



Committee and Date

Cabinet

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Item

Public

COMMUNITY INFRASTRUCTURE LEVY (CIL) REGULATION 123 LIST

Responsible Officer Gemma Davies, Head of Economic Growth

e-mail: gemma.davies@shropshire.gov.uk Tel: ext. 8985

1. Summary

- 1.1 The purpose of this report is to seek Cabinet approval for critical and strategic additions to the Council's Community Infrastructure Levy (CIL) Regulation 123 List, and to agree indicative spend allocations for these additional projects.
- 1.2 The purpose of the CIL Regulation 123 List is to ensure that developers are not charged twice (through CIL and through Section 106) for the same development. The CIL Regulation 123 List also provides clarity on the critical and strategic infrastructure projects the Council will seek to fund from CIL over the next 12 months.
- 1.3 The Council's current CIL Regulation 123 List covers the period 2016/17. The proposal is to add and clarify a small number of critical and strategic projects to the existing list to update it for 2018/19.
- 1.4 As the proposed additions and clarifications to the CIL Regulation 123 List focus solely on known critical and strategic projects to be delivered in the coming year, it is therefore considered this can be agreed under the currently established CIL arrangements last set out in the Cabinet paper dated 29th July 2015.

2. Recommendations

Cabinet agree:

- 1) The proposed additions and clarifications to the existing CIL Regulation 123 List, as contained in this report.
- 2) The indicative spend allocations for the projects to be included on the CIL Regulation 123 List
- 3) Further Task and Finish Group meetings are arranged to discuss:
 - i. Broader issues around CIL funding arrangements and the Place Plans
 - ii. How best to communicate and consult with Town and Parish Councils regarding CIL funding arrangements and the Place Plans

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 S106, 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. In Shropshire, the CIL charge 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.
- 5.2 Shropshire Council took a decision in 2012 to distribute CIL revenue funds 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 is defined as infrastructure which is vital to the delivery of Shropshire's development strategy and which will have County-wide importance. This will normally be infrastructure also defined as 'critical' and therefore has the highest level of priority.

CIL 'Local' funds also give highest priority to critical infrastructure and to infrastructure required in order to fulfil the Council's statutory functions. This principle was established when CIL was first introduced, and was set out in the last Cabinet Report dated 29th July 2015 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. The types of infrastructure the CIL funds can be used are placed into three categories: Critical, Priority, and Key. The category of an infrastructure item is defined in the Place Plans, which are reviewed on an annual basis. Critical 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.'

CIL / S106 / NHB Task and Finish Group

- 5.5 On Friday 19 October, the Task and Finish Group received a presentation from officers regarding proposed critical and strategic priority additions to the CIL Regulation 123 List for 2018/19.
- 5.6 The Task and Finish Group reported back to the Performance Scrutiny Committee meeting on the 24 October.

Purpose of the CIL Regulation 123 List

- 5.7 Legally, local authorities must spend the CIL on infrastructure needed to support the development of their area. Shropshire Council publishes a CIL Regulation 123 List identifying those infrastructure needs which will be delivered in full or in part through the use of CIL over the coming year. Whilst there is no obligation on the Council to update the CIL Regulation 123 List on an annual basis, this has always been the Council's aspiration, as this reflects the annual review process for the Place Plans.
- 5.8 Production of the CIL Regulation 123 List is based on discussions with providers. This process is primarily aimed at offering certainty to developers and infrastructure providers in the short term and to mitigate any delays to planned development.

- 5.9 Where an infrastructure item is included within the CIL Regulation 123 List, in accordance within the National CIL Regulations (as amended), Section 106 Planning Obligations and Section 278 Highway Agreement (apart for where this agreement is drawn up by the Highways Agency) cannot also be used to secure this item. Whilst developers may be required to provide contributions to infrastructure through a variety of mechanisms, this restriction was introduced so that there is no duplication between the various types of developer contributions.
- 5.10 CIL income from new development can be spent on anything that constitutes "infrastructure" as defined by Regulation 216 of the 2008 Planning Act and the National CIL Regulations (as amended). This includes but is not limited to roads and other transport facilities, flood defences, schools and other educational facilities, medical facilities, sporting and recreational facilities, and open spaces. This is so long as the infrastructure supports the development of the area. The CIL guidance states that 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.
- 5.9 Priority projects that are not included on the CIL Regulation 123 List that are identified over the coming year, and particularly following the finalisation of the updated Place Plans, may still be funded with CIL. We would envisage some priority projects for Highways to emerge in particular, for example community safety schemes. Officers in Highways are working closely with the CIL team to develop the programme and this will be informed by the development of the new Local Transport Plan.

Proposed additions to the CIL Regulation 123 List for 2018/19

- 5.10 The infrastructure schemes put forward for inclusion on a 2018/19 updated CIL Regulation 123 list have followed consideration of the following issues:
- Whether the scheme is included within the relevant Place Plan as *critical* infrastructure, taking account of the emerging updated Place Plans;
 - Where there is no *critical* infrastructure identified in the Place Plan, whether the scheme is considered a *strategic priority* scheme, i.e. will support the delivery of the adopted Development Plan and/or is of County-wide importance;
 - Whether it is necessary for the scheme to be funded in 2018/19 i.e. over the next 12 months.
- 5.11 The proposed project additions and clarifications for the updated CIL Regulation 123 List are included overleaf. There is a presumption in favour of using available CIL funds for items on the CIL Regulation 123 List.
- 5.12 The Council, as Local Planning Authority, is unable to negotiate additional Section 106 contributions for infrastructure items included on the CIL Regulation 123 List. Conversely, items not included within the CIL Regulation 123 List may still be delivered through CIL funds. For this reason, the additions to the CIL Regulation 123 List for the year 2018/19 focus solely on those items where there is a high

degree of confidence additional Section 106 contributions will not be sought. Inclusion on the CIL Regulation 123 List is an agreement the Council intends to fully or partly fund these items from available CIL funds.

Proposed Additions to the CIL Regulation 123 List for 2018/19

Location	Requirement	Level of Priority
Education		
Shifnal	Shifnal Primary School – 2 new classrooms	Critical
Shifnal	St Andrews CE Primary School – 2 new classrooms	Critical
Market Drayton	Market Drayton infants – 1 new classroom and 1 classroom refurbishment	Critical
Market Drayton	Market Drayton Junior – provision of 2 new classrooms	Critical
Whitchurch	Whitchurch Junior – 2 new classrooms and 2 classroom refurbishments	Critical
Baschurch	Baschurch C Primary – 1 new classroom	Critical
Hadnall	Hadnall CE Primary – 1 new classroom	Critical
Utility Provision		
Whitchurch	Whitchurch South Foul Drainage Improvement Scheme	Critical

- 5.13 The table below sets out the indicative CIL funding required for the proposed additions to the CIL Regulation 123 List. The below also includes the proposed CIL funding for the capital programme for two highways and transport schemes that are already on the current CIL Regulation 123 List as we now have further clarity around indicative funding requirements. This is an estimated cost based on the information available at this time.

Indicative funding requirements for additions to the CIL Regulation 123 List

Location	Requirement	Level of Priority	Indicative CIL Funding for capital programme
Education			
Shifnal	Shifnal Primary School – 2 new classrooms	Critical	£700,000
Shifnal	St Andrews CE Primary School – 2 new classrooms	Critical	£700,000
Market Drayton	Market Drayton infants – 1 new classroom and 1 classroom refurbishment	Critical	£80,000
Market Drayton	Market Drayton Junior – provision of 2 new classrooms	Critical	£20,000
Whitchurch	Whitchurch Junior – 2 new classrooms and 2 classroom refurbishments	Critical	£590,000
Baschurch	Baschurch C Primary – 1 new classroom	Critical	£255,000
Hadnall	Hadnall CE Primary – 1 new classroom	Critical	£325,000
Utility Provision			
Whitchurch	Whitchurch South Foul Drainage Improvement Scheme	Critical	£700,000-£900,000

Indicative funding requirements for projects already on the CIL Regulation 123 List

Location	Requirement	Level of Priority	Indicative CIL Funding for capital programme
Highways and Transport			
Shrewsbury	Outstanding Shrewsbury Integrated Transport Projects	Strategic Priority	£2,000,000
Shrewsbury	Improvements to Churncote roundabout	Strategic Priority	£300,000

List of Background Papers

Shropshire Local Development Framework: Adopted Core Strategy March 2011

Cabinet 4th April 2012 - Local Development Framework (LDF) implementation plan

Cabinet 30th July 2014 – Delivering Place Plans: Prioritising Outcomes

Cabinet 29th July 2015 – Place Plan Priorities and Community Infrastructure Levy List 123 update

Cabinet Minutes 23 May 2018

Cabinet Member (Portfolio Holder)

Cllr Robert Macey - Portfolio Holder for Planning and Housing Development

Local Member – All**Appendices – None**