



Committee and date

Cabinet:

8th June 2016

Item

Public

Community Infrastructure Levy 123 List 2016 Update

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1. Summary

The purpose of this report is to notify Cabinet of the updated annual infrastructure priorities required to support new development within Shropshire. It seeks approval for the updated CIL Regulation 123 List (Appendix A) and LDF Implementation Plan (Appendix B) and makes recommendations on the most appropriate delivery mechanisms for new infrastructure.

The publication of a CIL Regulation 123 List is one of the legislative requirements governing the use of developer contributions. The Council, as Local Planning Authority, is not able to negotiate a S106 obligation for anything included on the annual CIL 123 list but items not included within the CIL 123 List may still be delivered through CIL funds. It is, therefore, important that the CIL 123 List does not limit the Council's ability to negotiate a S106 obligation where directly related and specific infrastructure needs are identified for a development scheme.

This report recognises that the cost of meeting Shropshire's infrastructure needs far exceeds the amount of money available and decisions will therefore need to be made by Shropshire Council on which items of infrastructure will be prioritised for delivery. A key role of the Council for the future will be to manage the relationship between prioritised infrastructure needs and the different mechanisms to achieve delivery, taking into account varied funding criteria and timing of payments.

2. Recommendations

- A. Cabinet agrees to the updated CIL Regulation 123 list and LDF Implementation Plan for 2016/17 (Appendix A&B);

REPORT

3. Risk Assessment and Opportunities Appraisal

Allocation of Community Infrastructure Levy

- 3.1 As a Local Planning Authority, Shropshire Council is responsible for ensuring development is sustainable and a funding shortfall therefore poses a significant risk to the delivery of the development strategy. There are also statutory duties placed on the Council which mean there is a legal duty to provide certain types of infrastructure. For example the provision of sufficient primary and secondary

schools is a requirement under the Education Act, 1996 (Section 14). Without careful consideration and management, the prioritisation of certain items of infrastructure over other items could pose a risk to either the ability to achieve sustainable development or fulfil statutory duties. This risk is even more significant in light of current financial constraints, where both alternative sources of funding for delivery and the sums of money available are restricted

- 3.2 Where there are known competing local priorities, it is proposed that CIL monies are in the first instance focussed on delivering critical infrastructure items (where delivery is not the duty of statutory undertakers, or achieved through on site design or planning obligations) and development related infrastructure required to fulfil the statutory duties of the Council (such as school place provision). This proposal does not seek to alter the established 90/10 (local/strategic) split which ensures that the vast majority of CIL funds are spent in the area where development has taken place. Nor would this change the Neighbourhood Fund element of CIL, which is passed directly to Parish and Town Councils, who remain responsible for ensuring that this is spent appropriately.
- 3.3 There may be some instances where it will be necessary for the Council to prioritise the use of CIL funds for critical infrastructure, or infrastructure required to fulfil statutory duties on the back of new development, which is not recognised by the local community as a priority through their Place Plan. Failure to use CIL income in this way may lead to unacceptable impacts on local facilities and services and potentially perpetuate risks associated with fulfilling the Council's statutory obligations in specific places.
- 3.4 However, in addressing such development pressures, it is important to recognise that other identified infrastructure may need to be reprioritised, resulting in those projects taking longer to deliver or needing alternative funding to support their implementation. Early and continuing dialogue between service managers, local Members and communities will seek to ensure understanding of the infrastructure priorities generated by development and manage expectations in relation to the finite CIL funds.

Packaged approach to delivery

- 3.5 It is recognised that no single delivery mechanism will be sufficient to deliver all the necessary infrastructure to support new development within Shropshire. A packaged approach to funding is therefore being developed which seeks to prioritise needs and coordinate all appropriate delivery mechanisms, of which developer contributions are an integral part. This requires a careful balance between the different developer contributions (onsite design, S106 obligations and CIL) and other funding sources such as the New Homes Bonus and Local Growth Fund.
- 3.6 However, the different legislative requirements surrounding these funding sources could pose a risk to the Council. For example, the Regulations require a clear distinction between how CIL and S106 obligations are used with the Council not able to negotiate a S106 obligation for anything included on the

annual CIL '123' list or pool more than five S106 obligations for the same project or type of infrastructure. The Council must demonstrate compliance with these legislative requirements and is increasingly monitored by the development industry wanting evidence of how their contributions are applied.

- 3.7 To maximise the delivery of sustainable development, the Local Planning Authority should ensure the updated CIL Regulation 123 list remains focused on known priorities that could only be delivered fully or in part by CIL. This provides the flexibility for site specific needs to be negotiated via a S106 obligation, as and when such an infrastructure need is considered to meet the relevant tests, which may only be identified at the point of a planning application. It is also important to note that, conversely, items not included within the CIL Regulation 123 List may still be delivered through CIL funds.
- 3.8 Following the recent adoption of the Site Allocation and Management of Development (SAMDev) Plan, the Council's infrastructure evidence base, within the Place Plans, will be updated with service areas and partners. This will ensure a robust and up to date picture of the infrastructure needs arising from particular development sites alongside the cumulative impacts of the overall levels and locations of proposed growth. This detailed evidence base will assist in informing future S106 obligations and will ensure the infrastructure items necessary to make a particular development acceptable are delivered firstly through this route, thereby enabling CIL to be targeted at cumulative infrastructure needs.

Delivering our infrastructure priorities

- 3.9 It is proposed that, through a corporately coordinated approach, opportunities are sought to assist the funding of feasibility and project planning work associated with the Council's prioritised infrastructure schemes. In particular, the administrative fees associated with CIL, not only offer the opportunity to adequately resource the monitoring and collection of moneys but assist in managing the delivery of those infrastructure items for which the developer contributions have been collected.
- 3.10 New governance arrangements are being developed as part of work through the Economic Growth Redesign and provide the opportunity to manage such resources more centrally, focused around delivering the agreed infrastructure priorities for the Council's growth strategy. It is therefore proposed that administrative fees from CIL, are managed through these new governance arrangements, whilst ensuring the ongoing maintenance of adequate resourcing for the collection and monitoring process, as per the regulatory requirements.

Working with communities

- 3.11 Shropshire's localised planning approach means that a positive link has been made between development and its contribution to local community needs. The annual Place Plan review places significant onus on Town and Parish Councils, with their Local Member, to identify and prioritise their communities' infrastructure requirements with the aim of establishing some local 'ownership' over planned development. However, given significant financial constraints, the

Place Plans are increasingly vital in managing the risks associated with local expectations around infrastructure delivery and the use of CIL funds. It is therefore recommended that the Place Plan Redesign, underway this year, focuses on providing greater transparency on the priorities and responsibilities for delivery. The Plans need to make clear which infrastructure items the Council will either enable or deliver, as opposed to those partners, including the local community, will have responsibility to deliver, for example through the targeted use of Neighbourhood Funds.

4.0 Financial Implications

- 4.1 As the CIL Charging Authority, Shropshire Council is responsible for applying CIL to infrastructure to support the development of the area. As such, Shropshire Council is required to manage CIL finances, in accordance with the legislative requirements, including accounting and auditing their use.
- 4.3 In terms of CIL, the amount collected from the date of introduction to the end of the last financial year (1 January 2012- 31 March 2016) is £6,326,884, which is split accordingly between the following funding pots:
- Administration fee (5% of total) - £316,344
 - Neighbourhood Fund (15% of total or 25% where have adopted Neighbourhood Plan) - £844,462
 - CIL Strategic (10% of remaining) - £516,607
 - CIL Local (90% of remaining) - £4,649,471
- 4.2 Whilst the Place Plans provide information on the infrastructure priorities to which these funds will be applied, it is recognised that further feasibility and planning work is needed in order to fully develop projects which address the identified needs. This project planning work will develop more accurate costings for project delivery and will therefore identify the additional CIL funding which needs to be accrued or the likelihood of a significant funding gap which in turn will inform the coordination of funds.
- 4.3 CIL payments to date have therefore focused on the Neighbourhood Fund, which Shropshire Council has committed to providing annually, alongside the annual precept. The Neighbourhood Fund will grow in line with the increase in CIL revenue as it is directly linked to the overall amount raised. The breakdown of Neighbourhood Fund (for the period 1 Jan 2015 to 31 December 2015) allocated to Parish and Town Councils is set out in Appendix C.

5. Background

- 5.1 The publication of the CIL Regulation 123 List (Appendix A) is one of the legislative requirements governing the use of developer contributions, as a means of identifying those infrastructure needs which will be delivered through the use of CIL. However, it should be noted that the inclusion of items on the CIL list restricts the ability for the Local Planning Authority to negotiate a S106

obligation where it is considered to be appropriate and meets with the relevant tests.

- 5.2 The Council's Place Plans and LDF Implementation Plan (Appendix B) provide evidence on the known strategic and local infrastructure priorities and support the allocation and spend of CIL revenue. In this way the documents inform the content of the CIL Regulation 123 List, which identifies those infrastructure projects that will be funded through use of CIL.
- 5.3 The 18 Place Plans and the LDF Implementation Plan set out and prioritise the infrastructure needs of Shropshire's market towns, key centres, Community Hubs and Clusters, and villages in the 'countryside'. They are central to the delivery of sustainable places and to the settlement strategies set out within the SAMDev Plan, providing local evidence to support investment activities, including the allocation and spend of CIL revenue.
- 5.4 The Place Plans provide a place based list of all known infrastructure priorities alongside the recommended delivery mechanism for each identified item, taking account of legislative requirements and associated funding criteria. As 'live' documents there is an established annual review process for the Place Plans, which culminates in the publication of updated Plans and the recommendations for the prioritised use of developer contributions set out within this paper.
- 5.5 Whilst the principle behind the Place Plans remains essential to managing sustainable growth within Shropshire, work has commenced on a redesign to improve transparency and provide a more inclusive and efficient review process with our partners. The annual review process for the Place Plans has therefore paused this year, to allow for collaborative working on the Place Plan redesign. Nevertheless, relationships are ongoing with local communities and local infrastructure and service providers such as utility companies to maintain a robust evidence base of infrastructure needs and to assist in the coordination of investment around prioritised requirements.
- 5.6 As specific infrastructure requirements are often not known until the point of a planning application, it is important that the Local Planning Authority is able to negotiate a S106 where site specific infrastructure needs are identified. It is also important to note that items not included within the CIL Regulation 123 List may still be delivered through CIL funds. It is therefore proposed that the annual CIL list for 2016/17 remains focused on those strategic infrastructure projects which require long term commitment and those local projects considered to be deliverable through the use of CIL rather than S106 obligations.
- 5.7 Whilst the Place Plan review and annual CIL List is aimed at gaining widespread consensus on the use of CIL monies it is recognised that sometimes decisions will be required to determine the spend of CIL monies between competing priorities. It is therefore proposed that preference is given to funding the infrastructure projects outlined in the Place Plans as being

required to fulfil the statutory functions of the Council, and the delivery of critical infrastructure (where delivery is not the duty of statutory undertakers or planning obligations) ahead of using CIL monies on competing community priorities. This would not apply to the Neighbourhood Fund element. The risks and opportunities associated with this are set out in section 3 above.

- 5.8 To assist in maximising infrastructure delivery, a packaged approach to funding is being developed by the Council’s Economic Growth Team. As part of this approach, the separate Cabinet Paper on CIL Payment in-kind (08.06.16) provides an additional mechanism to enable infrastructure delivery. However, implementation of this new policy statement requires the Council to have a flexible approach to the CIL123 list, whereby amendments can be made to the list to take advantage of opportunities for infrastructure payments in-kind, at the Council’s discretion. Delegated authority is therefore already in place to enable the Director of Commissioning to oversee the operation of CIL on a day to day basis. This includes making updates to the CIL list outside of this annual Cabinet paper. Any updated CIL list will be made publicly available on the Council’s website in accordance with the CIL Regulations.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

- CIL Payment in-kind Policy Statement- Cabinet, 8th June 2016
- Community Infrastructure Levy Charging Schedule – Council, 24th November 2011
- Place Plan Review and Community Infrastructure Levy 123 List update – Cabinet, 29th July 2015
- Community infrastructure Levy (CIL) Governance Arrangements for Spend - Portfolio Holder Decision, 14th February 2014
- Delivering Place Plans – Prioritising Outcomes - Cabinet, 30 July 2014

Cabinet Member (Portfolio Holder)

Councillor Mal Price, Portfolio Holder for Planning, Housing and Regulatory Services and Environment

Councillor Steve Charmley, Deputy Leader, Portfolio Holder for Business and Economy

Local Member

All

Appendices

- A. Annual CIL ‘123’ list (2016/17)
- B. LDF Implementation Plan 2016
- C. Neighbourhood Fund allocated to Parish/Town Councils April 2016