

Wiltshire Council

Cabinet Committee

14 March 2017

Subject: Governance arrangements for the prioritisation of spending
Community Infrastructure Levy

Cabinet Member: Councillor To by Sturgis
Strategic Planning, Development Management, Strategic
Housing, Operational Property and Waste

Key Decision: Yes

Executive Summary

On 12 May 2015, Wiltshire Council adopted a Community Infrastructure Levy (CIL) Charging Schedule, (subsequently, CIL Instalments Policy and Regulation 123 List and Planning Obligations Supplementary Planning Document (SPD). The Council became a CIL Charging Authority on 18 May 2015.

A revised CIL Regulation 123 List was approved by Cabinet on 13 September 2016 with the resolution to bring back proposals for the process for the prioritisation of the spending of CIL and future reviews of the Regulation 123 List to a future cabinet meeting.

The CIL funds that can be spent by the Council on infrastructure projects will comprise the strategic element of CIL, which is the remaining CIL receipts once the administrative costs (5%) and local funds passed to parish councils (15-25%) have been deducted. In accordance with legislation, strategic funds must be spent on projects identified on the Regulation 123 List and in placing projects on the Regulation 123 List the Council has started to prioritise which projects may receive funding. However, as funding takes time to accrue and CIL will not be able to meet all demands placed on it at once, decisions will need to be made about the strategic projects that should be prioritised for funding.

It is proposed that the spending of CIL forms part of an annual process that involves the following steps: (i) the review of the Council's Infrastructure Delivery Plan (IDP) to ensure it is up to date and identifies strategic infrastructure projects to support the delivery of sustainable growth consistent with the Wiltshire Core Strategy; (ii) the review of the Regulation 123 List to determine whether new projects should be added to the List (or taken off, if they have been delivered or no longer needed) - with changes being subject to consultation and approval by Cabinet; and (iii) prioritisation of strategic projects on Regulation 123 List that should receive CIL funding against criteria - involving workshop with members of Cabinet Capital Assets Committee to which members of the Wiltshire Public Service Board would be invited to consider priorities and inform a formal recommendation to Cabinet.

The timing of the process should commence after 1 April each year in order to inform the annual capital programme and budget setting process. However, as the Regulation 123 List has recently been reviewed, the next step this year will be to prioritise the projects to receive funding.

Proposals

That Cabinet:

- (i) Approves the process for the review of the Regulation 123 List and prioritising the spending of strategic funds raised through the Community Infrastructure Levy as set out in Appendix 2;
- (ii) Agrees that for 2017, the next step would be to prioritise projects for funding consistent with the current Regulation 123 List.

Reason for Proposal

To assist with the effective operation of CIL and ensure open and transparent decision making in the allocation of strategic CIL funds.

Dr Carlton Brand
Corporate Director

Wiltshire Council

Cabinet Committee

14 March 2017

Governance arrangements for the prioritisation of spending Community Infrastructure Levy

Cabinet Member: Councillor Toby Sturgis
Strategic Planning, Development Management, Strategic Housing, Operational Property and Waste

Key Decision: Yes

Purpose of Report

1. To:
 - (i) Recommend and agree the process for prioritising the spending of the strategic funds raised through Community Infrastructure Levy (CIL) and reviewing the Regulation 123 List to ensure open and transparent decision making in the allocation of strategic funds.

Relevance to the Council's Business Plan

2. The following key actions and outcomes in the Council's Business Plan are relevant to this report:

Key Action Two: Stimulate economic growth in partnership with the Swindon and Wiltshire Local Enterprise Partnership

Outcome One: Wiltshire has a thriving and growing economy

Outcome Three: Everyone lives in a high quality environment

3. Maintaining an up to date Regulation 123 List will support the effective implementation of CIL. CIL supports the Council's vision to create resilient communities by raising revenue from new development to help pay for infrastructure to support growth. The purpose of CIL is to contribute to the funding of the infrastructure needed to support growth and aspirations as set out in the Wiltshire Core Strategy.

Background

4. Wiltshire Council became a CIL Charging Authority on 18 May 2015, following the adoption of a CIL Charging Schedule, Planning Obligations Supplementary

Planning Document (SPD), CIL Instalments Policy and Regulation 123 List on 12 May 2015. Since then both the SPD and Regulation 123 List have been revised. The revised SPD was formally adopted on 18 October 2016 by Council and the revised Regulation 123 List adopted by Cabinet on 13 September 2016.

5. It was agreed on 13 September that proposals for the process for prioritising spending on the Regulation 123 List and future reviews of the Regulation 123 List should be considered by Cabinet.
6. CIL provides one of the funding mechanisms available for supporting the delivery of infrastructure to support growth as set out in the Wiltshire Core Strategy. In accordance with Government legislation, the general distribution of CIL funds is as follows:
 - Administration costs: 5% retained by Wiltshire Council
 - Local funds: 15% passed to town and parish councils rising to 25% where neighbourhood plans made (capped at £100 per Council tax dwelling per annum in parish area).
 - Strategic funds: Remaining CIL receipts for allocation by Wiltshire Council as Charging Authority.
7. Parish and Town Councils are required to report on how they spend the CIL funds they receive. The Regulation 123 List supports the CIL Charging Schedule, setting out strategic infrastructure types or projects that Wiltshire Council may fund, wholly or partly, through the strategic proportion of CIL. The List takes projects from the Infrastructure Delivery Plan (IDP), which supports the Wiltshire Core Strategy by identifying strategic infrastructure to support the delivery of planned growth.
8. Projects on the Regulation 123 List cannot be funded by planning obligations (Section 106 agreements). The List does not apply to the ring-fenced proportion of CIL passed to town and parish councils for them to allocate to community infrastructure projects.
9. Planning Practice Guidance (PPG) recognises Regulation 123 Lists may need updating. It advises charging authorities should ensure changes are explained and subject to appropriate local consultation: "*Authorities may amend their charging schedule, subject to appropriate consultation. However, where a change to the regulation 123 list would have a very significant impact on the viability evidence that supported the examination of the charging schedule, this should be made as part of a review of the charging schedule*" (PPG ref: 25-098-20140612).
10. In accordance with legislation, the Council as charging authority publishes a monitoring report by 31 December each year for the previous financial year. The monitoring report identifies how much CIL the Council has: received in any year; passed to the parish councils; used for administrative costs and, in the future, spent on strategic projects. The latest report shows that the Council received £1,202,814.61 strategic CIL funding in the first 19 months of operation.

Main Considerations for the Council

11. The process for allocating the strategic proportion of CIL should be linked with future updates of the Regulation 123 List, given that funds can only be spent on infrastructure identified on the List. CIL funds take time to accrue and in order to ensure that spending decisions are made on available funds consideration would only need to be given to the allocation of funds on an annual basis, with the final decision taken by Cabinet. However, it may be appropriate to consider future projection of CIL funds where infrastructure projects need to be funded over a number of years.
12. The Regulations state that the Council as Charging Authority must apply CIL to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area. It also allows Charging Authorities to pass money to bodies outside their area to deliver infrastructure that will benefit the development of the area. The Council will need to ensure that it is using funding from CIL in the most effective way to help deliver growth as set out in the Core Strategy.
13. By placing items on the Regulation 123 List the Council has started to prioritise funding of infrastructure using CIL funds. However, as funding takes time to accrue CIL will not be able to meet all the demands placed on it at any one time and decisions will need to be made on prioritising spending on items on the List.
14. The Council's Infrastructure Delivery Plan will be reviewed each year to ensure that it remains up to date and identifies strategic infrastructure projects needed to support growth. The strategic service and infrastructure providers including Wiltshire Council services will be consulted using the template at **Appendix 1**. The information received will enable existing projects to be updated or new projects added and will capture information to help determine the project prioritisation process for the spending of the strategic portion of CIL. This will result in consideration first of all, whether new projects should be added or removed from the Regulation 123 List and secondly, which projects require funding that year and should therefore be considered for the allocation of strategic funding received by the Council.
15. **Appendix 2** summarises the process for the annual review of the Infrastructure Delivery Plan, Regulation 123 List and prioritisation and allocation of strategic CIL fund . While it is envisaged that this would be undertaken on an annual basis, the level of available funding will determine whether the allocation of funds can be undertaken this frequently.
16. Projects requiring funding for that year will need to be supported by robust evidence including the cost and practicality of delivering the scheme or project and a clear statement showing the implications of not achieving funding. This information will be reviewed by officers against the following considerations to inform a workshop with members of the Cabinet Capital Asset Committee (CCAC):

- (i) Whether it is on the Regulation 123 List;
 - (ii) How the proposal supports the delivery of growth within the Council's Local Plan (Wiltshire Core Strategy);
 - (iii) Whether it would be 'Essential' (e.g. sustainable transport, education) or 'Place Shaping' (e.g. leisure and recreation) Infrastructure, as set out in the Wiltshire Core Strategy (paragraphs 4.41 and 4.42) - Core Policy 3 prioritises 'Essential' Infrastructure in the event of competing demands;
 - (iv) Is it needed in line with (ii) and to ensure development complies with Habitats Regulations and would not be delivered through other means;
 - (v) Whether alternative sources of funding could be used to deliver the project, and if so which source(s); and
 - (vi) Whether it would enable other sources of funding to be secured that would not otherwise be available (e.g. needed to match or draw down grant funding).
17. The workshop with members of the Cabinet Capital Assets Committee should be open to members of the Wiltshire Public Service Board to attend also. The purpose of the workshop will be to review the funding proposals and consider the prioritisation of projects for the spending of CIL funding that has been accrued taking into account how CIL sits in the wider funding environment prevailing at that time. The final stage in the process would be the formal reporting to Cabinet with recommendations for the allocation of strategic funding.
18. The timing of the process set out in **Appendix 2** should commence after 1 April each year and be timed to inform the annual capital programme and budget setting process. However, as the Regulation 123 List has recently been reviewed, the next step this year will be to prioritise the projects to receive funding.

Overview and Scrutiny Engagement

19. There has been no engagement with the report.

Safeguarding Implications

20. There are no safeguarding issues related to this report.

Public Health Implications

21. Utilisation of CIL funding for programmes should be considered alongside the opportunity costs of alternative calls on this funding. CIL funding can be used for a range of specific healthcare infrastructure needs as a result of development such as GP surgeries, hospitals and other health and social care facilities. It can also be used for wider infrastructure that could improve health or reduce health inequalities such as green infrastructure, park improvements, cycle paths, safer road schemes, flood defences, schools and leisure centres.

Procurement Implications

22. There are no direct procurement implications. Where proposed procurements to

deliver projects on the Regulation 123 List are required then the Strategic Procurement Hub will be consulted to ensure any such projects comply with the Council's Procurement and Contracts Regulations and UK Procurement Law.

Equalities Impact of the Proposal

23. There are no direct equalities impacts arising from the proposal.

Environmental and Climate Change Considerations

24. CIL can help fund infrastructure to support sustainable development and adapt to a changing climate, by funding specific projects. For example, sustainable transport, strategic open space and green infrastructure, flood mitigation measures, sustainable energy infrastructure and strategic habitat protection.
25. CIL may need to be directed towards projects relating to European protected sites before other projects to meet the requirements of the Habitats Directive. This is reflected in the criteria in paragraph 16.

Risk Assessment

26. To ensure effective implementation of CIL, revisions may need to be made to the existing Regulation 123 List to clarify what infrastructure may be funded by CIL.

Risks that may arise if the proposed decision and related work is not taken

27. Formalising the process for updating the IDP and also, the approval of a transparent and open process for reviewing the List and for allocating CIL funds will further help promote understanding.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

28. Local communities may have the expectation that CIL funds raised in the area should be spent on local infrastructure requirements rather than strategic requirements to support growth. Officers will continue to work with parish and town councils to help manage expectations.

Financial Implications

29. The process and guidelines for allocating and drawing down the CIL funding received are outlined in the report and appendices. All approved allocations will be actioned by Finance as appropriate.

Legal Implications

30. These arrangements are consistent with the legal framework for the Council and meets the Council's obligations under the Community Infrastructure Regulations

2010, National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) .

Options Considered

31. See Main Considerations section and Financial Implications.

Conclusions

32. Approval of the process as set out in the report for allocating the strategic proportion of CIL, which links with future updates of the Regulation 123 List, will enable transparency in the spending of strategic funding, and provision of strategic infrastructure in Wiltshire.

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The following unpublished documents have been relied on in the preparation of this Report:

Appendices:

Appendix 1 - Infrastructure Delivery Schedule Form Template

Appendix 2 - Process Flow Chart