularly at risk from excess cold. Retrofitting homes will make tangible improvements to the energy performance of dwellings thereby reducing incidents of excess cold and associated ill health. Excess cold and unaffordable utility bills are also factors which can contribute to mental ill-health. Therefore, these projects can provide a base for improved mental health for those residents.

f) Sustainability: Cutting carbon, enhancing the environment for our future.

The City's housing stock contributes around a third of the city's carbon emissions. Retrofit improves the thermal performance of existing dwellings, reduces heating demand, transitions homes

to low carbon solutions, and thus reduces reliance on fossil fuels.

Financial Strategy Implications

13. There are no direct financial implications from the proposal, as the service offered by Agility Eco Service Ltd is free of charge to City of York Council. Agility Eco will recoup management costs by charging installers for their applications.

Recommendation and Reasons

14. The Executive Member is asked to:
 - a) Approve the attached Statement of Intent for publication, indicating the Council's intention to receive ECO4 and Great British Insulation scheme LA Flex applications from approved partners.
 - b) Support the creation of a partnership with Agility ECO, through the signing of a Memorandum of Understanding and Data Sharing Agreement between the Council and Agility ECO.
 - c) Enter into a customer data sharing arrangement with the Gas and Electricity Markets Authority/ Ofgem, who are the data monitor of the scheme, through the signing of a Data Sharing Agreement; and
 - d) Delegate authority to the Director of Housing and Communities (and their delegated officers), in consultation with the Director of Governance (and their delegated officers), to negotiate the provisions, and conclude the entry into the proposed Memorandum of Understanding and Data Sharing Agreements.

Reason: The proposed partnership will assist the Council in opening the current ECO4 and Great British Insulation Scheme ("GBIS") schemes to York residents on low incomes and residents considered 'at risk' due to ill health; helping these residents to access energy efficiency retrofit measures that could provide the following benefits:

- Greater increase in household comfort,
- Reduction in household running costs, and
- Reduction in household carbon emissions.

Realisation of these benefits would help contribute to various sections in the authority's Council Plan and help towards the achievement of the Council's Net Zero 20230 target.

Background

ECO4

15. ECO4 is one of the latest rounds of Energy Company Obligation funding announced by central government to provide energy efficiency improvement measures to low-income households, funded directly by the profits of energy suppliers. ECO4 was announced in September 2021 and access to the funding commenced on 1st April 2022; the scheme will run until 31st March 2026.
16. The ECO4 scheme intends to provide heating and insulation measures to at least 3.5 million households nationally, with a total allocated budget of £4 billion. The intended overall target is £224.3 million in notional annual bill savings by March 2026. The government is focussed on offering available measures to households identified as low income and vulnerable or fuel poor, in EPC band D-G homes.
17. To support households on the lowest incomes, only households in receipt of means tested benefits are currently eligible for ECO4. However, there is the opportunity for the Council to widen eligibility for the funding through a Statement of Intent in line with strategic objectives.
18. There is a minimum post-works EPC band requirement of C for all properties insulated or heated under the scheme; as such, households that would not be able to meet this minimum band requirement, with the proposed measures, would be ineligible for the scheme. They would, however, be eligible for ECO4's sister-scheme, the Great British Insulation Scheme.

Great British Insulation Scheme

19. The Great British Insulation Scheme (GBIS hereafter) was announced in October 2022 as ECO+ and access to the funding commenced at the end of 2023; this scheme will run concurrently, alongside ECO4, until 31st March 2026.
20. GBIS (formerly ECO+) aims to support the installation of insulation measures in around 410,000 homes nationally, cutting annual household bills by an average of £310 per property, by offering one insulation measure only, to a wider pool of applicants. The scheme is open to any owner-occupied or tenanted property within A-D Council Tax bands and with an EPC of D-G, while prioritising those on low income and in fuel poverty.
21. Unlike ECO4, GBIS does not require Energy Companies to contribute but many of the larger energy suppliers are taking part to help those that cannot gain assistance via ECO4. GBIS has no minimum EPC band requirement, which means that many of those that are ineligible for ECO4 are instead eligible for one insulation measure under GBIS.

LA Flex Arrangement

22. Currently, the only residents that can access and benefit from ECO4 are those in receipt of means-tested income benefits. Similarly, the only residents that can access GBIS, are those in Council Tax Bands A-D or those in receipt of means-tested income benefits. The LA Flex arrangement has been devised by Central Government, to enable Local Authorities to identify other vulnerable resident groups and widen eligibility, enabling these groups to access and benefit from the ECO4 and GBIS schemes.
23. Take up of the LA Flex arrangement, by Local Authorities, is not mandatory but highly recommended.
24. Via the Publishing of the Local Authority Statement of Intent and the creation of a management process or partner arrangement, the LA Flex process enables Local Authorities to set wider eligibility criteria for both ECO4 and GBIS via four routes:

Route 1: Owner-occupied and private rented sector households with a gross annual income less than £31,000. This cap applies irrespective of the property size, composition, or region.

Route 2: Owner-occupied and private rented sector households that meet two of the prescribed criteria, as detailed in Annex 2, which includes criteria such as deprivation, vulnerable households, children etc.

Route 3: Owner-occupied and private rented sector households that have been identified by either a person registered in the General Practitioner Register, a Scottish Health Board, a Welsh Health Board, an NHS Foundation Trust, or an NHS Trust as vulnerable, with an occupant whose health conditions may be adversely affected by living in a cold home. These health conditions must be cardiovascular, respiratory, immunosuppressed, or limited mobility related.

Route 4 [applicable to ECO4 only]: Suppliers and Local Authorities can submit an application to the Department for Energy Security and Net Zero, where they have identified new methods to identify low-income and vulnerable owner-occupied and private rented sector households, that could be used for bespoke targeting, in accordance with the authorities' strategic objectives. Applications need to demonstrate a number of factors, including that the proposed methodology is more effective at identify households in fuel poverty than the criterion offered under Routes 1 and 2.

Who are Agility Eco Service Ltd and what can they provide?

25. Agility ECO are a mission-led B Corp business who specialise in the planning, management, and delivery of innovative services to help eliminate fuel poverty. Agility Eco work closely with local authorities, housing providers and charities to reach those most in need and they also work with utility companies, helping them to fulfil their social and environmental obligations.
26. Through partnerships with Energy Companies, Agility Eco have received ECO4 and GBIS funding for installers and are working with Local Authorities to manage and support their LA Flex obligations. The service offered to the Council, by Agility Eco, consists of:

- The Management of ECO4 LA Flex applications from installers, on behalf of customers, including the negotiation of evidence accepted as proof of eligibility and the preparation of documentation for review and approval by appropriate Council resource.
- The Management of referrals from interested installers and customers that have been signposted to the Council by the GOV.UK website.
- The Collation of approved application and install data into the Ofgem verified report template for monthly submission to Ofgem.
- Reporting on the cost and carbon benefits of each completed energy retrofit installation, post-application approval.

Consultation Analysis

27. Consultations have taken place within City of York Council, with a summary of views detailed in the organisation impact and implications section below, and which informs the recommendations of this report.

Options Analysis and Evidential Basis

28. The two options the Executive could consider in respect of this report are below: ~
- a) Option 1** - approve the proposed Statement of Intent for publication, support the creation of a partnership with Agility ECO
 - b) Option 2** – not to approve the proposed Statement of Intent for publication, support the creation of a partnership with Agility ECO
29. It is recommended that the Executive Member approves Option 1 and the recommendations outlined in paragraph 14. This provides the most comprehensive response to the ambitions to improve the energy efficiency of homes in the city, which will maximise the reduction in carbon emissions and maximise the benefits for residents through warmer homes which are more energy efficient and more affordable to heat.

Organisational Impact and Implications

Financial, contact: Comments from Victoria Noble

1. There are no direct financial implications from the proposal, as the service offered by Agility Eco Service Ltd is free of charge to City of York Council. Agility Eco will recoup management costs by charging installers for their applications.
2. However, there are financial risks associated with not taking up the option/ fulfilling the obligation; such as, pressure from Central Government to join the scheme and employ in-house resource further down the line, and the possibility that access to future grant funding may be limited because Central Government do not believe we have capacity to fulfil grant funded agreements because we could not engage in the LA Flex arrangement.

Human Resources (HR): Approval from Helen Whiting

3. There are no human resources implications as review of application documentation and signing of declarations will fall under the remit of existing officers carrying out Home Energy Efficiency schemes in the Healthy and Sustainable Homes Team.

Legal: Approval from Walter Burns

4. It has been proposed that a Memorandum of Understanding and Data Sharing Agreement will be signed between the Council and Agility Eco, to provide the service and allow the referral of cases.
5. It is also envisaged that Agility Eco will be responsible for the provision of advice, installer management and any liabilities thereafter.
6. The Memorandum of Understanding, Agility Eco Data Sharing Agreement and OFGEM Data Sharing Agreement have already been reviewed and approved by officers within Information Governance and Legal Services.

7. Any contract entered by the Council must be entered into in compliance with our obligations under the Public Contract Regulations 2015 and the Council's Contract Procedure Rules within the constitution.
8. Arguably, the proposed Memorandum of Understanding falls outside of the Public Procurement Regime under the Public Contract Regulations 2015. The Regulations only apply to "Public Contracts," which are defined under Regulations 2(1) as contracts for pecuniary interest concluded in writing between one or more economic operators and one or more contracting authorities and having as their object the execution of works, the supply of products or the provision of services.
9. In other words, if a contract has no identifiable, financial consideration being provided by the contracting authority to the economic operator (i.e., "consideration" in this context can be either where the Council pays the economic operator an agreed rate/fee in exchange for any services they provide, or the Council reimburses Agility Eco's expenditure incurred in providing the agreed service) then a contract does not fall within the definition of a contract "for pecuniary interest."
10. In this instance, the intention is that Agility Eco shall provide services to the Council and individual private sector households, and on any ECO4 or GBIS LA Flex application, Agility Eco's fees shall be paid by the installer making the application. As a result, there are not any associated costs to CYC. As such, this is arguably not a contract for "pecuniary interest" under the Public Contract Regulations 2015.
11. That being said, as Agility Eco Services Ltd would be appointed directly by the Council, this will require a waiver of the Council's Contract Procedure Rule before any agreement is entered into.

Procurement: Approval from Chloe Wilcox

12. Further to the Legal Implications set out above, since the proposed partnership with Agility Eco, is unique to the industry and does not involve the purchase of a service, rather it involves the creation of a referral mechanism for residents and interested installers to access the LA Flex scheme and a partnership whereby the day-to-day management of the scheme will be handled by Agility Eco with no charge to the Council, there are no procurement implications.

Health and Wellbeing: Approval from Peter Roderick

13. Climate change is one of the biggest public health issues of our time. NICE estimate that older adults living in 'hard to heat' homes contribute to 28,000 additional deaths each year and is a major contributor to avoidable hospital admissions. This project seeks to put in more affordable and lower carbon heating solutions to housing that is designed for vulnerable residents. As well as contributing to achieving the cities 'net zero' pledge, a project like this supports the delivery of the health and wellbeing strategy ambition to be an 'age friendly city'. Without a robust marketing campaign targeted at those most in need, it is unlikely that GPs will refer customers to the scheme; however, the Home Energy Efficiency Programme Manager will work with Public Health, Agility Eco and the Integrated Care Board (ICB) to discuss ways in which to target and engage this demographic specifically.

Environment and Climate Action: Comments from Shaun Gibbons

14. The city's housing stock contributes around a third of locally derived carbon emissions. Retrofit improves the thermal performance of existing dwellings, reduces heating demand, transitions homes to low carbon solutions, and thus reduces reliance on fossil fuels. Expanding the eligibility of households to access ECO4, increases the number of homes that can benefit from retrofit. This approach supports the ambitions of the Climate Change Strategy.
15. The proposed partnership with Agility Eco to deliver ECO4 and GBIS funding in York provides an effective mechanism for delivery and supporting fabric and heating improvements to homes is a cost-effective approach to decarbonising homes and reducing energy costs.

Affordability: Comments from Pauline Stuchfield

16. The proposed partnership with Agility Eco will enable a wider cache of York residents to improve the energy efficiency of their homes, benefitting from subsidised rates on retrofit measures. In so doing, residents would benefit from money savings on fuel bills and from

warmer and healthier homes, thus improving the health of residents of York through improvement to properties' thermal efficiency.

Equalities and Human Rights: Approval from Pauline Stuchfield

17. The Council recognises, and needs to take into account its Public Sector Equality Duty under Section 149 of the Equality Act 2010 (to have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it in the exercise of a public authority's functions).
18. At the time of writing there are no equalities implications identified in respect of the matters discussed in this report.
19. However, an Equalities Impact Assessment has been carried out (see Annex 3) and the process of future review of the recommendations in this report will identify any equalities implications on a case-by-case basis, these will be addressed in any future reports.

Data Protection and Privacy: Approval from Lorraine Lunt

20. The proposed arrangement will involve the sharing of data between the Council and Agility Eco, and the Council and Ofgem. However, this will be covered by the included data sharing agreements, and application consent. The attached data sharing agreements between the Council and Agility Eco/ Ofgem have already been reviewed and approved by Legal Services and the Data Protection Officer/ Information Governance & Feedback Team Manager.
21. A DPIA for this arrangement is required as Council officers may gain access to and process special category (disability) data that is sent with an LA Flex application form. A DPIA has been created and is under review. A Privacy Notice, detailing how customers' data under LA Flex will be gained and held, will be published on the website alongside the Statement of Intent. This will occur prior to the arrangement with Agility Eco commencing.

Communications: Comments from Megan Rule

22. Besides any preliminary communications announcing the new scheme by City of York Council, the ECO4 scheme is installer-led and communications will primarily be managed by the proposed partner, Agility Eco. No customers or installers will have direct contact with CYC about the scheme. It is proposed that all interested residents will be forwarded direct to Agility Eco for them to contact them with more information about the scheme and the details of installers.

Economy: Comments from Simon Brereton

23. As discussed in the report, ECO4 and GBIS LA Flex arrangements provide economic benefits to residents and householders through subsidising the costs of installing energy efficiency measures and reducing energy bills following such work. Stimulating the retrofit market supports the broader objectives of the York Economic Strategy and has a further economic benefit for local businesses in the supply chain. The recommendations of the report therefore represent a positive potential impact for the York economy.

Risks and Mitigations

24. The main risk identified associated with the proposals contained in this report are those which concern risks associated with data breaches.
25. This risk will be minimised via gaining written consent from residents and installers in their LA Flex applications and via the strict use of a tried and tested Agility Eco data-sharing portal system.
26. References from other Local Authorities that use Agility Eco for their ECO4 LA Flex management, have been sought and reviewed to ensure that Agility Eco's data-sharing platform is robust.

Wards Impacted

27. All wards impacted.

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Report approved:	Yes
Date:	01/07/2024

Background papers

Paper 1: ECO4 Delivery Guidance

https://www.ofgem.gov.uk/sites/default/files/2024-04/eco4_delivery_guidance_v2.1.pdf

Paper 2: Great British Insulation Scheme Delivery Guidance

https://www.ofgem.gov.uk/sites/default/files/2024-04/eco4_delivery_guidance_v2.1.pdf

Paper 3: ECO4 and GBIS Flex Local Authority Guidance

<https://www.ofgem.gov.uk/sites/default/files/2023-07/GBIS%20and%20ECO4%20Guidance%20for%20Local%20Authorities.pdf>

Annexes

Annex 1: ECO4 LA Flex Arrangement Route Prescribed Criteria - Proxies

Annex 2: Statement of Intent for publication (separate attachment)

Annex 3: Equalities Impact Assessment (separate attachment)

Abbreviations used in this report

Agility Eco – Agility Eco Services Ltd

ECO – Energy Company Obligation

GBIS – Great British Insulation Scheme

ICB – Integrated Care Board

NHS – National Health Service

OFGEM – Office of Gas and Electricity Markets

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Annex 1: ECO4 LA Flex Arrangement Route Prescribed criteria – Proxies List

Proxy 1 - Homes in England in Lower-layer Super Output Area 1-3 (LSOA), or homes in Welsh provision LSOA 1-3 on the Welsh Index of Multiple Deprivation 2019, or homes in Scotland in “data zone” 1-3 on the Scottish Index of Multiple Deprivation 2020 *

Proxy 2 - A person living at the premises is entitled to a Council Tax reduction on the grounds of low-income.

Proxy 3 - A person living at the premises is considered vulnerable to the cold under the National Institute for Health and Care Excellence (NICE) Guidance NG6: Recommendation 2, for a reason other than their low-income *

Proxy 4 - A child living at the premises is eligible for free school meals, due to low-income.

Proxy 5 - A person living at the premises is supported by a scheme established by the LA/DA that is named and described within their Statement of Intent and established to support people living on a low-income and considered vulnerable to the cold under NICE Guideline NG6.

Proxy 6 - A household referred to the LA for support by their energy supplier or Citizens Advice or Citizens Advice Scotland, because they have been identified as struggling to pay their electricity and/or gas bills.

Proxy 7 - Households identified through energy supplier debt data. This route enables obligated suppliers to use their own debt data to identify either non pre-payment meter households (non-PPM), or pre-payment meter households (PPM)*.

Non-PPM customers: These are customers who have been in debt for more than 13 weeks ending with the day on which the declaration is made and are in a debt repayment plan with their energy supplier or repaying their fuel debt through 3rd party deductions.

PPM customers: Suppliers may also identify PPM households who: have either self-disconnected or received supplier Discretionary/Friendly credit within the last 13 weeks ending with the day on which the declaration is made; or are in a debt repayment plan with their energy supplier; or repaying their fuel debt through 3rd party deductions.

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Statement of Intent for ECO4 and Great British Insulation Scheme

City of York Council ECO4 and Great British Insulation Scheme Flexible Eligibility Statement of Intent

Local Authority name: City of York Council

Publication Date: July 2024

Version number: V.1

Publication on web site: www.york.gov.uk

This statement sets out City of York Council's flexible eligibility criteria for the Energy Company Obligation (ECO4) and Great British Insulation schemes which run until March 2026.

The ECO4 scheme will focus on supporting low income and vulnerable households. The scheme will improve the least energy efficient homes helping to meet the Government's fuel poverty and net zero commitments. The Great British Insulation Scheme will support the ECO4 scheme in the delivery of predominantly single measures targeted at a wider range of households.

The flexible approach for Local Authorities (LAs) to identifying fuel poor and vulnerable households who may benefit from heating and energy saving measures is referred to as "ECO4 Flex" and "Great British Insulation Scheme Flex".

The Council is publishing this Statement of Intent (SoI), on the 01/07/2024 to confirm that each of the households declared will adhere to at least one of the four available routes outlined below. The tick boxes can be used to indicate to households which routes the council is using:

Route 1: Owner-occupied and private rented sector households with a gross annual income less than £31,000. This cap applies irrespective of the property size, composition, or region.

Route 2: Owner-occupied and private rented sector households that meet a combination of two of the following proxies:

Proxy 1) Homes in England in Lower-layer Super Output Area 1-3 (LSOA)¹, or homes in Welsh provision LSOA 1-3 on the Welsh Index of Multiple Deprivation 2019², or homes in Scotland in “data zone” 1-3 on the Scottish Index of Multiple Deprivation 2020^{3*}

Proxy 2) A person living at the premises is entitled to a Council Tax reduction on the grounds of low-income.

Proxy 3) A person living at the premises is considered to be vulnerable to the cold under the National Institute for Health and Care Excellence (NICE) Guidance NG6: Recommendation 2, for a reason other than their low-income^{4*}

Proxy 4) A child living at the premises is eligible for free school meals, due to low-income⁵

Proxy 5) A person living at the premises is supported by a scheme established by the LA/DA that is named and described within their Statement of Intent and established to support people living on a low-income and considered vulnerable to the cold under NICE Guideline NG6.

Proxy 6) A household referred to the LA for support by their energy supplier or Citizens Advice or Citizens Advice Scotland, because they have been identified as struggling to pay their electricity and/or gas bills.

Proxy 7) [Please note, proxy 7 is for supplier owned debt data and is listed here for information only]. Households identified through energy supplier debt data. This route enables

¹ Published at <https://www.gov.uk/government/statistics/english-indices-of-deprivation-2019>. The deciles are published in “File 7: all ranks, deciles and scores for the indices of deprivation, and population denominators”.

² Published at <https://statswales.gov.wales/Catalogue/Community-Safety-and-Social-Inclusion/Welsh-Index-of-Multiple-Deprivation/WIMD-2019>

³ 2020v2. Published at <http://www.gov.scot/publications/scottish-index-of-multiple-deprivation-2020v2-ranks>

⁴ <https://www.nice.org.uk/guidance/ng6/chapter/1-Recommendations#recommendation-2-ensure-there-is-a-singlepointofcontact-health-and-housing-referral-service-for>

⁵ Under section 512ZB(4) of the Education Act 1996 or section 53 of the Education (Scotland) Act 1980

obligated suppliers to use their own debt data to identify either non pre-payment meter households (non-PPM), or pre-payment meter households (PPM)*.

- a. **Non-PPM customers:** These are customers who have been in debt for more than 13 weeks ending with the day on which the declaration is made, and are in a debt repayment plan with their energy supplier or repaying their fuel debt through 3rd party deductions.
- b. **PPM customers:** Suppliers may also identify PPM households who:
 - have either self-disconnected or received supplier Discretionary/Friendly credit within the last 13 weeks ending with the day on which the declaration is made;
 - or
 - are in a debt repayment plan with their energy supplier; or
 - repaying their fuel debt through 3rd party deductions.*

* Note proxies 1 and 3 cannot be used together.

* Proxy 7 cannot be used in combination with proxy 5 or proxy 6.

Route 3: Owner-occupied and private rented sector households that have been identified by either a person registered in the General Practitioner Register, a Scottish Health Board, a Welsh Health Board, an NHS Foundation Trust, or an NHS Trust as vulnerable, with an occupant whose health conditions may be adversely affected by living in a cold home. These health conditions must be cardiovascular, respiratory, immunosuppressed, or limited mobility related.

Route 4 [applicable to ECO4 Flex only]: Owner-occupied and private rented sector households that are referred under Route 4: Bespoke Targeting. Suppliers and LAs can submit an application to the Department for Energy Security and Net Zero where they have identified new methods to identify low-income and vulnerable households. Applications need to demonstrate a number of factors, including that the proposed methodology is more effective at identify households in fuel poverty than the criterion offered under Routes 1 and 2.

Scheme eligibility

All potentially eligible households should apply through AgilityECO Services Ltd or one of their approved ECO / Great British Insulation Scheme installers, to see if they can either benefit from the scheme or be assessed for eligibility under any other relevant programme.

An LA officer (not a 3rd party working on behalf of an LA) will be responsible for checking, and verifying evidence, and issuing declarations. For any general enquiries relating to this SoI please contact:

Name: Jennifer Linsley

Job Title: Home Energy Efficiency Programme Manager

Telephone: 01904 555754

Email: jenn.linsley@york.gov.uk

CEO or dedicated responsible person mandatory signature

The City of York Council will administer the ECO4 Flex scheme according to the Electricity and Gas (Energy Company Obligation) Order 2022 (ECO4 Order).

The Council will administer Great British Insulation Scheme Flex according to the Electricity and Gas (Energy Company Obligation) Order 2023 (ECO4A Order).

The CEO/ dedicated responsible person of the Council will oversee the process of identifying eligible households under ECO Flex and Great British Insulation Scheme Flex. The Council will notify Ofgem of households that declarations have been issued for via the declaration notification template.

All personal data collected or processed by City of York Council for the purposes of ECO4 Flex or Great British Insulation Scheme Flex will be processed and stored in accordance with the Council's obligations under UK GDPR and the Data Protection Act 2018, the Council's data protection policy, the Information Commissioner's Office Data Sharing Code and other guidance, and Department for Energy Security and Net Zero guidance.

Signature: XXXXXX

Name: XXXX XXXX

Job Title: CEO/ dedicated responsible person **[Amend as appropriate]**

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**City of York Council
Equalities Impact Assessment**

Who is submitting the proposal?

Directorate:	Housing and Communities		
Service Area:	Housing Services		
Name of the proposal:	Energy Company Obligation Wave 4 (ECO4) and Great British Insulation Scheme (GBIS) LA Flex Arrangement		
Lead officer:	Pauline Stuchfield		
Date assessment completed:	05/07/2024		
Names of those who contributed to the assessment:			
Name	Job title	Organisation	Area of expertise
Jennifer Linsley	Home Energy Efficiency Programme Manager	City of York Council	Domestic Energy Efficiency Retrofit
Anthony Dean	Healthy and Sustainable Homes Manager	City of York Council	Housing

Step 1 – Aims and intended outcomes

1.1	<p>What is the purpose of the proposal? Please explain your proposal in Plain English avoiding acronyms and jargon.</p>
	<p>The joining of the Energy Company Obligation, Wave 4 and Great British Insulation, Local Authority Flex scheme and a free partnership with application management company, Agility Eco, to widen eligibility criteria to vulnerable groups that cannot currently access the Energy Company Obligation and Great British Insulation Schemes.</p>
1.2	<p>Are there any external considerations? (Legislation/government directive/codes of practice etc.)</p>
	<p>Yes – The City of York Council has set a net zero target of 2030 for York. The City’s housing stock contributes around a third of the city’s carbon emissions. By opening-up ECO4 and GBIS schemes to a wider proportion of residents within York, not only will CYC be assisting customers to lower their energy bills and increase the comfort levels of their homes. The LA Flex arrangement will also facilitate the lowering of carbon emissions from the properties of successful applicants.</p>
1.3	<p>Who are the stakeholders and what are their interests?</p>
	<p>The key stakeholders are Owner-Occupiers in York that fit one of the four LA Flex routes for eligibility – those on low income, and those with medical conditions that make them more vulnerable to cold, extreme heat and dampness.</p> <p>Their interests are to reside in properties that are healthy, less expensive to run and that emit less carbon.</p>

1.4	What results/outcomes do we want to achieve and for whom?
	<p>It is Council policy to invest in decarbonisation. In 2019 City of York Council announced a Climate Emergency and have since set an ambition for York to be a net-zero carbon city by 2030. This proposal and the actions that arise from it, will help to achieve the following outcome of the Council Plan 2023 to 2027, One City for All:</p> <ol style="list-style-type: none"> 1. Sustainability: Cutting carbon, enhancing the environment for our future. York will be carbon neutral and contribute to the regional ambition to be carbon negative, with iconic green spaces to enjoy today and the environment protected for future generations to enjoy. <p>The Plan sets the following Objectives that are relevant to this proposal:</p> <ol style="list-style-type: none"> 1. Work with York’s Climate Commission and partners to deliver the Climate Change Strategy 2022-2032 2. Improve the Physical Environment 3. Increase Sources of Renewable Energy <p>These objectives are particularly important to this proposal, which seeks to ensure a reduction in carbon and an increase in renewable energy across the city.</p> <p>Key Measures of Achievement will be:</p> <ul style="list-style-type: none"> • Carbon emissions across the city reduced (kilotonnes of carbon dioxide equivalent) – (Calendar year) <p>In addition, to the above, this proposal and the actions that arise from it, will help to achieve the following objectives of the York Climate Change Strategy 2022 to 2032:</p> <ol style="list-style-type: none"> 1. Improve energy efficiency in existing buildings,

2. Move away from gas heat systems,
3. Switch to energy efficient appliances and green energy tariffs,
4. Make our buildings climate resilient.

Step 2 – Gathering the information and feedback

2.1	What sources of data, evidence and consultation feedback do we have to help us understand the impact of the proposal on equality rights and human rights?	
Source of data/supporting evidence	Reason for using	
Data Set 1: Energy Performance Certificates (EPC) Opendata	Domestic Energy Performance Certificates record the number of carbon emissions a property emits based on its energy efficiency. The aim is for all EPC scores in York to reach a C, indicating their efficiency. Currently the City-wide average is a D with a number of older and traditional properties rating E-G.	
Data Set 2: Indices of Multiple Deprivation (IMD)	The national Indices of Multiple Deprivation depict several areas of York that are classed as low-income.	
Data set 3: BRE Modelling	BRE Modelling software, that is used by the Housing Strategy Team, has cross- referenced both the IMD and EPC Opendata sets, finding that of the 63,053 households estimated to be in EPC Band D or below, 16.9% are estimated to also be low-income households.	
OFGEM ECO4 LA Flex Guidance	Detailing the scheme eligibility routes and the LA Flex scheme parameters which are defined and set by OFGEM and Central Government	

Step 3 – Gaps in data and knowledge

3.1	What are the main gaps in information and understanding of the impact of your proposal? Please indicate how any gaps will be dealt with.	
Gaps in data or knowledge		Action to deal with this
Although a defined a scheme, the amount of take-up of by customers, and therefore its effectiveness, is unknown.		Barriers to up-take will be identified and steps made to overcome these barriers, within prescribed scheme parameters.
Lack of control over quality of works undertaken by installers may mean that we over-estimate the amount of money saved by residents on their bills and the number of carbon emissions reduced.		ECO4 and GBIS guidance specifies that only Trustmark-registered installers can gain access to ECO/ GBIS funding from participating energy companies. As such, this should ensure the quality and compliance of all installs with national BSI standards.
Lack of control of subsidy amounts offered by installers may mean that we are unable to accurately quantify bill savings against payback periods.		Cost caps on each scheme were introduced by OFGEM in 2023, ensuring that Installers do not overcharge customers and instead offer agreed, subsidised rates on measures. Using these cost caps, we should be able to quantify savings using the top figures set by OFGEM.

Step 4 – Analysing the impacts or effects.

4.1	Please consider what the evidence tells you about the likely impact (positive or negative) on people sharing a protected characteristic, i.e. how significant could the impacts be if we did not make any adjustments?
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Equality Groups and Human Rights.	Key Findings/Impacts	Positive (+) Negative (-) Neutral (0)	High (H) Medium (M) Low (L)
Age	<p>Please note, throughout, that the criterion for the scheme is nationally determined and not subject to change by the Local Authority.</p> <p>The proposed LA Flex arrangement is not anticipated to have any adverse impact on specific age groups. It is believed that the project will instead have a positive impact, as the scheme will be available to all age groups that reside in owner-occupied households considered low-income or containing householders with disabilities exacerbated by cold or damp housing conditions. Age is not a barrier to benefiting from the proposed LA Flex arrangement.</p>	Neutral	Medium
Disability	<p>Owner-Occupiers, that reside in York, whose disabilities may be exacerbated by cold or damp housing conditions, are a key stakeholder of the proposed LA Flex arrangement. The proposal seeks to ensure that ECO4 and GBIS application eligibility is extended to this demographic, by accepting referrals from GPs or care-boards as evidence of risk to health.</p> <p>The proposed LA Flex arrangement is not anticipated to have any adverse impact on specific disability groups. Though it is important that any communications in relation to the LA Flex arrangement or in the application of the project</p>	Positive	High

	consider the accessibility of the content (language, reading ease, font size etc).		
Gender	The proposed LA Flex arrangement is not anticipated to have any adverse impact on any gender identities. It is believed that the project will instead have a positive impact, as the scheme will be available to all gender identities residing in owner-occupied households considered low-income or containing householders with disabilities exacerbated by cold or damp housing conditions. Gender identification is not a barrier to benefiting from the proposed LA Flex arrangement.	Positive	Low
Gender Reassignment	The proposed LA Flex arrangement is not anticipated to have any adverse impact on any gender identities. It is believed that the project will instead have a positive impact, as the scheme will be available to all gender identities residing in owner-occupied households considered low-income or containing householders with disabilities exacerbated by cold or damp housing conditions. Gender identification is not a barrier to benefiting from the proposed LA Flex arrangement.	Neutral	Low
Marriage and civil partnership	The proposed LA Flex arrangement is not anticipated to have any adverse impact on any persons, married or otherwise. It is believed that the project will instead have a positive impact, as the scheme will be available to all owner-occupied households considered low-income or containing householders with disabilities exacerbated by cold or damp housing conditions. Marital status is not a barrier to benefiting from the proposed LA Flex arrangement.	Neutral	Low

Pregnancy and maternity	The proposed LA Flex arrangement is not anticipated to have any adverse impact on any pregnant persons or mothers. It is believed that the project will instead have a positive impact, as the scheme will be available to all owner-occupied households considered low-income or containing householders with disabilities exacerbated by cold or damp housing conditions. Neither pregnancy nor maternity are barriers to benefiting from the proposed LA Flex arrangement.	Neutral	Low
Race	The proposed LA Flex arrangement is not anticipated to have any adverse impact on any race. It is believed that the project will instead have a positive impact, as the scheme will be available to all owner-occupied households considered low-income or containing householders with disabilities exacerbated by cold or damp housing conditions. Race is not a barrier to benefiting from the proposed LA Flex arrangement.	Neutral	Low
Religion and belief	The proposed LA Flex arrangement is not anticipated to have any adverse impact on any persons' religion or belief. It is believed that the project will instead have a positive impact, as the scheme will be available to all owner-occupied households considered low-income or containing householders with disabilities exacerbated by cold or damp housing conditions. Neither religion nor belief are barriers to benefiting from the proposed LA Flex arrangement.	Neutral	Low
Sexual orientation	The proposed LA Flex arrangement is not anticipated to have any adverse impact on any sexual orientation. It is believed that the project will instead have a positive impact, as the scheme will be available to all owner-occupied	Neutral	Low

	households considered low-income or containing householders with disabilities exacerbated by cold or damp housing conditions. Sexual orientation is not a barrier to benefiting from the proposed LA Flex arrangement.		
Other Socio-economic groups including:	Could other socio-economic groups be affected e.g. carers, ex-offenders, low incomes?		
Carer	The proposed LA Flex arrangement is not anticipated to have any adverse impact on any Carers. It is believed that the project will instead have a positive impact, as the scheme will be available to all owner-occupied households considered low-income or containing householders with disabilities exacerbated by cold or damp housing conditions. Caring responsibilities are not a barrier to benefiting from the proposed LA Flex arrangement.	Neutral	Low
Low income groups	Low-income groups are a key stakeholder of the proposed scheme. The LA Flex arrangement seeks to ensure that all low-income groups are given access to ECO4 and GBIS funding and installation opportunities.	Positive	High
Veterans, Armed Forces Community	The proposed LA Flex arrangement is not anticipated to have any adverse impact on any veterans or members of the Armed Forces community. It is believed that the project will instead have a positive impact, as the scheme will be available to all owner-occupied households considered low-income or containing householders with disabilities exacerbated by cold or damp housing conditions. No occupation, nor former occupation, presents a barrier to benefiting from the proposed LA Flex arrangement.	Neutral	Low

Impact on human rights:			
Human Rights Impact	The plan will ensure that York residents can enjoy a sustainable, affordable, and warm, good quality home.	Positive	High

Step 5 - Mitigating adverse impacts and maximising positive impacts

5.1	Based on your findings, explain ways you plan to mitigate any unlawful prohibited conduct or unwanted adverse impact. Where positive impacts have been identified, what is being done to optimise opportunities to advance equality or foster good relations?
<p>We do not identify any adverse impacts of the proposal. However, there is the potential for negative impacts associated with poor installation or workmanship of retrofit measures provided by installers on the ECO4 or GBIS schemes. This will be mitigated by Agility Eco and the Home Energy Efficiency Programme Manager when reviewing installs, by ensuring that completed works are compliant with PAS2030/2035 standards, which are the national BSI standard for the installation of retrofit measures.</p> <p>Positive Impacts</p> <ol style="list-style-type: none"> 1. Improvement of the energy efficiency of resident's homes 2. Decrease in City-wide carbon emissions. 3. Increase in health/ decrease in hospital admissions due to excess cold. <p>These positive impacts will be maximised by installers who will undertake their own marketing strategies to engage as many York residents as possible, in order to increase ECO4 and GBIS up-take by residents that are eligible under the LA Flex criterion. The realisation of these impacts/ benefits will be monitored monthly by the Home Energy Efficiency Programme Manager.</p>	

Step 6 – Recommendations and conclusions of the assessment

<p>6.1</p>	<p>Having considered the potential or actual impacts you should be in a position to make an informed judgement on what should be done. In all cases, document your reasoning that justifies your decision. There are four main options you can take:</p>
<p>- No major change to the proposal – the EIA demonstrates the proposal is robust. There is no potential for unlawful discrimination or adverse impact and you have taken all opportunities to advance equality and foster good relations, subject to continuing monitor and review.</p>	
<p>Option selected</p>	<p>Conclusions/justification</p>
<p>No Major Change to the Proposal</p>	<p>The EIA demonstrates the proposal is robust. There is no potential for unlawful discrimination or adverse impact, and we have taken all opportunities to advance equality and foster good relations.</p> <p>The current ECO4 and GBIS schemes are only open to owner-occupiers that are currently in receipt of means-tested income benefits. The LA Flex parameters broaden the reach of these schemes to achieve the maximum possible benefit for York residents. These parameters have been set by Central Government, with the intended purpose of assisting those that are on low income or have medically assessed, qualifying disabilities, irrespective of any other protected characteristics.</p> <p>We commit to continuing to monitor and review the LA Flex arrangement and its impact.</p>

Step 7 – Summary of agreed actions resulting from the assessment

7.1 What action, by whom, will be undertaken as a result of the impact assessment.			
Impact/issue	Action to be taken	Person responsible	Timescale
Modify the Plan to take account of changing needs and legislation	Review the impact of the Plan	Home Energy Efficiency Programme Manager	To be reviewed in March 2025.

Step 8 - Monitor, review and improve

8. 1	How will the impact of your proposal be monitored and improved upon going forward?
	<p>The delivery of this proposal will be principally overseen by the Home Energy Efficiency Programme Manager, although the purpose of the partnership is to delegate the majority of responsibility for the implementation oversight, to Agility Eco. Regular progress meetings between the Home Energy Efficiency Manager and Agility Eco will be scheduled, at which, the impact of the arrangement on protected characteristics and other marginalised groups will be continually reviewed.</p> <p>Regular one-to-ones between the Home Energy Efficiency Programme Manager and Healthy and Sustainable Homes Manger, will help ensure that the scheme remains on track, with oversight and scrutiny provided by the Home Energy Retrofit Board which meets monthly.</p> <p>Quarterly reports to the Home Energy Retrofit Board will be reported to the York Climate Commission, via a series of KPIs, and to Executive Members.</p>