

# AGENDA

**Meeting:** Cabinet

**Place:** [Access the online meeting here](#)

*On 24 September 2021 this meeting's location was changed to an online meeting.*

**Date:** Monday 27 September 2021

**Time:** 10.00 am

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Please direct any enquiries on this Agenda to Stuart Figini, of Democratic Services, County Hall, Trowbridge, direct line 01225 718221 or email [stuart.figini@wiltshire.gov.uk](mailto:stuart.figini@wiltshire.gov.uk)

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## Membership:

Cllr Richard Clewer	Leader of the Council and Cabinet Member for MCI, Economic Development, Heritage, Arts, Tourism and Health & Wellbeing
Cllr Laura Mayes	Deputy Leader and Cabinet Member for Children's Services, Education and Skills
Cllr Jane Davies	Cabinet Member for Adult Social Care, SEND, Transition and Inclusion
Cllr Phil Alford	Cabinet Member for Housing, Strategic Assets and Asset Transfer
Cllr Ian Blair-Pilling	Cabinet Member for Leisure, Libraries, Governance, Facilities Management and Operational Assets
Cllr Nick Botterill	Cabinet Member for Development Management, Strategic Planning and Climate Change
Cllr Pauline Church	Cabinet Member for Finance & Procurement, Commissioning, IT, Digital and Commercialisation
Cllr Simon Jacobs	Cabinet Member for Public Health, Public Protection, Licensing, Staffing, Communities and Area Boards
Cllr Dr Mark McClelland	Cabinet Member for Transport, Waste, Street Scene and Flooding

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## Part I

### Items to be considered while the meeting is open to the public

Key Decisions Matters defined as 'Key' Decisions and included in the Council's Forward Work Plan are shown as 

1 **Apologies**

2 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

3 **Leader's announcements**

4 **Public participation and Questions from Councillors**

The Council welcomes contributions from members of the public. This meeting is open to the public, who may ask a question or make a statement. Questions may also be asked by members of the Council. Written notice of questions or statements should be given to Democratic and Member Services [Committee@wiltshire.gov.uk](mailto:Committee@wiltshire.gov.uk) by 12.00 noon on 21 September 2021. Anyone wishing to ask a question or make a statement should contact the office at the email above.

5 **Business Plan 2021 - 2031** *(To Follow)*

 Report of the Chief Executive

6 **Prioritisation of Community Infrastructure Levy Spending** *(Pages 7 - 24)*

 Report of the Chief Executive

7 **Stone Circle Governance Review** *(To Follow)*

Report of the Chief Executive

8 **Urgent Items**

Any other items of business, which the Leader agrees to consider as a matter of urgency.

## Part II

**Items during consideration of which it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed**

None

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**Wiltshire Council**

**Cabinet**

**27 September 2021**

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**Subject:                    Prioritisation of Community Infrastructure Levy Spending**

**Cabinet Member:    Councillor Cllr Nick Botterill - Cabinet Member for Development Management, Strategic Planning and Climate Change**

**Key Decision:        Key**

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## **Executive Summary**

The Council's approved process, as agreed by Cabinet in March 2017, for prioritising Community Infrastructure Levy (CIL) spending needs to be updated in relation to how the strategic CIL fund is allocated to ensure efficient decision making and in the light of the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019.

The regulatory changes did not alter the fundamental purpose of CIL, as such the principles on which the Council's current prioritisation criteria were established remain broadly sound but need to be adapted in the light of the 2019 Regulations. In addition, a review of the process has questioned the value of the prioritisation workshop (an informal meeting with Cabinet Members and members of the Wiltshire Public Service Board) and it is recommended this be dropped; as well as moving to a process that is agile enough to respond to changing infrastructure requirements and has the appropriate process in place to ensure timely decision making.

In summary the position regarding CIL local and strategic funding at 31 March 2021 (following the Council becoming a charging authority in May 2015) is that: c£7.6m CIL funds had been allocated to parish and town councils to spend on local infrastructure projects; c£1.1m had been committed by the Council to strategic infrastructure projects; and c£29.7m remained in the strategic fund for new commitments. This report proposes the release of a further c8.75m for time critical projects that require commitments to be made.

The new projects that require funding are for:

- (i) The expansion of Abbeyfield School, Chippenham to ensure sufficient places are available to meet projected needs from committed housing developments; and
- (ii) Environmental infrastructure projects to help manage the impact of recreational pressure arising from new development on the Bath and

Bradford on Avon Special Area of Conservation and Salisbury Plain and New Forest protected sites. The Council as Local Planning Authority is required under the Habitats Regulations to ensure that any adverse impacts arising from development can be mitigated to avoid harm to such internationally important nature conservation sites.

In addition, it is proposed that two transport schemes are removed from the Council's Infrastructure List as they are no longer required, because the safety issues they related to have now been resolved.

Subject to the agreement of the above it is proposed that further work be undertaken to consider the prioritisation, in line with CIL legislation, of the remaining funding in the strategic pot (c£20.95m) and to align project delivery with the Council's budget setting process and new Business Plan.

### **Proposal(s)**

That Cabinet:

- (i) Approves revisions to the process for prioritising spending of strategic funds raised through the Community Infrastructure Levy (CIL) as set out in **Appendix 1**.
- (ii) Following approval of (i), approves the updating of the Infrastructure List to remove the Timber Street and A420 Marshfield Road/Dallas Road Safety Schemes and ensure the inclusion of the projects in (iii).
- (iii) Following approval of (ii), approves the allocation of:
  - (a) Circa £6.43m CIL funding for Phase 1 expansion of Abbeyfield School.
  - (b) Up to £1.35m CIL funding for measures to mitigate the impact of recreational pressures on bat habitats associated with the Bath and Bradford on Avon Special Area of Conservation in line with the Trowbridge Bat Mitigation Strategy.
  - (c) Up to £220,000 CIL funding for measures (visitor surveys and ongoing monitoring) to mitigate the impact of development (recreational pressure) on the Salisbury Plain Special Protection Area.
  - (d) Up to £750,000 CIL funding for mitigation to reduce and manage recreational impact arising from development on the New Forest protected sites.
- (iv) Delegates authority to the Corporate Director for Place in consultation with the 'Corporate Director for Resources and Deputy

Chief Executive', 'Cabinet Member for Development Management, Strategic Planning and Climate Change' and 'Cabinet Member for Finance, Procurement, Commissioning, IT, Digital and Commercialisation' to oversee the funding allocated in (iii) and to approve any variances.

- (v) Agrees that further work be undertaken by the Corporate Director for Place in consultation with the 'Corporate Director for Resources and Deputy Chief Executive', 'Cabinet Member for Development Management, Strategic Planning and Climate Change' and 'Cabinet Member for Finance, Procurement, Commissioning, IT, Digital and Commercialisation' to consider how the strategic fund can be used, in accordance with the CIL legislation, to align delivery of projects with the Council's budget setting process and the Council's new Business Plan.

**Reason for Proposal(s)**

To assist with the effective operation of CIL and ensure open and transparent decision making in the allocation of strategic funds; as well as ensuring that strategic funds are committed to securing mitigation measures for internationally important wildlife sites and support plan-led growth.

**Terence Herbert**  
**Chief Executive**

## **Wiltshire Council**

### **Cabinet**

**27 September 2021**

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**Subject:                    Prioritisation of Community Infrastructure Levy Spending**

**Cabinet Member:    Councillor Cllr Nick Botterill - Cabinet Member for Development Management, Strategic Planning and Climate Change**

**Key Decision:        Key**

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### **Purpose of Report**

1. The purpose of this report is to seek approval for:
  - (i) Revisions to the process for prioritising the spending of the strategic funds raised through Community Infrastructure Levy (CIL);
  - (ii) Updates to the Infrastructure List and further allocations of the strategic funds for projects that are now needed; and
  - (iii) Further work to be undertaken on the allocation of the remaining strategic CIL funds.

### **Relevance to the Council's Business Plan**

2. The priorities 'Growing the Economy' and 'Strong Communities' are relevant, together with the general need for effective and efficient working practices.
3. 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. Effective prioritisation will help to maintain open and transparent decision making in the allocation of strategic CIL funds. CIL supports the Council's vision to create strong communities, raising and spending revenue from new development to help pay for infrastructure to support growth.

### **Background**

4. The planning system requires development to make contributions for infrastructure delivery. Alongside direct provision as part of the development of a site, it does this in two ways:
  - (i) Planning obligations, also known as Section 106 agreements (based on 1990 Town and Country Planning Act): these are agreements made between local authorities and developers that are attached to planning



permissions and necessary to make development acceptable which would otherwise be unacceptable in planning terms.

- (ii) Contributions through the Community Infrastructure Levy: this is a planning charge (based on the 2008 Planning Act) and is a tool that local authorities can use to help deliver infrastructure to support the development of their area.
5. Infrastructure delivery also takes place through other means including direct delivery by public bodies and other organisations undertaking their statutory duties and responsibilities; and may be funded centrally through Government programmes and initiatives.
6. In May 2015, Wiltshire Council started charging the Community Infrastructure Levy (CIL). On [14 March 2017](#), the Council's Cabinet approved the governance arrangements for prioritising and allocating funds raised through CIL. In simple terms, the general distribution of CIL funds which is in accordance with legislation is as follows:
- (i) Administration costs: 5% retained by Wiltshire Council.
  - (ii) Local funds: 15% passed to town and parish councils (capped at £100 per Council tax dwelling per annum in parish area) rising to 25% (uncapped) where neighbourhood plans have been made.
  - (iii) Strategic funds: Remaining CIL receipts for allocation by Wiltshire Council as Charging Authority.
7. Cabinet recognised that funding takes time to accrue and CIL will not be able to meet all the demands placed on it. Therefore, decisions would need to be made about the strategic projects that should be prioritised for funding from the 'strategic fund'. Consequently, in the early years CIL was allowed to accrue and no spend was made other than to pass funding to the parish and town councils for them to spend on local projects.
8. Consisting chiefly of three stages, the current process begins with a review of the evidence base, the Infrastructure Delivery Plan (IDP). This is to ensure it is up-to-date and identifies the strategic infrastructure necessary to support the delivery of growth within the Wiltshire Core Strategy (and the associated Chippenham Site Allocations Plan and Wiltshire Housing Site Allocations Plan).
9. A review of the Regulation 123 List then follows. This is to determine whether new projects should be added, or existing projects removed if they have been delivered or are no longer needed. Projects on the list could also evolve into a different form due to changing requirements of a provider. Any changes are subject to public consultation and approval by Cabinet.
10. The final stage involves the prioritisation of strategic projects on the Regulation 123 List that should receive CIL funding against set criteria. **Appendix 1** sets out the current criteria.

11. This final stage includes holding a prioritisation workshop - an informal meeting of Cabinet Members and the Wiltshire Public Services Board (WPSB). To support the workshop, officers draw up a shortlist of priority projects taken from the Regulation 123 List and based on the criteria. The workshop considers the shortlisted projects and makes a recommendation to the Council's Cabinet about which, if any, should be prioritised for CIL funding. Alternatively, if the CIL received so far is insufficient, they might recommend that the Council 'banks' CIL until the following year allowing funds to accrue.
12. The stage concludes with the formal reporting to Cabinet with recommendations for the allocation of strategic funding.
13. The first and, to date, only prioritisation workshop took place in July 2018, with a formal report going to Cabinet in [December 2018](#) to approve spend for projects. In [January 2021](#), a subsequent decision was made by Cabinet in relation to CIL and the approval of funding for the delivery of off-setting measures to achieve phosphate neutral development for plan-led growth and unlock development.
14. The Financial Implications section below sets out the CIL spending and commitments from the strategic fund to 31 March 2021. This also shows as of 31 March 2021, since the Council started charging CIL in 2015, the total amount of CIL collected and allocated to the strategic and local funds to be c£30.85m and c£7.6m respectively.
15. The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 came into force 1 September 2019 and introduced changes to the operation of CIL and section 106 planning obligations. These are set out in the Legal Implications below and include the duty to publish Infrastructure Funding Statements.
16. The first Infrastructure Funding Statement was published December 2020, in consultation with the Cabinet Member, and involved a light touch review and update of the approved Regulation 123 List (now called Infrastructure List) to reflect the factual position.
17. The full suite of CIL documentation, including the Infrastructure Funding Statement and additional guidance notes, can be viewed on the [Council's website](#).

## **Main Considerations for the Council**

### Revisions to the process for the prioritisation and allocation of strategic CIL funds

18. The length of the current process for prioritising and allocating CIL funding is too long. It was intended to be an annual process but has only happened fully once, in 2018. It took roughly a whole year from the initial review of the Infrastructure Delivery Plan and Regulation 123 List through to the final Cabinet decision to approve. The Council would benefit from a more

streamlined process, agile enough to respond to changing infrastructure requirements and new opportunities to fund projects.

19. Given the move away from the Regulation 123 List and the introduction of annual Infrastructure Funding Statements including the 'Infrastructure List' there is no need to undertake public consultation on strategic projects the Council may spend CIL on. Instead, only targeted consultation is needed with infrastructure providers (internal/external), as part of ongoing engagement, to update the evidence and consider whether there is a case for strategic CIL funding. The outcome of this will be to determine whether the 'Infrastructure List' should be updated and/or funds allocated, and it is suggested that this will be agreed by Cabinet in the interest of transparent and open decision making. Normally this would take place once a year and inform the preparation of the Infrastructure Funding Statement. However, the process allows for mid-year updates to the 'Infrastructure List' should this be necessary. Following the approval of Cabinet the Council's Capital Programme and revenue budget would be updated, as appropriate.
20. The added value of the prioritisation workshop is questionable. It is attended by Cabinet Members, who ultimately make the decision. Many of the short-listed priority projects had little direct relevance to the external attendees from the WPSB. The workshop extended the process, with a long lead-in time and follow-up, and resulted in no significant changes to the priority projects. Removing the prioritisation workshop will help streamline the process.
21. The Regulatory changes do not alter the fundamental purpose of CIL; as such the principles on which the prioritisation criteria were established remain sound, but need adapting to reflect the new Regulations, referred to in the Legal Section below.
22. **Appendix 1** sets out the proposed revisions to the process including changes to the criteria and reasons for these changes.
23. It is also considered that further work be undertaken to test the revised allocation process to see how this could be aligned with the Council's budget setting process and the Council's new Business Plan when it is ready. This may lead to further revisions to the process.

#### Allocation of strategic CIL funds

24. This report is only focusing on the immediate need to allocate further CIL funding. As such following the review in paragraph 23 it is anticipated that a further report will be brought back to Cabinet. Single infrastructure projects can cost substantial sums of money and easily deplete the funds available to the Council to address infrastructure needs and support growth of the area. The following proposals therefore reflect time critical projects for which funding needs to be allocated now and cannot wait the wider review.

#### *Priority education project - Abbeyfield School*

25. Following Cabinet in December 2018 and approval of initial funding (see financial implications) of £119,000, a preliminary study has now been

completed on the expansion of Abbeyfield School. The project is required to support the cumulative demand from planned growth at Chippenham, namely the allocations in the Chippenham Site Allocations Plan. The study has shaped the project brief and identified that the school should be expanded in three phases rather than two, with each phase being for 150 pupils and equate to a single form of entry. No Government funding has been identified or is likely to become available to support the project within the Core Strategy plan period up to 2026. The study has identified the cost of Phase 1 as c£6.4m and Phase 2 as c£3.02m.

26. Approval is now sought to release further funding for Phase 1, which needs to be ready for occupation in September 2024, as follows:

	21/22	22/23	23/24	23/24	Total
Anticipated spend on Phase 1	£94,322	£735,824	£3,954,846	£1,642,237	£6,427,229

*Table 1: Spend profile for Phase 1 for 150 additional secondary school places at Abbeyfield School, Chippenham*

27. The study has compared the existing school accommodation to 'Building Bulletin 103: Area Guidelines for Maintained Schools' and identified the projected shortfalls in the varying curriculum subject areas and ancillary spaces. Phase 1 therefore will include: the creation of a second access to the school and additional carparking; provision of additional incoming utilities including a new sub-station; net carbon zero technologies; a new main school hall enabling the existing undersized hall to be converted into additional dining space; 4 general purpose classrooms; 2 art classrooms; 1 science laboratory; a sixth form common room and associated storage, offices and toilets. Works to the existing PFI building will be kept to a minimum and include the conversion of an existing textiles room into food technology.
28. The timing of further phases of expansion at Abbeyfield will be determined by the build out rate of future housing and the availability of pupil places at the other secondary schools in Chippenham. Phase 1 will cost more than subsequent phases as it includes the creation of the new access road, car park, provision of incoming utilities, legal costs, planning fees etc.
29. The anticipated programme for the completion of phase 1 is to achieve planning permission by November 2022, commence works on site by July 2023 and complete on site by August 2024.

*Priority transport projects*

30. In December 2018, a report was received by Cabinet on a shortlist of 9 priority transport projects which were considered necessary either to: mitigate the cumulative impact of strategic growth; reduce congestion; support the strategic road network; improve the accessibility of town centres, railway stations and/or schools or to improve road safety. This led to the approval of

£136,000 for preliminary studies in relation to three transport projects prioritised over the others, as follows:

- (i) Malmesbury Road Roundabout, Chippenham;
- (ii) Bridge Centre Gyratory, Chippenham; and
- (iii) A361 Holy Trinity Gyratory, Trowbridge.

31. Work has now been undertaken on these in line with the Cabinet decision and has led to an improved understanding of the circumstances under which these projects would need to be commenced. Projects (ii) and (iii) both need to be coordinated with the regeneration of associated sites - the Bridge Centre and Bath Road Car Park site, Chippenham and Bowyers site, Trowbridge respectively. Project (i) should include headroom to provide for capacity arising for future growth at the town, as such the Local Plan will need to be more advanced before funding is committed.
32. In addition, it is recognised that two transport projects can be removed from the Infrastructure List - Timber Street and A420 Marshfield Road/Dallas Road Safety Schemes (Chippenham). This is because the previously identified safety issues have been resolved.

*Priority Environmental projects*

33. The Council as Local Planning Authority is required under the Habitats Regulations to ensure that any adverse impacts arising from development can be mitigated to avoid harm to internationally important nature conservation sites, which are protected by law. In recognition of this, delegated authority was given in December 2018 to allocate CIL spending for projects that are needed to support planned growth and provide mitigation measures to ensure no adverse impacts on the integrity of protected sites. The process itself prioritises allocation to these projects, ahead of others, given that development cannot proceed without them.
34. The costs of measures are higher than originally envisaged and because of the certainty that is needed for delivery of mitigation measures at the time of decision making on planning applications pots of funding are being proposed that can be drawn down in an efficient way.
35. *Salisbury Plain Special Protection Area (SPA)*: To date mitigation for the Salisbury Plain SPA to ensure protected bird species, namely the Stone Curlew, are not adversely affected due to recreational impact arising from development has been paid for through Section 106 contributions. The contributions enable the ongoing monitoring of protected bird species that in turn directs the management of habitats to ensure populations don't decline. Once these sums were used up, as previously reported to Cabinet it was anticipated that CIL would be the appropriate mechanism to fund mitigation.
36. It is therefore recommended that a ring-fenced pot of up to £220,000 is made available to cover the next 4-year monitoring contract and visitor surveys, which form part of the mitigation strategy for Salisbury Plain SPA. The sufficiency of the fund and strategy for the site will need to be kept under review to ensure they continue to provide appropriate mitigation.

37. *New Forest protected sites (Special Protection Area, Special Area of Conservation and Ramsar site)*: An interim mitigation strategy is being developed for the New Forest protected sites to ensure that there is no adverse impact on the designated sites from recreational pressure arising from new development. The strategy is based on evidence including: a new catchment area (or zone of influence) within which development could impact on the designation due to visitor pressure and thus where mitigation measures are justified (from September 2021 this is 13.8km, whereas prior to this it was 8km - it is expected that significant developments within the zone 13.8km to 15km will be assessed on a case-by-case basis to determine whether mitigation is needed). The strategy will take into consideration the type, scale and location of developments (housing and tourism) and set out whether direct measures will be required (e.g. on-site provision of mitigation) as part of development or off-site measures will be required that are to be funded by CIL. Once the strategy is finalised it will need to be signed off by Natural England.

38. Like strategies that exist for other Local Planning Authorities who are within the zone of influence for the New Forest protected sites, the amount of CIL that would be allocated to fund mitigation (where appropriate) will be calculated based on an amount per house and depend on distance. This is because the closer the development the more likely people are to visit the New Forest and therefore the higher the contribution. The amounts are likely to be based on the following table.

<b>Zone</b>	<b>Amount of CIL per dwelling</b>	<b>Reason</b>
0-5km zone	£3,512	Matching New Forest National Park Authority level
5-8km zone	£1,756	50% of 0-5km zone
8-13.8km zone	£526	15% of 0-5km zone

39. It is proposed that, similar to the River Avon Special Protection Area (see paragraph 53 below), that an initial strategic fund be established that can be drawn down periodically in line with the pace of development to ensure the delivery of appropriate measures. The Council will work in partnership with New Forest National Park Authority to identify these and report annually in the Council's Infrastructure Funding Statement. Based on a provisional housing trajectory and taking into consideration the amount per dwelling indicates that provision should be made for a strategic fund of around £750,000.

*Other mitigation strategies*: Through the Adoption of the Trowbridge Bat Mitigation Strategy Supplementary Planning Document (25 February 2020), the Council has also committed to the use of circa £1.35m CIL. This is for the delivery of measures to mitigate the impact of recreational pressures upon bat

habitats associated with the Bath and Bradford on Avon Bats Special Area of Conservation from housing development around Trowbridge. Formal approval is sought from Cabinet for a CIL funding pot to be created for this.

40. The Council is also working with Natural England and adjoining Local Planning Authorities on the need for mitigation strategies and potential funding to address any impact arising from development due to recreational pressures on the North Meadows and Clattinger Farm Special Area of Conservation in the north of the County. Similarly, work is ongoing to develop a mitigation strategy and strategic solution for nitrate neutral development in the River Test Catchment Area to mitigate the impact of development on the internationally important Solent Marine Sites. The outcome of this work will determine whether the Infrastructure List needs to be updated and further provision made through CIL. See Financial Implications also.

### **Overview and Scrutiny Engagement**

41. No engagement has been undertaken with the Council's Overview and Scrutiny function.

### **Safeguarding Implications**

42. There are no direct safeguarding implications associated with the proposal.

### **Public Health Implications**

43. There are no direct public and health wellbeing implications associated with the proposals. Green infrastructure delivered as part of the environmental mitigation projects may benefit people through enhanced access to green spaces.

### **Procurement Implications**

44. There will be direct procurement implications if CIL funding for priority projects is approved. Procurement will be undertaken in line with corporate procedures.

### **Equalities Impact of the Proposal**

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

### **Environmental and Climate Change Considerations**

46. The environmental priority projects will provide funding for measures, as guided by the relevant mitigation strategy, to ensure that there are no adverse impacts arising from developments for internationally important wildlife sites. Retaining the criteria to prioritise and direct CIL towards projects relating to such sites supports this aim.
47. CIL can help fund infrastructure to support sustainable development and adapt to climate change, by funding specific projects. For example,

sustainable transport, open space and green infrastructure, flood mitigation measures and strategic habitat protection.

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

48. The Council will have inefficient and outdated working practices if the process for allocating CIL spending is not updated.
49. The recommended allocations as set out in the proposals above will provide funding for priority environmental projects that are considered necessary to support growth and ensure there are no adverse effects on the integrity of international wildlife sites. Without these there will be insufficient certainty, which will affect the Council's ability as Local Planning Authority to approve planning applications.

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

50. The costs to deliver mitigation and ringfence funding can only be estimated at this time and will need to be monitored. Should there be the need for further funding, this can be sought in line with the revised protocol.
51. Local communities may have the expectation that all CIL funds raised in their area should be spent on local infrastructure requirements rather than strategic requirements to support growth. Expectations will need to be managed and the Infrastructure Funding Statement should set out clearly what the Council's position is and seek to be more explicit about how CIL is likely to be used.

### **Financial Implications**

52. The revised process and guidelines for allocating and drawing down CIL funding received are outlined in the report. All approved allocations will be actioned by Finance as appropriate.
53. At 31 March 2021 the following CIL expenditure had been formally committed:
- (i) Local Fund:
    - c£7.6m CIL funds had been allocated to parish and town councils to spend on local infrastructure projects.
  - (ii) Strategic Fund:
    - £119,000 for preliminary studies for expansion of Abbeyfield School Chippenham (as approved by Cabinet December 2018);
    - £136,000 for preliminary studies for transport projects: Malmesbury Road Roundabout, Chippenham; Bridge Centre Gyrotory, Chippenham; and A361 Holy Trinity Gyrotory, Trowbridge (as approved by Cabinet December 2018).



- An initial strategic fund of £850,000 to secure phosphate neutral development in the catchment for the River Avon (Hampshire) Special Area of Conservation. This is for the delivery of off-setting measures to achieve phosphate neutral development for planned growth (as defined by the Appropriate Assessment) and funding for a project officer, in line with the resolution of Cabinet on 5 January 2021.

In total therefore, at 31 March 2021 c1.1m CIL expenditure from the CIL strategic fund has been committed leaving £29.7m.

54. The proposals for new funding allocations as set out in this report amount to c£8.75m and in combination with the commitments listed in paragraph 53 total around £9.85m. This would leave a strategic fund of £20.95m for projects on the Council's [Infrastructure List](#).

## Legal Implications

57. The proposed revised prioritisation process is consistent with the legal framework for the Council and meets the obligations under the amended Community Infrastructure Regulations.

58. The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 came into force 1 September 2019 and introduced changes to the operation of CIL and section 106 planning obligations, including:

- (i) Regulation 11 removed the restriction on the number of planning obligations that can be used to fund a single project (i.e a reversal of what was referred to as 'double dipping') - this means that local authorities can combine CIL and Section 106 funding towards the same infrastructure project or item.
- (ii) Regulation 9(6) inserted Regulation 121A of the Community Infrastructure Levy 2010 which introduced new reporting requirements through annual Infrastructure Funding Statement (with the first published December 2020), which are required to set out:
  - a. The infrastructure projects or types of infrastructure which the charging authority intends will be, or may be, wholly or partially funded by CIL - known as the 'Infrastructure List' (Regulation 9 (b)) - the replaces the Regulation 123 List.
  - b. A report known as a CIL report about how much CIL is collected, how much is spent and what it is spent on; in relation to the previous financial year ('reported year' i.e. 1 April to 31 March).
  - c. A report known as a section 106 report about planning obligations in relation to the reported year.

The Regulations requires the Council to publish each annual infrastructure funding report on its website.

59. Regulation 122, which governs Section 106 Agreements is still very much in force: the obligation must be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

### **Workforce Implications**

60. Infrastructure planning to support growth, prioritisation of spending and preparation of the Infrastructure Funding Statement is undertaken by existing staff. This work is led by the Spatial Planning Service and involves Officers from across the Council including within Development Management, Legal and other specialist services.

### **Options Considered**

61. One option would be to continue with the current process and prioritisation criteria, with only minimal change to reflect the change from the 'Regulation 123 List' to the Infrastructure List. This would not however bring about the benefits of the more agile streamlined process that has been recommended to improve efficiency in decision making and explained in this report.

62. The ability to use CIL funding alongside Section 106 Agreements provides greater flexibility and needs to be recognised as part of the prioritisation process.

### **Conclusions**

63. Approval of a revised process as set out in the report for allocating the CIL strategic fund, which links with the publication of the Infrastructure Funding Statement, will ensure efficient working practices and transparency in the spending of strategic funds.

64. Approval of the latest round of funding in line with this new process and delegation of authority to oversee the spending will ensure the timely delivery of current priority infrastructure projects.

### **Sam Fox (Corporate Director - Place)**

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### **Appendices**

Appendix 1: Revised process for prioritising spending of strategic funds raised through the Community Infrastructure Levy

### **Background Papers**

The following documents have been relied on in the preparation of this report:  
None

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## **APPENDIX 1: Revised process for prioritising spending of strategic funds raised through the Community Infrastructure Levy**

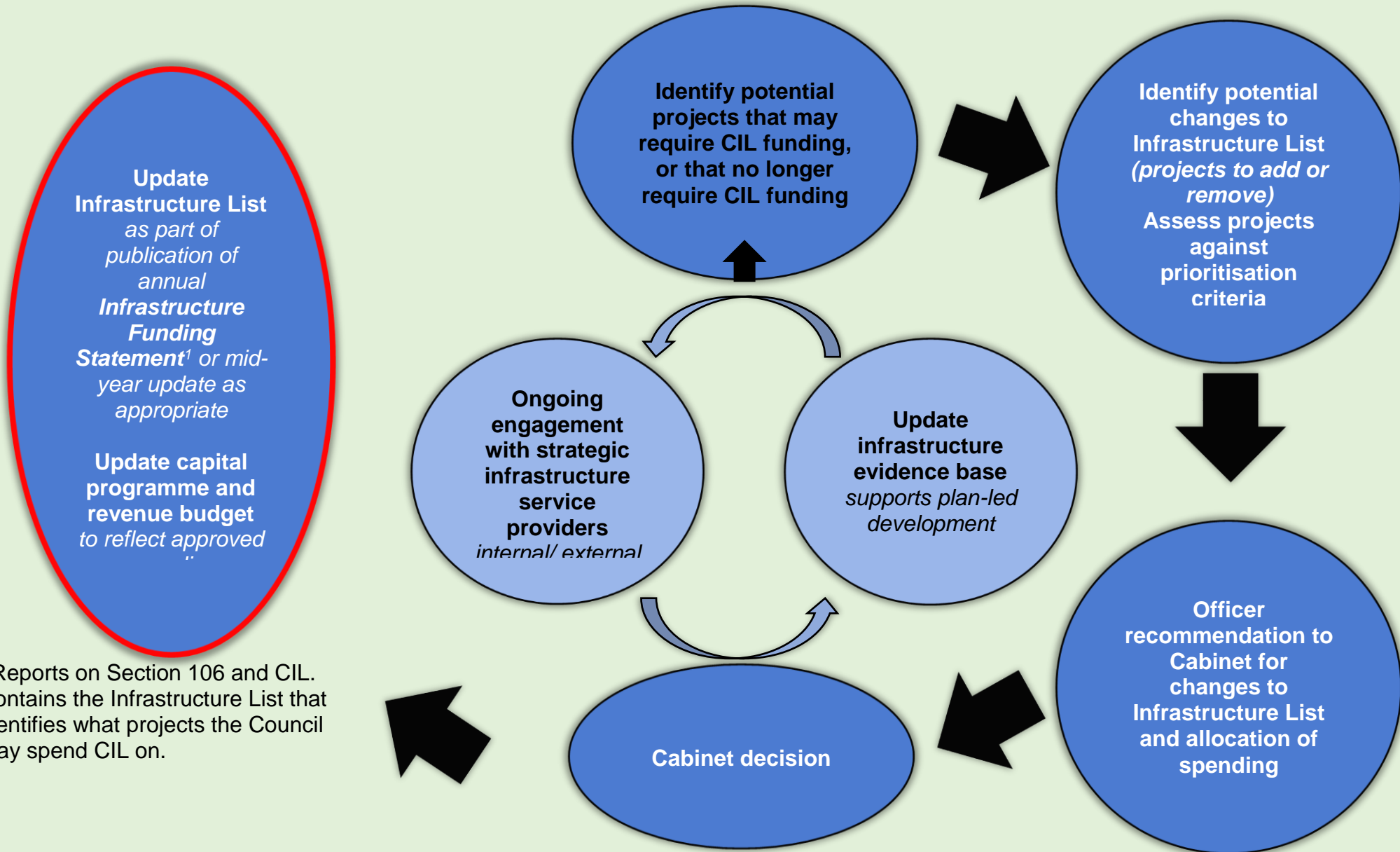
There are two parts to this appendix:

- (i) Table 1 sets out the existing prioritisation criteria that are used to assess CIL proposals together with the proposed changes
- (ii) Diagram 2 illustrates the proposed revised process for the allocation of CIL spending

**Table 1: Proposed changes to criteria for prioritising and allocating strategic CIL funds**

#	Existing criterion	Change
(i)	Whether it is on the Regulation 123 List;	Replace with: <b>Whether it is in the Infrastructure List?*</b> <b>*this forms part of the Council's Infrastructure Funding Statement</b>
(ii)	How it supports the delivery of growth within the Council's Local Plan (Wiltshire Core Strategy);	<b>Minor change</b> in the interest of clarity to include Chippenham and Wiltshire Housing Site Allocations Plans as well as Wiltshire Core Strategy.  No change in principle - this remains the fundamental purpose of CIL
(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 Core Strategy (paragraphs 4.41 and 4.42). Core Policy 3 prioritises essential infrastructure in the event of competing demands;	<b>No change</b> - policy still forms part of the development plan.
(iv)	Is it needed in line with (ii) and to ensure it complies with Habitats Regulations and would not be delivered through other means;	<b>No change</b> - compliance with Habitats Regulations is critical to the delivery of the Council's development plan.
(v)	Whether alternative sources of funding could be used to deliver the project, and if so which source(s);	<b>No change</b> - CIL is not expected, nor will there be enough funds, to deliver all CIL-eligible projects.
(v)	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);	Widen criteria to recognise that due to the lifting of 'double-dipping' restrictions, consideration can be given to using CIL funding to top up and ensure timely delivery of projects partially funded through Section 106 legal agreements. Add ( <b>in bold</b> ): '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) <b>and/or ensure timely delivery of projects partially funded through Section 106 legal agreements.</b> '

**Diagram 1: Revised process for the prioritisation and allocation of Community Infrastructure Levy (CIL) Strategic Funds**



<sup>1</sup> Reports on Section 106 and CIL. Contains the Infrastructure List that identifies what projects the Council may spend CIL on.

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