



Shropshire Council  
Legal and Democratic Services  
Shirehall  
Abbey Foregate  
Shrewsbury  
SY2 6ND

Date: Tuesday, 6 August 2019

**Committee:**

**Cabinet**

**Date:** Wednesday, 14 August 2019

**Time:** 11.00 am

**Venue:** Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury,  
Shropshire, SY2 6ND

You are requested to attend the above meeting.

The Agenda is attached

Claire Porter

Head of Legal and Democratic Services (Monitoring Officer)

**Members of Cabinet**

Peter Nutting (Leader)

Steve Charmley (Deputy Leader)

Gwilym Butler

Dean Carroll

Lee Chapman

Steve Davenport

Robert Macey

David Minnery

Lezley Picton

Ed Potter

Your Committee Officer is:

**Amanda Holyoak** Senior Democratic Services Officer

Tel: 01743 257714

Email: [amanda.holyoak@shropshire.gov.uk](mailto:amanda.holyoak@shropshire.gov.uk)

# **AGENDA**

**1 Apologies for Absence**

**2 Disclosable Pecuniary Interests**

**3 Minutes (Pages 1 - 6)**

To approve as a correct record and sign the minutes of the Cabinet meeting held on 3 July 2019, attached

**4 Public Question Time**

To receive any questions of which members of the public, notice of which has been given in accordance with Procedure Rule 14. Deadline for notification is no later than 24 hours prior to the commencement of the meeting.

**5 Member Question Time**

To receive any questions of which members of the Council have given due notice, the deadline for notification for this meeting is 5.00 pm on Friday 9 August 2019.

**6 Scrutiny Items (Pages 7 - 20)**

Report from the Performance Management Scrutiny Committee on Community Infrastructure Levy is attached.

**7 Community Infrastructure Levy - Update (Pages 21 - 28)**

Lead Member - Cllr Gwilym Butler – Portfolio Holder for Communities, Place Planning and Regulatory Services

Report of Director of Place, attached

Contact: Mark Barrow, 01743 258916

**8 Delegation of Powers to Ellesmere Town Council in respect of making a declaration of Birch Road Recreation Area and Pond, Ellesmere as a Local Nature Reserve (Pages 29 - 32)**

Lead Member – Lezley Picton – Portfolio Holder for Culture, Leisure, Waste and Communications

Report of Director of Place, attached

Contact: Mark Barrow, 01743 258916

**9 Exclusion of the Press and Public**

To resolve that, in accordance with the provision of Schedule 12A to the Local Government Act 1972 and Paragraph 10.4 (3) of the Council's Access to Information Rules, the public and press be excluded from the meeting during consideration of the following items

**10      Exempt Minutes (Pages 33 - 38)**

To approve as a correct record and sign the minutes of the Cabinet meetings held on 20 March 2019, 12 June 2019 and 3 July 2019, attached

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## Committee and Date

Cabinet

14 August 2019

## **CABINET**

**Minutes of the meeting held on 3 July 2019**

**In the Shrewsbury Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND**

**11.00 am - 12.05 pm**

**Responsible Officer:** Amanda Holyoak

Email: amanda.holyoak@shropshire.gov.uk Tel: 01743 257714

## **Present**

Councillors Steve Charmley (Deputy Leader), Gwilym Butler, Dean Carroll, Lee Chapman, Robert Macey, David Minnery, Lezley Picton and Ed Potter

## **13 Apologies for Absence**

Apologies for absence were received from Councillors Steve Davenport and Peter Nutting.

## **14 Disclosable Pecuniary Interests**

None were declared.

## **15 Minutes**

**RESOLVED:** That the minutes of the meeting held on 12 June 2019 be approved as a correct record and signed by the Deputy Leader.

## **16 Public Question Time**

Kevin Piggott and David Kearns had submitted questions regarding a lamppost at the end of Underdale Road, Shrewsbury.

Elizabeth Knowles, Sharuff Morsa, Adele Mills and Claire Kirby had submitted questions in relation to Climate Change.

Peter Phillips had submitted a question in relation to the status of disabled parking spaces in Bishops Castle.

A full copy of the questions and responses provided by Portfolio Holders are attached to the signed minutes and available on the Cabinet webpage.

## **17 Member Question Time**

There were no questions from Members.

## 18 Scrutiny Items

The Chair of the Performance Management Scrutiny Committee presented a report setting out a number of amendments to the Parking Strategy as recommended by the Committee.

### **RESOLVED:**

To accept the recommendations of the Performance Management Scrutiny Committee regarding the six-month review of the Parking Strategy and request a report be brought back to Cabinet to consider the implications and any actions required on the implementation of these recommendations.

## 19 West Midlands ADASS Accountable Body Arrangements with Shropshire Council

The Portfolio Holder for Adult Social Services and Climate Change presented a report of the Director of Adult Services and Director of Finance, Governance and Assurance with regard to . Cabinet accepting accountable body status for West Midlands Association of Directors of Adult Social Services Care and Health Improvement Programme and the establishment of a Dynamic Purchasing System on its behalf. The Portfolio Holder reported that the Director of Adult Services was the Chairman of the West Midlands Branch and this helped give the Council a strong voice at a national level with regard to fairer funding. In response to a question the Portfolio Holder reported that the Service Level Agreement was being drawn up as fast as was possible.

### **RESOLVED:**

That Cabinet:

- 2.1 Accepts accountable body status for WM-ADASS Care and Health Improvement Programme. The governance of the Programme will be the responsibility of Shropshire Council from 1<sup>st</sup> April 2019 through the Director of Adult Services and Housing and WM-ADASS Executive Board.
- 2.2 Approves the establishment of a Dynamic Purchasing System on behalf of WM-ADASS to enable the programme to access subject matter specialists to support the delivery of the programme.

## 20 STAR Housing Tenancy Agreement Consultation

The Portfolio Holder for Housing and Strategic Planning presented a report of the Director of Place setting out the outcomes of a consultation carried out by Shropshire Towns and Rural Housing on behalf of the Council with its tenants. This related to a proposal to vary tenancy agreements by introducing an updated and amended version. The new agreement would have updated clauses which would assist in dealing with tenancy management issues not covered by the old agreements. The report summarised the

nature of the feedback received and explained that no material changes would be required to the proposed agreement as a result of the feedback.

In response to a question, it was confirmed that any issues raised on reply slips in relation to calls for service, such as requesting repairs, had been individually dealt with and responded to by Shropshire Towns and Rural Housing as part of their management function.

**RESOLVED:**

- 2.1 That Cabinet approves the draft tenancy agreement.
- 2.2. That Cabinet authorises Shropshire Towns & Rural Housing, in compliance with Section 103 of the Housing Act 1985, to issue on each tenant, a Preliminary Notice of Intention followed by a Notice of Variation to formally vary the Shropshire Council tenancy agreements, subject to the following amendment which will be highlighted in the notice sent to all tenants.
  - i) Section 14 of the agreement. Where it refers to the Data Protection Act 1998 to be updated to take-into-account the introduction of the General Data Protection Regulations (GDPR) in 2018.

**21 Treasury Management Update Quarter 4 2018/19**

The Portfolio Holder for Finance and Corporate Support presented the report of the Director of Finance, Governance and Assurance, setting out the treasury management activities of the Council in the last quarter. He reported that the Investment Team had outperformed expectations by 0.33% and had achieved a return of 0.90% on the Council's Cash balances.

**RESOLVED:**

to accept the position as set out in the report.

**22 Quarter 4 2018/19 Corporate Performance Report**

The Portfolio Holder for Organisational Transformation and Digital Infrastructure set out the report of the Intelligence and Insight Manager presenting the Council's Performance against its key outcomes for Quarter 4 2018/19. He thanked library staff for their efforts which had led to an increase in library visits and use of the cloud library and congratulated Adult Social Care colleagues for the sustained improvement in transfer from acute hospitals and reduction in delayed transfers of care.

He explained that it was anticipated that the number of road casualties would decline in the next quarter as it was likely that the recent increase was due to a change in recording methods.

He also drew attention to the challenge to budgets particularly in children's social care.

In response to questions and suggestions, the Portfolio Holder said he would look at whether it was possible to improve clarity on the Performance Portal by making it clear whether high or low figures represented good performance. He also reported that some metrics were only made available to the Council annually, and clarity was needed around which ones the Council had a real opportunity to influence.

It was anticipated that the number of road casualties would decline in the next quarter as it was likely that the increase shown was due to a change in recording methods.

In response to a question about Performance Indicators related to Climate Change, the Portfolio Holder for Climate Change encouraged any member who was interested to attend the next meeting of the Climate Change Task and Finish Group which was looking at development of metrics for this area.

**RESOLVED:**

To consider the key underlying and emerging issues in the report.

To review the performance portal and identify any performance areas to consider in greater detail or refer to the appropriate Overview and Scrutiny Committee.

**23 Private Sector Housing Enforcement Policy**

The Portfolio Holder for Housing and Strategic Planning presented a report setting out consultation feedback and recommending the introduction of a Private Rented Sector Housing Enforcement Policy'. In response to a question about the low response rate to the consultation, it was confirmed that the consultation had featured on the Consultation Portal on the Council's website and that the draft policy had been presented to the Shropshire Branch of the National Landlords Association who had provided verbal feedback. Low feedback was most likely due to general agreement with what was being proposed which would protect good landlords. Issues around fuel poverty could be addressed through the housing health and safety scheme.

**RESOLVED:**

That Cabinet approves the introduction of the "Private Rented Sector Housing Enforcement Policy".

**24 Exclusion of the Press and Public**

**RESOLVED:**

That in accordance with the provisions of Schedule 12A of the Local Government Act 1972 and Paragraph 10.4 (3) of the Council's Access to Information Rules, the public and press be excluded from the meeting for the following items

## **25 Council Housing Stock Options Review**

The Portfolio Holder for Housing and Strategic Planning set out the report of the Director of Place on the Council Housing Stock Options Review.

### **RESOLVED:**

To agree the recommendations as set out in the report

## **26 Shrewsbury Business Park Investment**

The Deputy Leader and Portfolio Holder for Assets, Economic Growth and Regeneration set out the report of the Director of Place on Shrewsbury Business Park Investment.

### **RESOLVED:**

To approve the recommendations set out in the report.

Signed ..... (Chairman)

Date: .....

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Committee and Date	Item
Cabinet	
14 August 2019	

## Report of the Performance Management Scrutiny Committee

### Responsible Officer

Danial Webb  
overview and scrutiny officer  
[daniel.webb@shropshire.gov.uk](mailto:daniel.webb@shropshire.gov.uk)

### 1.0 Summary

- 1.1 This report summarises the findings of the Performance Management Scrutiny Committee's Community Infrastructure Levy task and finish group.

### 2.0 Recommendations

- 2.1 The Performance Management Scrutiny Committee recommends that Shropshire Council should:
  - keep the proportion of CIL funding allocated to the Neighbourhood Fund to 15% of the total, or 25% where there is a Neighbourhood Plan in place
  - include the existing members of CIL task and finish group in future meetings of the current informal officer and member CIL discussion groups and
  - as the charging authority, identify priority infrastructure projects as set out in the place plans by September 2019 and seek to commission delivery in the most efficient way.

### 3.0 Opportunities and risks

- 3.1 Throughout the review, the members of the group were keen to stress the importance of linking spending of CIL funds in the local area where the levy income was generated, and to recognise the success of the current scheme in achieving that. This was important because many local areas had agreed development on the understanding that they would receive the majority of income to spend in their local area. Maintaining the levy income apportioned to CIL Local projects therefore protects current levels of support for housing and commercial development in Shropshire.
- 3.2 The group recognised that a risk of the current CIL funding rules was it limited the levy's capacity to fund strategic infrastructure priorities that would support development elsewhere from where it was generated. The group believes that its recommendation that it participates in future meetings of the current informal officer and member CIL discussion group will help to provide broader

understanding and support for strategic priorities as determined by Shropshire's CIL priority list.

- 3.3 The group also noted the risk that existing rules meant that CIL was unable to fund many of the highways' developments that had been proposed by town and parish councils. A lack of clarity and understanding around what is permitted could continue to frustrate the CIL funding process and lead to a lack of support among town and parish councils.

#### **4.0 Financial assessment**

- 4.1 Developer contributions (Section 106 and CIL) provide a mechanism for Shropshire Council to fund infrastructure in support of new development. The New Homes Bonus (NHB) is a grant paid by central government to local councils to reflect and incentivise housing growth in their areas.
- 4.2 Whilst the task and finish group was established to look at Section 106, CIL and NHB, the focus of the Group's attention has been CIL. In particular, the group has looked at how CIL can be used most productively to support the demands on infrastructure associated with new development.
- 4.3 Evidence presented to the task and finish group over the course of several meetings since June 2017 clearly indicates there are insufficient CIL funds to support all identified local and strategic priorities for the county. These priorities are set out through the Local Plan and the place plans, and include education provision, highway improvement schemes, and additional utility needs, alongside other infrastructure required as a result of new development.
- 4.4 The group also agreed the current arrangements for spending CIL funds needed to change in light of difficulties experienced in allocating CIL funds to projects, due to ineligibility of those projects as per the UK government's CIL regulations. This has resulted in minimal CIL local spend to date.

#### **5.0 Background**

- 5.1 During consideration of the Draft Corporate Plan 2016/17 to 2018/19 the Financial Strategy task and finish group took particular interest in the importance of ensuring Shropshire has a prosperous economy. The current and potential future use of 'developer contributions' (flowing from new housing developments such as Section 106, Community Infrastructure Levy (CIL), and New Homes Bonus) was an area of focus, which was subsequently agreed by the Performance Management Scrutiny Committee to be its own Task and Finish Group.
- 5.2 The Task and Finish Group met a number of times over a two-year period. In September 2017 it made a series of interim recommendations, including that:

- the existing developer contributions SPD and the type and affordability of housing SPD be reviewed, seeking to incentivise individual landowners and parishes to bring forward land for affordable housing use
- increased effort be directed into promoting community-led affordable housing schemes;
- the Local Plan Member Group be recommended to consider the need to review existing countryside planning policies (CS5 / CS11 / MD7a & b) in relation to the delivery of affordable housing as part of the current Local Plan review
- arrangements for allocating CIL revenue should be clarified to ensure that available funding is used to support the highest investment priorities.
- the portfolio holder for planning should be asked to agree any spending decisions made by the officer level Internal Infrastructure Group and
- a letter be sent to all Shropshire Council councillors and all parish and town councils clarifying who the responsible authorities are for various parts of the CIL revenue, and Shropshire Council's expectations on how the CIL revenue will be prioritised.

5.3 This report is focussed on the work the task and finish group has carried out since the interim report and relates only to use of CIL funds. The recommendations of this report were agreed at a task and finish group meeting on 05 July 2019. They were then agreed by the Performance Management Scrutiny Committee on 24 July 2019.

5.5 The group's report is attached as **appendix 1**.

<b>Background Papers</b>
Community Infrastructure Levy 123 List
<b>Cabinet Member (Portfolio Holder)</b>
The Portfolio Holder for Housing and Strategic Planning
<b>Local Member</b>
All
<b>Appendices</b>
Community Infrastructure Levy task and finish group report



**Shropshire  
Council**

## **Communities Overview Committee**

### **Report of the Community Infrastructure Levy task and finish group**

July 2019

## **Acknowledgments**

The group would like to thank the officers of Shropshire Council, for their considerable support to the group.

## **Members of the Task and Finish Group**

- Cllr Claire Wild (chair)
- Cllr Ted Clarke
- Cllr Roger Evans
- Cllr Cecilia Motley
- Cllr Dave Tremellen
- Cllr David Turner

## **Introduction**

### ***How developers fund investment in infrastructure***

Planning legislation provides a number of ways for local authorities to secure contributions from developers to fund investments in community infrastructure that in some way mitigate the impact of their development.

A **Section 106 agreement** is a legal agreement between an applicant seeking planning permission and the local planning authority, which is used to mitigate the impact of development on the local community and infrastructure. For example, a new house will mean another car(s) on the roads and perhaps an additional child will attend a nearby school, putting a little more strain on local services.

As such, Section 106 agreements often require a financial contribution, made before the project starts. Unlike the Community Infrastructure Levy, which is tariff-based, a Section 106 agreement is charged based on the specific needs of the local community arising out that particular development, meaning some councils use the number of bedrooms in the new home to decide what this charge should be. For example, a council might ask for a contribution to the local school for a new four-bedroom family house in an area with limited school places, but less (if anything) for a studio apartment.

The **Community Infrastructure Levy (CIL)** is a charge on new development to help fund infrastructure across Shropshire. In Shropshire, the CIL applies to all new development that involves:

- the formation of one or more new dwellings, (including holiday lets), either through conversion or new build, regardless of size (unless it is ‘affordable housing’) or
- the establishment of new residential floorspace (including extensions and replacements) of 100sqm or above.

The legislation states that charging authorities must spend the levy on infrastructure needed to support the development of their area, and they will decide what infrastructure is needed. The levy is intended to focus on the provision of new infrastructure and should not be used to remedy pre-existing deficiencies in infrastructure provision unless those deficiencies will be made more severe by new development.

### ***Community Infrastructure Levy in Shropshire***

Shropshire Council was one of the first local authorities in England to decide its scheme to administer its Community Infrastructure Levy (CIL). It took a decision in 2012 to distribute CIL funds in the following way:

- Administrative fee: up to 5% of total
- **Neighbourhood Fund:** 15-25%. The Neighbourhood Fund was introduced on 25 April 2013. It's the proportion of the CIL that is to be provided directly to the local community where a development takes place, through the relevant town or parish council. The government intends the Neighbourhood Fund to encourage communities to accommodate new development and to allow them the ability to address the subsequent impact of new development.

The Neighbourhood Fund represents:

- 25% of the total CIL liability where there is an adopted formal neighbourhood plan or neighbourhood development order.
- 15% of the CIL liability where there is not a neighbourhood plan (capped at £100 per council tax dwelling).

Of the remainder:

- **Strategic Infrastructure Funding:** 10%. This funds strategic infrastructure priorities identified through the Place Plan and the Local Plan process. In locations where the 'Strategic Infrastructure Fund' is not sufficient to deliver necessary strategic infrastructure, the use of the 'Local Infrastructure Fund' to deliver Strategic Infrastructure may be agreed with the relevant Town and Parish Councils
- **Local Infrastructure Funding:** 90%. This delivers local priorities to meet the infrastructure needs in the area where development takes place, as identified by town or parish councils within their place plans

## **Scope and focus of the work**

Throughout its meetings, the group sought to:

- understand the processes, legal factors, and policy parameters related to the how and where monies delivered through Section 106, CIL and NHB can be used
- evaluate the criteria by which funding such as the NHB is awarded and the associated implications for resourcing the activities that generate the NHB (i.e. planning, building control, empty properties, housing, enforcement....)
- learn how Shropshire Council currently uses Section 106, CIL and NHB and the impact that this has had
- confirm how town councils, parish councils and hubs can access the CIL which they are responsible for and what they can use it for.
- collate the lessons learned in Shropshire, having regard to changing legislation and policy on both collection and spend aspirations.

- understand phasing issues arising from development progressing ahead of infrastructure improvements
- scrutinise how Section 106, CIL and NHB will be used in Shropshire to enable or encourage projects or initiatives for economic growth and prosperity
- learn from other places how they have used Section 106, CIL and NHB to enable or encourage projects or initiatives for economic growth and prosperity
- identify where and how opportunities for fund matching might exist and
- make evidence based recommendations on how Section 106, CIL and NHB could be used in Shropshire to enable or encourage projects or initiatives for economic growth and prosperity

## **What has the task and finish group done?**

The group met over the course of a number of meetings, focussing its work on:

- Legislation concerning New Homes Bonus, Section 106 funding and Community Infrastructure Levy
- Legislation concerning the governance of local authorities with regard to planning matters
- How Shropshire Councils town and parish council and place plans are organised and
- Options for amending the proportion of funding allocated to CIL local and strategic funds.

## **Findings**

### **Funding strategic and local projects**

Group members recognised that Shropshire Council's current approach to CIL differs from other CIL charging authority, who generally make no distinction between local and strategic funds. Other councils operate a single CIL fund of remaining funds after the neighbourhood fund and administration fee have been taken into account.

Shropshire Council's current position regarding the use of CIL local funds is also shaped by the last Cabinet decision of 29 June 2015. This agreed that priority be given to using CIL local funds to deliver appropriate critical infrastructure, or infrastructure required in order to fulfil the council's statutory functions. This has been a point of much discussion, particularly with some town and parish representatives.

The group heard that the types of infrastructure the CIL funds can be used for are placed into three categories: Critical, Priority, and Key (soon to be renamed as Priority A, Priority B, and Neighbourhood Projects as part of the Place Plan refresh).

Critical (Priority A) infrastructure is defined in the core strategy as necessary to ensure adequate provision of essential utilities, facilities (such as education places and health provision), water management and safe access, and are therefore higher priority items. Other infrastructure needs will either be defined as Priority (Priority B) or Key (Neighbourhood) based on their importance in supporting the development.

The task and finish group focussed its work on clarifying the practical implications of applying the current approach to using CIL Local funds, and the benefits of looking at alternative options for its use.

Officers prepared five possible options for discussion and consideration by the task and finish group. These are laid out in the table below and overleaf, together with a summary of the task and finish group's feedback.

<b>Option 1 – no change to current policy</b>	Task and Finish Group feedback included: <ul style="list-style-type: none"><li>• Recognition that the current system does not work.</li><li>• Dissatisfaction with the function of the IIG.</li><li>• Dissatisfaction with officer communications around CIL.</li><li>• Do not want to change system for banked CIL – any change to apply from the point of policy revision only.</li><li>• All agreed that Option 1 was not preferred.</li></ul>
<b>Option 2 – no change to current policy; change to data presentation only (by Place Plan area rather than Parish)</b>	Task and Finish Group feedback included: <ul style="list-style-type: none"><li>• Place Plans are not agreed yet so difficult to use for CIL allocation.</li><li>• Need more local level – i.e. parish focussed – information, not less.</li><li>• All agreed Option 2 was not preferred.</li></ul>
<b>Option 3 – increase CIL Strategic allocation and decrease CIL Local allocation</b>	Task and Finish Group feedback included: <ul style="list-style-type: none"><li>• Already a lack of understanding of terms like 'local' and 'strategic' – changes would be confusing</li></ul>

	<ul style="list-style-type: none"> <li>• CIL Local is still seen as belonging to the Parishes, rather than to Shropshire Council.</li> <li>• Amendment should be to a 50 / 50 split.</li> <li>• No clear agreement on Option 3.</li> </ul>
<b>Option 4 – single pot</b>	<p>Task and Finish Group feedback included:</p> <ul style="list-style-type: none"> <li>• Would be interpreted as Shropshire Council taking away 'local' money from the parishes.</li> <li>• Could be a north / central / south split rather than a single pot.</li> <li>• Majority agreed Option 4 was not preferred.</li> </ul>
<b>Option 5 – single pot + Neighbourhood Fund increase</b>	<p>Task and Finish Group feedback included:</p> <ul style="list-style-type: none"> <li>• No clear agreement on Option 5, although there was support for an increase to Neighbourhood Fund allocations.</li> </ul>

There was no consensus from the task and finish group as to which option might be preferred. Members felt that a single pot of CIL funding would weaken the link between housing development and CIL funds being available to spend to support infrastructure in that area. The group felt it was therefore crucial that the local element of CIL was kept in place. The group discussed whether the proportion of funding allocated to local and strategic projects was appropriate, with officers presenting the case to the group that the relatively low proportion allocated to strategic funding could hamper the local authority's ability to put into the place the investment in infrastructure required to support housing growth. Although members had some sympathy with this argument, they felt that the problem lay not with the proportions of CIL funding allocated to local and strategic projects, but a failure to secure agreement with town and parish councils to pool resources to fund strategic projects. Because the group wanted to instead focus on how the local authority decided how to spend CIL income, it agreed to recommend that CIL continue to be spent in the agreed proportions of administration, Neighbourhood Fund, CIL Local and CIL Neighbourhood.

### **The role of elected members**

Throughout the course of the group's meetings, members stressed the importance of securing local approval for housing development, and that key to this was demonstrating that locally generated CIL funds were seen to be spent on local priorities. The task and finish group therefore wanted to explore how elected members

could be included in some form as members of the internal infrastructure group in order to oversee the current arrangements for allocating CIL funds.

The group heard that there were numerous barriers to involving elected members in the decision-making process for allocating CIL funds. Because Shropshire Council is a Cabinet- and scrutiny-based council, not a committee-based council, this means that there cannot be a new stand-alone committee of councillors deciding CIL matters as these matters are, constitutionally, for Cabinet or officers to decide. (The exception to this is for matters specifically reserved to full Council, such as setting the budget, or appointing a Chief Executive, or for those matters that are specifically identified as not executive functions such as planning, and other regulatory matters such as licensing.)

The group therefore explored how it might alter constitutional arrangements. While it would be possible to establish a committee-based route to Cabinet, or to a newly-established Committee of Cabinet, such arrangements would then be subject to all of the rules that govern local government cabinet decision making. This would involve full officer reports with recommendations, meetings held in public, publication of agendas and minutes. Given the reduced staff capacity at Shropshire Council, the administration burden of such an arrangement would be significant and, given current resources, effectively undeliverable.

The group heard that at present, working within the current constitutional arrangements, the authority regarding CIL matters is delegated to the Director of Place, and onward delegations have been made to allow decisions to be taken based on the recommendations of the council's Internal Infrastructure Group.

Members were therefore interested to hear about the newly established members' informal advisory group. This group is an informal meeting of local authority officers, Cabinet members and other local members as deemed relevant. The group also noted that there is now a Cabinet Member position with explicit responsibility for communities and place planning, and this cabinet member could call meetings of the Informal Advisory Group as they deem appropriate. This group can then consult with the officers' Internal Infrastructure Group regarding CIL issues.

This approach, using a member's informal advisory group to test and challenge officer decisions around CIL spend, has already been trialled with the current round of CIL expressions of interest, and involved the cabinet member, plus a further two elected members. The approach has proved useful, with comment from members fed back to the Internal Infrastructure Group for their consideration.

If Cabinet is in agreement with this approach, the informal advisory group can continue to review the decisions made by the Internal Infrastructure Group regarding expressions of interest, and can provide comment and challenge to officers for their consideration when allocating CIL funds.

The group recognises that, however, if the Internal Infrastructure Group and the Informal Advisory Group are not in agreement regarding CIL decisions, the final decision would rest with the officer who has delegated authority over these matters.

### **Unlocking CIL Local**

Members of the group expressed some concern about the perceived difficulty in applying for CIL Local funding, as well as the relatively low levels of funding that had already been allocated.

Members explored the application process compared to that for Neighbourhood Fund funding. At present, Neighbourhood Fund monies are passed directly to the relevant town and parish councils in April each year, alongside their precept payment. When the Neighbourhood Funds are passed over to the town and parish councils, they must submit a notification of requirements form to Shropshire Council, confirming that they will abide by the relevant government regulations regarding CIL spend. Shropshire Council then only requires the submission of a short annual monitoring form from recipient Town and Parish Councils in September each year, detailing how Neighbourhood Fund monies have been spent.

Members suggested that a way to unlock CIL local funding may be increase funding into the Neighbourhood Fund. Officers advised that increasing the amount of Neighbourhood Fund that is passed directly to town and parish councils would be unworkable for both Shropshire Council and town and parish councils within the parameters of the current UK Government regulations which apply to CIL spend. It is recognised that if CIL spending arrangements are altered to provide an additional Neighbourhood Fund allocation paid directly to town and parish councils, this would have to be administered in a similar manner to the current CIL Local pot in order to ensure compliance with Government regulations. Given that there is already significant confusion around CIL, adding additional layers of administration would only cause further confusion and frustration, as well as significantly increasing the administration burden placed on officers.

Members therefore suggested that if CIL funding were to remain allocated as at present, then Shropshire Council should do more to spend CIL funds that it had accrued. It was noted that in 2018/2019, there remained close to £14 million of unallocated CIL Local funds. The groups discussed how best to expedite using these funds, and agreed that they would ask officers to identify a list of priority infrastructure projects by September 2019. The group would then seek to review progress in determining suitability of these priority projects through its proposed membership of the future meetings of the current informal officer and member CIL discussion group.

## **Conclusions and recommendations**

Following its considerations, the Community Infrastructure Levy task and finish group therefore recommends that Shropshire Council should:

- keep the proportion of CIL funding allocated to the Neighbourhood Fund to 15% of the total, or 25% where there is a Neighbourhood Plan in place
- include the existing members of CIL task and finish group in future meetings of the current informal officer and member CIL discussion groups and
- as the charging authority, identify priority infrastructure projects as set out in the place plans by September 2019 and seek to commission delivery in the most efficient way.

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<u>Committee and Date</u>	<u>Item</u>
Cabinet	
14 August 2019	<u>Public</u>

## COMMUNITY INFRASTRUCTURE LEVY – UPDATE

**Responsible Officer** Gemma Davies, Assistant Director Economic Growth  
 e-mail: gemma.davies@shropshire.gov.uk Tel: ext. 8985

### 1. Summary

- 1.1 The purpose of this report is to respond to the recommendations of the Performance Management Scrutiny Committee in relation to the allocation of Community Infrastructure Levy (CIL) funds.
- 1.2 CIL is a charge on new development to help fund supporting infrastructure across Shropshire. Shropshire Council took a decision in 2012 to distribute CIL receipts in the following way, and this remains the current arrangement:
  - Administrative Expenses – up to 5% of total, as set out in national regulations
  - Neighbourhood Fund – 15%, or 25% where there is a Neighbourhood Plan or Neighbourhood Development Order, as set out in national regulations
- 1.3 Of the remainder:
  - CIL 'Strategic' – 10%
  - CIL 'Local' – 90%
- 1.4 It is accepted that there are insufficient CIL funds to support all identified infrastructure priorities for the county. In addition, the allocation of CIL is relatively complex: Shropshire Council is the only CIL charging authority that splits CIL into Local and Strategic, as all others have a single pot. Further, CIL Local is currently administered on the basis of expressions of interest from towns and parishes for projects which effectively means it operates as a sort of 'grant' application process, although this was never the intention for the fund; the original intention was to allocate funds in a more strategic and planned way.
- 1.5 Performance Management Scrutiny Committee, following consideration of the Draft Corporate Plan 2016/17 to 2018/19, established a Task and Finish Group to look at the current and future use of developer contributions including CIL. The Group first met in March 2017, and continued to meet until July 2019.

## 2. Recommendations

Cabinet agree:

- 1) That Shropshire Council's current arrangements for allocation of CIL receipts, as described within this report, remain unchanged.
- 2) That the Portfolio Holder for Communities, Place Planning and Regulatory Services holds meetings of the Members' Informal Advisory Group (IAG) as required in order to review progress of CIL spend and discuss projects in relation to CIL allocations. The Portfolio Holder will involve other Elected Members, along with the chair of the Performance Management Scrutiny Committee, in IAG discussions as he deems appropriate.
- 3) That Shropshire Council will, as the charging authority, identify priority infrastructure projects for receipt of CIL Strategic and CIL Local funds as set out in the Place Plans, which will be published in September 2019. The Portfolio Holder for Communities, Place Planning and Regulatory Services will continue to liaise with the Shropshire Association of Local Councils (SALC) Working Group to implement this Place Plan-led approach.

## REPORT

### 3. Risk Assessment and Opportunities Appraisal

- 3.1 As Local Planning Authority, Shropshire Council is charged with ensuring that new development is accompanied by the local facilities, services, and infrastructure which are needed to support a sustainable community. The Council receives contributions from new development through various mechanisms to help mitigate its impact and to deliver infrastructure to support the development of the area. The effective management of these revenue collection mechanisms and appropriate use of the resultant revenue is essential for compliance with national legislation and to manage the impact of new development by providing the infrastructure required.

### 4. Financial Implications

- 4.1 New development can impose a significant burden on existing facilities, services and infrastructure, including those which are the responsibility of Shropshire Council. Whilst substantial sums are collected annually from developer contributions, including CIL and Section 106, these amounts are highly unlikely to be able to support all identified infrastructure improvements. It is therefore essential that this revenue is prioritised and used effectively for investment in infrastructure for which no other funding sources are available.

## 5. Background

### Community Infrastructure Levy (CIL)

- 5.1 CIL is a charge on new development to help fund supporting infrastructure across Shropshire.
- 5.2 Shropshire Council took a decision in 2012 to distribute CIL receipts in the following way and this remains the current arrangement:
- Administrative Expenses – up to 5% of total, as set out in national regulations
  - Neighbourhood Fund – 15%, or 25% where there is a Neighbourhood Plan or Neighbourhood Development Order, as set out in national regulations

Of the remainder:

- CIL 'Strategic' – 10%
  - CIL 'Local' – 90%
- 5.3 The maximum administrative expenses charge is set by national regulations and cannot be altered locally. The minimum Neighbourhood Fund percentages are also set by national regulations and cannot be altered locally.
- 5.4 CIL Strategic in Shropshire will be allocated to infrastructure which is vital to the delivery of Shropshire's development strategy and which will have County-wide importance, as well as to infrastructure required in order to fulfil the Council's statutory functions. This infrastructure has the highest level of priority.
- 5.5 CIL Local funds also give highest priority to infrastructure which is vital to the delivery of Shropshire's development strategy and which will have county-wide importance, as well as to infrastructure required in order to fulfil the Council's statutory functions.
- 5.6 Decisions relating to the application of CIL funds are delegated to the Executive Director of Place who has provided onward delegations to the Assistant Director of Economic Growth to make those decisions in accordance with recommendations of the officer Internal Infrastructure Group. Officers have informally consulted the Portfolio Holder for Communities, Place Planning and Regulatory Services before making those decisions, and the Portfolio Holder has involved other Cabinet members in an Informal Advisory Group. This group has received explanation from officers and provided feedback and comment but the decisions remain the responsibility of the Executive Director of Place.

### 5.7 CIL Task and Finish Group

The Task and Finish Group began meeting in March 2017. Throughout its meetings, the group sought to:

- understand the processes, legal factors, and policy parameters related to the how and where monies delivered through Section 106, CIL and New Homes Bonus (NHB) can be used.
- learn how Shropshire Council currently uses Section 106, CIL and NHB and the impact that this has had.
- confirm how town councils, parish councils and hubs can access the CIL which they are responsible for and what they can use it for.
- scrutinise how Section 106, CIL and NHB will be used in Shropshire to enable or encourage projects or initiatives for economic growth and prosperity.
- learn from other places how they have used Section 106, CIL and NHB to enable or encourage projects or initiatives for economic growth and prosperity.
- make evidence based recommendations on how Section 106, CIL and NHB could be used in Shropshire to enable or encourage projects or initiatives for economic growth and prosperity.

5.8 In September 2017, the Group made a series of interim recommendations, including that:

- increased effort be directed into promoting community-led affordable housing schemes
- arrangements for allocating CIL revenue should be clarified to ensure that available funding is used to support the highest investment priorities.
- the portfolio holder for planning should be asked to agree any spending decisions made by the officer level Internal Infrastructure Group and
- a letter be sent to all Shropshire Council councillors and all parish and town councils clarifying who the responsible authorities are for various parts of the CIL revenue, and Shropshire Council's expectations on how the CIL revenue will be prioritised.

5.9 Following the interim recommendations of September 2017, the Group continued to meet over the next 18 months. The Group focussed its work on clarifying the practical implications of applying the current approach to using CIL Local funds, and the benefits of looking at alternative options for its use.

## **6. Recommendations of the CIL Task and Finish Group**

- 6.1 In total, officers prepared six possible options for CIL funding allocation for consideration by the Group, but there was no consensus as to which option might be preferred. On 24 July 2019, the Community Infrastructure Levy Task and Finish Group recommended to Performance Management Scrutiny Committee that Shropshire Council should:
- (i) keep the proportion of CIL funding allocated to the Neighbourhood Fund to 15% of the total, or 25% where there is a Neighbourhood Plan in place
  - (ii) include the existing members of CIL task and finish group in future meetings of the current informal officer and member CIL discussion groups

- (iii) as the charging authority, identify priority infrastructure projects as set out in the place plans by September 2019 and seek to commission delivery in the most efficient way.

### **Portfolio Holder response to the recommendations of the CIL Task and Finish Group recommendations**

6.2 The Portfolio Holder for Communities, Place Planning and Regulatory Services would like to thank Performance Management Scrutiny Committee for its work in relation to developer contributions, particularly CIL and specifically members of the Task and Finish Group who have reviewed and considered the current arrangements in considerable detail. The Portfolio Holder is in broad agreement with the three recommendations made by Performance Management Scrutiny Committee, subject to minor amendments as follows:

- (i) *keep the proportion of CIL funding allocated to the Neighbourhood Fund to 15% of the total, or 25% where there is a Neighbourhood Plan in place* **First rec – the Portfolio Holder is in full agreement with this recommendation, which proposes no change to current CIL allocations.**
- (ii) *include the existing members of the CIL Task and Finish Group in future meetings of the current officer and member CIL discussion groups* – **the Portfolio Holder is of the view that Members should be invited to discussions of the Members' Informal Advisory Group (IAG) as appropriate to the particular project(s) under discussion.**
- (iii) *as the charging authority, identify priority infrastructure projects as set out in the place plans by September 2019 and seek to commission delivery in the most efficient way* – **the Portfolio Holder is in full agreement with this recommendation, which will simplify the current process for distribution of CIL funds to projects across the county. This approach recognises that Shropshire Council is legally responsible for the appropriate use of both CIL Strategic and CIL Local, and is obligated to spend this money in a strategic way, as laid out in the current government regulations.**

6.3 Taking into account the above amendments, Cabinet is asked to agree the recommendations as set out in section 2, above.

6.4 Subject to Cabinet approval, officers will work with the Portfolio Holder and other elected Members to progress the recommendations, as outlined and amended, above.

6.5 It is suggested that a report is taken to Performance Management Scrutiny Committee in 12 months' time as an update on progress with the recommendations and CIL spend.

### **7. Place Plans**

7.1 Over the past few months, we have been working to refresh and reinvigorate the 18 Place Plans for the county. As part of this process, we held 20 Place Plan meetings

across the county between March and May, discussing the draft documents with local Elected Members and Town and Parish Councils. These meetings proved to be useful and informative, with good dialogue established. Key to the success of these meetings was the establishment of our new Place Plan Officer team, consisting of six officers working across designated Place Plan areas. The team was established in January 2019, and has been an invaluable element of the Place Planning process so far.

- 7.2 In addition, the Portfolio Holder and officers have found the input of the SALC Working Group invaluable to the process of refreshing the Place Plans, and to developing clarity and better communications in relation to CIL. One of the outcomes of this joint working has been the delivery of two dedicated CIL training sessions for all SALC members, along with regular communications over the last 12 months.
- 7.3 Officers are now working hard to make further updates to the Place Plans, checking the revised content with external partners and council colleagues. At the same time, we are refreshing the Place Plan webpages on Shropshire Council's website. These pages will be streamlined and simplified, so that content is much easier to find. We are on-track to publish the revised Place Plans on Shropshire Council's website towards the end of the summer of 2019.
- 7.4 The published Place Plans will be considered 'live' documents which communities can update to reflect changing infrastructure needs. These updates can be made by working with the appropriate Place Plan Officer, who will be able to co-ordinate any necessary conversations with other council teams, and with relevant external partners. In this way, the Place Plans will continue to be the key documents for guiding the delivery of infrastructure in communities across the county, updated on a rolling basis so that they continue to be relevant as infrastructure needs change.

## **8. CIL and Highways projects**

- 8.1 In November 2018, Shropshire Council opened a call for Expressions of Interest (Eols) to the CIL Local fund. The call for Eols closed on 22 March 2019. We received 42 CIL Local Eols, covering a wide range of different types of projects, from children's playgrounds through to village hall renovations. A number of council officers from different infrastructure teams assessed these Eols against the CIL criteria and regulations, and discussed their assessments with the Members' Informal Advisory Group.
- 8.2 Of the 42 Eols received, 18 were supported, and one was partially supported. Of the 23 projects that were not supported, often as there was not a clear enough link to local development, 11 focussed on highways and traffic management issues, ranging from speeding to parking. We are aware from the Place Plan meetings, and from other discussions with Town and Parish Councils, that communities are keen to see these projects delivered, so officers are now working to develop a package of CIL funding that will support traffic management and other highways projects. The Portfolio Holder will update Elected Members as this proposal is further developed.

**List of Background Papers**

**Cabinet Member (Portfolio Holder)**

Cllr Gwilym Butler – Portfolio Holder for Communities, Place Planning and Regulatory Services

**Local Member – All**

**Appendices – None**

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<u>Committee and Date</u>	<u>Item</u>
Cabinet	
14 <sup>th</sup> August	<u>Public</u>

**Delegation of of Powers to Ellesmere Town Council in respect of making a declaration of Birch Road Recreation Area and Pond, Ellesmere as a Local Nature Reserve**

**Responsible Officer** Clare Fildes, Interim Head of Culture and Heritage  
 e-mail: [Clare.fildes@shropshire.gov.uk](mailto:Clare.fildes@shropshire.gov.uk) Tel: 01743 255067

## 1. Summary

- 1.1 Ellesmere Town Council owns the Birch Road Recreation Area and Pond and would like to designate the area a Local Nature Reserve.
- 1.2 Shropshire Council has the power under the 1949 National Parks and Access to the Countryside Act 1949 to dedicate land as a local nature reserve. This is an executive function for the purposes of the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and accordingly can be delegated to another local authority by Cabinet under sections 13 and 19 of the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012. Ellesmere Town Council is also required to formally accept the delegation.
- 1.3 It is considered that it is beneficial to dedicate Birch Road Recreation Area as an LNR because it will:
  - Improve local quality of life, health and wellbeing.
  - Create opportunities for education, enjoyment and recreation, helping attract visitors and preserves links with the local community's past.
  - Safeguard local ecosystem services – the benefits nature provides for people – such as reducing carbon in the atmosphere or absorbing surface water.
  - Protect and enhance the natural heritage as a key part of building sustainable communities.
  - Raise the nature conservation and recreation interest.
  - Give recognition of the site's wildlife value.
  - Give recognition of local community involvement.
  - Offer protection within the planning system from future development.
- 1.4 Ellesmere Town Council has been working with Shropshire Wildlife Trust in respect of this proposal to ensure nature conservation and ecosystem services are safeguarded.
- 1.5 The anticipated benefits if a Local Nature Reserve dedication in this location lead to the conclusion that it would be appropriate to formally delegate the Council's power to make a Local Nature Reserve dedication in accordance with section 21 of the

National Parks and Access to the Countryside Act in respect of the land known as Birch Road Recreation Area and Pond, Ellesmere to Ellesmere Town Council.

- 1.6 Ellesmere Town Council will therefore also be responsible for undertaking the necessary formalities to give effect to the dedication.

## **2. Recommendations**

- 2.1 It is recommended that Cabinet delegate the power to dedicate Birch Road Recreation Area to Ellesmere Town Council.

## **REPORT**

### **3. Risk Assessment and Opportunities Appraisal**

- 3.1 Along with the benefits identified above, LNR designation meets the following Shropshire Council strategic outcomes set out in the following Strategies:

- Shropshire's Great Outdoor Strategy 2018-2028
- Shropshire's Economic Growth Strategy- developing the visitor economy, agricultural support post - Brexit, developing skills, improving Quality of Life and ensuring attractive environments.
- Shropshire's Local Plan - Better planning of meaningful greenspace and non-motorised access, new destination country parks, protecting environmentally-sensitive sites.
- Shropshire's Health and Wellbeing Strategy - harnessing the power of the outdoors to increase physical activity, address mental health issues and help people stay independent for longer.
- Local Transport Plan for Shropshire - encouraging walking and cycling.
- Shropshire Council Corporate Plan - helping deliver across the board: resilient communities, healthy people and prosperous economy.

There are no discernible risks to Shropshire Council of making this delegation.

### **4. Financial Implications**

- 4.1 There are no financial implications of the delegation beyond staff time to create this report. Ellesmere Town Council will be responsible for making a formal resolution to accept the delegation from Shropshire Council and a separate resolution to make the dedication. They will then be responsible for undertaking all relevant procedures with Natural England etc to give effect to the dedication.

### **5. Background**

- 5.1 Schedule 11 (12) of the Natural Environment and Rural Communities Act 2006, which replaced Section 15 of the National Parks and Access to the Countryside Act 1949 (1949 Act), describes a 'nature reserve' as:
- land managed solely for a conservation purpose, or

- land managed not only for a conservation purpose but also for a recreational purpose, if the management of the land for the recreational purpose does not compromise its management for the conservation purpose.

5.2 Land is managed for a conservation purpose if it is managed for:

- providing, under suitable conditions and control, special opportunities for the study of, and research into, matters relating to the fauna and flora of Great Britain and the physical conditions in which they live, and for the study of geological and physiographical features of special interest in the area; or
- preserving flora, fauna, or geological or physiographical features of special interest in the area or for both these purposes.

5.3 Land is managed for a recreational purpose if it is managed for the purpose of providing opportunities for the enjoyment of nature or for open-air recreation.

5.4 The power to dedicate a Local Nature Reserve rests with Shropshire Council as the principal authority under the 1949 Act. However, under that 1949 Act, the local authority must first have or acquire a legal interest in the land in question through ownership, lease or an agreement with the owners and occupiers involved. Shropshire Council does not have a legal interest in the Birch Road Recreation Area and Pond, and therefore cannot dedicate it as a Local Nature Reserve.

5.5 Shropshire Council has powers under Sections 13 and 19 of the Local Government Act 2000 and the Local Authorities and (Arrangements for the Discharge of Functions) (England) Regulations 2012 to delegate its functions in this regard to a parish, town or community council. The Council's Constitution allows Cabinet to delegate Cabinet functions to another local authority or Cabinet of another local authority. Declaration of a Local Nature Reserve is an executive function and accordingly can be delegated to another local authority by Cabinet.

5.6 The Council receiving the delegation will need to formally resolve to accept the delegation and then make the dedication and undertake the necessary formalities with Natural England. Ellesmere Town Council will do this by tabling on the agenda for a Council meeting and formally recording the decision. They have the relevant applications for Natural England ready to submit once delegation is agreed.

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

**Cabinet Member (Portfolio Holder)**  
Cllr Lezley Picton

**Local Member**  
Cllr Ann Hartley

**Appendices**

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# Agenda Item 10

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