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Place Plans Priorities and Community Infrastructure Levy 123 List update

1. Summary

The purpose of this report is to notify Cabinet of the annual review of the 18 Place Plans and LDF Implementation Plan and seek approval for the updated CIL Regulation 123 List. The report sets out the priorities identified to support new development within Shropshire and makes recommendations on the most appropriate delivery mechanisms through the targeted use of CIL and other developer contributions.

The publication of a CIL Regulation 123 List 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, the Council, as Local Planning Authority, is not able to also negotiate a S106 obligation for anything included on the annual CIL 123 list. Conversely, items not included within the CIL 123 List may still be delivered through CIL funds. Therefore, it is 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.

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.

The report seeks to clarify Shropshire's identified infrastructure requirements and the priorities considered essential to deliver sustainable development and support the scale of growth set out in the Local Plan. The cost of meeting all of Shropshire's infrastructure needs far exceeds the amounts available from developer contributions. The total amount of CIL collected from the date of introduction to the end of the last financial year (1 January 2012- 31 March 2015) is £2,424,322 which is split accordingly into the following funding pots:

Administration Fee	£121,216
Neighbourhood Fund	£265,607
Strategic CIL	£203,749
Local CIL	£1,833,749 (divided geographically into the areas where development has taken place)

When the CIL was introduced in Shropshire it was estimated that the CIL collected by this point would be around £4.8m. The amount collected is half that; reflecting the impact that changes to the CIL Regulations, including the introduction of self build relief, have had.

The annual Place Plan review involved inviting all Parish and Town Councils to consider their local infrastructure requirements in agreement with respective local Members. Alongside this, there has been ongoing engagement with infrastructure providers and internal Council departments to clarify strategic and long term infrastructure needs. Whilst the annual Place Plan review process provides a framework for prioritising local investment, there is a significant risk of a funding shortfall in meeting even the critical infrastructure requirements associated with new development. This is in addition to the needs prioritised by local communities as part of Shropshire's localised planning approach. The paper therefore recognises that difficult decisions will need to be made by Shropshire Council, as Local Planning Authority and the Accountable Body for developer contributions, and makes recommendations regarding the prioritisation of CIL funds to help ensure the delivery of critical infrastructure in fulfilment of the Council's statutory duties regarding new development.

2. Recommendations

- A. Cabinet notes the Place Plan annual review and approves the updated CIL Regulation 123 list for 2015/16 (Appendix A);
- B. That authority be delegated to the Head of Economic Growth and Prosperity in consultation with the Portfolio Holder for Regulatory Services, Housing and Commissioning (Central) to approve the final versions of the Place Plans and subsequent LDF Implementation Plan ahead of their publication;
- C. Cabinet endorses 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.

REPORT

3. Risk Assessment and Opportunities Appraisal

Delivering sustainable development

- 3.1 As set out the National Planning Policy Framework (NPPF), the purpose of the planning system is to contribute to the achievement of sustainable development including the delivery of infrastructure. The majority of infrastructure requirements associated with development are intended to be delivered through Community Infrastructure Levy (CIL) funds. However, changes in the national CIL Regulations mean that CIL income is significantly less than initially forecast, due in part to the exemption of qualifying self build developments. Around £2.4m of CIL was collected in total from 1 January 2012 to 31 March 2015. This is half the £4.8m estimated would be collected by this point when the CIL Charging Schedule was adopted in 2011. As such, there is a high risk

of a funding shortfall in meeting even the critical infrastructure requirements associated with new development, in addition to the needs prioritised by local communities as part of Shropshire's localised planning approach. The funding shortfall poses an immediate and very significant risk to delivery of Shropshire's development strategy. Some infrastructure requirements are considered to be critical as they pose a constraint to development taking place. Other requirements are fundamental to ensuring that development supports the creation of sustainable places. Consequently, there are significant risks to Shropshire Council in not prioritising and delivering particular infrastructure items.

- 3.2 As a Local Planning Authority, Shropshire Council is responsible for ensuring development is sustainable. Alongside the requirements of the planning system, there are statutory duties placed on the Local Authority meaning Shropshire Council has 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 decisions made on the priority items of infrastructure, as identified in the Place Plans, could pose a risk either to the Local Planning Authority's ability to achieve sustainable development or Shropshire Council's ability to fulfil its other 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.
- 3.3 It is therefore recommended that, where there are known competing local priorities, CIL (local) monies are 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 identified as being required to fulfil the statutory duties of the Council (such as school place provision), before consideration of funding competing local priorities identified in the Place Plans through CIL.
- 3.4 The completion of the CIL Technical Check Form will ensure that the infrastructure project that CIL is required to fund is justified by appropriate evidence and that all avenues of alternative funding have been examined in accordance with the CIL governance arrangements. This recommendation 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 settlement where development has taken place (see appendix C for a table showing how CIL is distributed). Nor would this change the Neighbourhood Fund element of CIL which is passed to Parish and Town Councils, who remain responsible for ensuring that this is spent appropriately.
- 3.5 There may be some instances where it will be necessary for the Local Planning Authority 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. The approach follows the prioritisation of critical infrastructure set out in Core Strategy Policy CS9 and seeks to ensure development of sustainable places. Failure to use CIL income in this way may lead to unacceptable impacts on local facilities and services and potentially perpetuate funding shortfalls in

relation to the fulfilment of the Council's statutory obligations in specific places. In addressing development pressures, 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 therefore be important to ensure understanding of the infrastructure priorities generated by development and to prevent Shropshire's localised planning approach being undermined. This requires careful management with partners, including the local community, to manage expectations in relation to finite CIL funds.

- 3.6 Ensuring delivery requires a careful balance between different developer contributions (onsite design, S106 obligations and CIL) and other funding sources such as the New Homes Bonus and Marches Local Enterprise Partnership. Furthermore, certain legislative requirements apply which, without careful management, could pose a risk to the Council. Regulations require a clear distinction between how CIL and S106 obligations are used. The Local Planning Authority is not able to negotiate a S106 obligation for anything included on the annual CIL '123' list. In addition, the legislative requirements state that no more than five S106 obligations can be negotiated for the same project or type of infrastructure. The Local Planning Authority must demonstrate compliance with these legislative requirements and is increasingly monitored by the development industry wanting evidence of how their contributions are applied. To maximise the delivery of sustainable development, it is recommended that the Local Planning Authority ensures the updated CIL Regulation 123 list is again focused on known priorities within a place that could only be delivered fully or in part by CIL, thereby allowing site specific needs to be negotiated via a S106 obligation as and when this 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.
- 3.7 Cabinet decided on 24 July 2013 to endorse an approach to ensure adequate infrastructure for major housing developments over 50 dwellings. In July 2014 it also decided to delegate responsibility to the Head of Economic Growth and Prosperity in consultation with the Portfolio Holder for Planning, Housing and Commissioning to react to needs arising from development and allocate CIL monies to specific items not identified through the Place Plans through the planning application process. These mechanisms have enabled the Council to negotiate the best outcomes from developer contributions relating to major development sites in Shrewsbury. This co-ordinated approach has ensured that CIL revenues generated by these developments, in combination with on site design and directly related and specific S106 obligations, have been secured to ensure delivery of essential infrastructure (including school place provision, sustainable transport and highways improvement measures) to support the town's development strategy. Some current and future CIL strategic and local funds are therefore now committed to delivery of specific items in the town. This approach continues to be used as development proposals on major sites progress through the planning system.

Working with communities

- 3.8 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 therefore places significant onus on Town and Parish Councils with their Local Member to identify and prioritise their own infrastructure requirements with the aim of establishing some local 'ownership' over planned development. The annual Place Plan conversation provides a mechanism to identify and prioritise all the investment needs within a locality and thereby offers a robust piece of evidence to drive change in local service delivery through improved partnership working between the public, private, voluntary and community sectors. In providing a prioritised set of agreed outcomes through collaborative working, the Place Plans are also important in managing expectations around delivery and in particular the use of CIL funds. A risk is the lack of engagement of Parish/Town Councils although the Place Plan annual review has become an established part of the Parish calendars and their engagement in the process is reflected in that over 100 Parish/Town Councils responded to this year's review. The continued role of LJsCs in promoting and co-ordinating consideration of local infrastructure delivery priorities (as agreed by Cabinet 30 July 2014) further mitigates the risk of any future lack of engagement in the Place Plan review.

4. Financial Implications

- 4.1 The role of the Place Plans and LDF Implementation Plan is to 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.
- 4.2 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. Shropshire has taken a localised approach to the use of CIL, supporting the community focus within Shropshire's development strategy and recognising the important link between new development and local infrastructure (see Appendix B for a breakdown of how CIL is distributed). This approach has been further supported by Government, who require that a 'meaningful proportion' of CIL income be passed as a Neighbourhood Fund to the Parish or Town Council, in whose area the development has taken place.
- 4.3 The total amount of CIL collected from the date of introduction to the end of the last financial year (1 January 2012- 31 March 2015) is £2,424,322 which is split accordingly into the following funding pots:

Administration Fee	£121,216
Neighbourhood Fund	£265,607
Strategic CIL	£203,749

Local CIL £1,833,749 (divided geographically into the areas where development has taken place)

The total CIL collected from its introduction to 31 March 2015 is around half that estimated for the same period on adoption of the CIL Charging Schedule in 2011 (£4.8m). Additional CIL monies are anticipated from developments which have been granted planning permission although payments can only be requested on commencement of development which, alongside the payment instalment policy, makes it difficult to accurately forecast future CIL income. It should be noted that some anticipated CIL funds are ring fenced following the approach to negotiation with developers agreed by Cabinet on 24 July 2013 and 30 July 2014 (see para 3.7 above). 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.

- 4.4 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 to 31 December 2014) allocated to Parish and Town Councils is set out in Appendix C.

5. Background

- 5.1 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. The Place Plans provide a place based list of all known infrastructure priorities identified through this year's review, alongside the recommended delivery mechanism for each identified item, which takes account of legislative requirements and the associated funding criteria. As 'live' documents there is an established annual review process for the Place Plans, which commences each September and culminates in the publication of updated Plans and the recommendations for the prioritised use of developer contributions set out within this paper.
- 5.2 As with previous year's reviews, a questionnaire and explanatory letter was sent to each Town and Parish Council in September 2014. This asked Town and Parish Councils to confirm whether the current Place Plan was a true reflection of local investment needs and whether the priorities for the use of CIL were still correct.
- 5.3 In total, responses were received from 116 of the 168 Parish and Town Councils in Shropshire. Whilst several councils re-affirmed their existing position, many others took the opportunity to re-prioritise or highlight new infrastructure needs. In addition, other councils indicated they were awaiting the

outcome of an updated community led plan. A further three responses were received from Local Joint Committees reflecting the enhanced role of LJsCs in the annual conversation around Place Plan priorities as agreed by Cabinet on 30 July 2014. Continuing local member involvement in this process remains critical to our understanding and appreciation of local issues, and to the success of future reviews of the Place Plans.

- 5.4 Responses naturally vary, depending on the particular needs within particular areas, but a number of infrastructure needs were frequently identified across the County, this included: traffic/highway improvements; improved broadband provision; improved community facilities/village halls; and additional sports and recreation facilities.
- 5.5 In addition to the established invitation to engage in the annual review a short 'feedback and challenge' period was held in June 2015 allowing Parish and Town Councils to view the infrastructure and investment priorities for their areas before finalisation of the place plans for 2015-16 to allow them to see how the changes they had requested were incorporated. In total 25 Parish and Town Councils responded by requesting further changes, amendments or raising queries. This ongoing engagement and consideration of infrastructure planning by Parish and Town Councils reflects the continued value of the Place Plan process to local communities.
- 5.6 In addition to gathering evidence on local investment priorities via Town and Parish Councils, the annual Place Plan review also includes annual conversations with local infrastructure and service providers. As such, collaborative working has been established and maintained with the water companies, Highways England, Environment Agency, Local Education Authority, local transport team and leisure and recreation team. This year's review coincided with the examination of the SAMDev Plan by the Planning Inspectorate. The relatively low number of changes to the Place Plans reflects that discussions with infrastructure and service providers about the scale and location of development in the SAMDev Plan were largely undertaken before it was submitted for examination and therefore the outcomes are largely continued from previous iterations of the Place Plans.
- 5.7 The publication of a CIL Regulation 123 List 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, 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. 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 recommended that the annual CIL list for 2015/16 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.

5.8 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 recommended that Cabinet agrees an approach which, where competing demands for the use of CIL monies are identified, 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.

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

- Community Infrastructure Levy Charging Schedule – Council, 24th November 2011
- Place Plan Review and Community Infrastructure Levy 123 List update – Cabinet, 24th July 2013
- 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 Regulatory Services, Housing and Commissioning (Central)

Local Member

All

Appendices

- A. Annual CIL '123' list (2015/16)
- B. Table showing how CIL payments are distributed
- C. Neighbourhood Fund allocated to Parish/Town Councils April 2015