

# Wiltshire Council

## Cabinet

26 April 2022

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**Subject:** Allocation of Community Infrastructure Levy Strategic Fund

**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

Cabinet on 27 September 2021 approved a revised process for allocating the Community Infrastructure Levy (CIL) Strategic Fund. CIL cannot meet all the demands placed on it and the criteria enable decisions to be made on what infrastructure CIL should pay for, to support development in our adopted Local Plan.

Further to the recent update to the Council's Infrastructure List and allocations for spending in the Cabinet budget report on 1 February 2022, this report proposes to add a new type of infrastructure to the Infrastructure List and to make allocations from the Strategic CIL Fund in relation to: air quality monitoring infrastructure, the Trowbridge Bat Mitigation Strategy, and walking and cycling infrastructure improvements.

The total cost of these projects is circa £1.56m, which increases the current commitment from the Strategic CIL Fund to a figure of circa £26.26m. This leaves a figure of £4.34m in the fund as of 31 March 2021.

Proposals for further funding allocations will be made once a review of the evidence underpinning the infrastructure required to support growth in the Local Plan has been completed.

To better align CIL reporting with financial reports of the authority, wherever appropriate it is considered that updates on CIL allocations are reported as part of the budget reporting to Cabinet.

### Proposal(s)

That Cabinet:

- (i) Approves the updating of the Infrastructure List to include:

“Infrastructure projects identified through the Local Highways and Footpaths Improvement Groups (LHFIG) that provide for pedestrian and cycle improvements”.

- (ii) Approves the allocation of:
  - (a) Subject to the approval of (i), up to £400,000 to the LHFIG programme for projects that relate to pedestrian and cycle improvements.
  - (b) Up to £160,500 for air quality infrastructure; and
  - (c) An increase to the pot of funding allocated 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 from £1.35m to up to £2.35m
- (iii) Agree that the quarterly financial reports to Cabinet be expanded where appropriate to include monitoring use of allocated CIL Strategic Fund spend and the allocation of this fund to new projects.

#### **Reason for Proposal(s)**

To ensure the timely delivery of priority infrastructure to support the development of Wiltshire, avoid the need for borrowing and transparency in decision making regarding the use and spending of the Council’s CIL Strategic Fund.

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

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### Purpose of Report

1. To:
  - (i) Seek approval for an update to the Infrastructure List and further allocations of the Community Infrastructure Levy (CIL) strategic fund to three projects; and
  - (ii) Provide an update on work to be undertaken to profile the future spending of CIL strategic funds and propose reporting arrangements for the allocation of funding.

### Relevance to the Council's Business Plan

2. The purpose of CIL is to help fund the infrastructure that our growing communities need while protecting the natural and historic environment and providing for the sustainable development of Wiltshire. As such, it's relevance to the Council's 2022 to 2032 Business Plan is cross-cutting and relates to many outcomes within the plan.
3. The proposals for funding in this report specifically align with our sustainable environment aims to: improve and protect biodiversity, enable everyone to have access to cleaner air, and support decarbonisation of existing transport and increased walking and cycling.

### Background

4. Cabinet on 27 September 2021 approved a revised process for allocating the Community Infrastructure Levy (CIL) strategic fund. **Appendix 1** includes the process and criteria any funding allocation is considered against. The Governance arrangements require Cabinet to formally approve allocations of CIL spend from the Strategic Fund.
5. CIL cannot meet all the demands placed on it. It is only one form of funding that can be used to deliver infrastructure. The criteria provide transparency

and help manage expectations about how CIL generated should be spent. It should be used to deliver infrastructure needed to support the development of the area, as set out in the Local Plan.

6. CIL works alongside but does not replace Section 106 (S106) Agreements<sup>1</sup> under the Town and Country Planning Act 1990 (as amended) or Section 278 Highway Agreements under the Highways 1980 Act (as amended). It is not charged on all developments and there are exemptions or relief for some types but unlike S106 it can be collected from any size of development over 100sq m. It is therefore the most appropriate method for capturing developer contributions from small developments and can deliver infrastructure outside of S106.
7. The levy can be used to increase the capacity of existing infrastructure or to repair failing infrastructure if that is necessary to support development.
8. Cabinet on 27 September 2021 alongside approving a revised process also resolved that further work would be undertaken: *“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.”*
9. As reported through the budget report to Cabinet on 1 February 2022, work commenced on this through the consideration of potential projects for the Council’s capital programme. An initial set of projects were identified and approved including allocations for 4 strategic transport projects, which would form part of the Council’s capital programme for a total of £12.96m. A second set of projects has now been identified for which funding is sought.

## **Main Considerations for the Council**

### Allocation of Strategic CIL Fund

10. This report is only focusing on the immediate need to allocate further CIL funding for two projects on the current Infrastructure List:
  - (i) Air quality monitoring infrastructure
  - (ii) Trowbridge Bat Mitigation Strategy
11. In addition, consideration is given to an update to the Infrastructure List with the inclusion of a project to deliver improvements for walking and cycling to support active travel within growing local communities.

### *Air Quality Monitoring Infrastructure*

12. The Council’s Infrastructure List includes the provision of air quality monitoring infrastructure. This is now required at Bradford-on-Avon, Calne,

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<sup>1</sup> The levy is generally the most appropriate mechanism for capturing developer contributions from small developments (less than 10 homes).

Devizes and Salisbury, where infrastructure is absent or failing, and funding for £160,500 is sought, which is a worst-case figure based on an initial estimate but will be firmed up following tendering. This is the funding gap once Section 106 funding of £19,571 from developments in Bradford-on-Avon and Calne has been considered. No provision has been made in the Council's budget for this infrastructure.

13. While air quality infrastructure is not categorised as 'essential infrastructure' but 'place shaping' and thus has a lower priority in the CIL prioritisation criteria, it does have wider benefits. The data informs the shaping of development to address air quality issues, which in turn enables investment in essential infrastructure as part of development. For example, to manage air quality by providing walking and cycling routes. As such and given the level of strategic funding left once the most recent allocations have been taken off. It is recommended that up to £160,500 is allocated for air quality infrastructure.

#### *Trowbridge Bat Mitigation Strategy - recreation mitigation*

14. Cabinet on 27 September approved "*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 Bats Special Area of Conservation in line with the Trowbridge Bat Mitigation Strategy.*" Although the resolution also allowed for variances under delegated authority, the additional amount required is so significant further approval is needed.
15. The original allocated funding was based on land being acquired for a suitable area of natural greenspace (SANG), based on purchasing at historic agricultural land values. Since then, further work has been undertaken with the Council's Estates and Development Service to understand current land values based on council purchases elsewhere in the county. This has concluded that funding for a further £1m is needed for a 35 hectare SANG, which is based on land purchased for amenity use that can cost more than agricultural value.
16. To ensure sufficient certainty for delivery of mitigation projects required because of Habitat Regulations it is important that the funding is secured now, without further delay, to enable the Council to make decisions as Local Planning Authority. It is therefore recommended that the approved funding pot to mitigate recreational pressures on bat habitats linked with the Bath and Bradford on Avon Bats Special Area of Conservation is increased from £1.35m to up to £2.35m.

#### *Walking and Cycling Infrastructure Improvements*

17. Delivery of walking and cycling infrastructure would help the Council deliver on commitments made not only through the Council's adopted Local Plan but also the more recent Climate Strategy around active travel. Improvements related to infrastructure for pedestrian and cyclists, including safety measures that make it easier/more attractive for people to walk and cycle, would complement the current allocation of Strategic CIL Funds which to date is

solely on road schemes. Sustainable transport measures are classified as 'essential infrastructure' and as such can reasonably be considered for the allocation of CIL Strategic Funds.

18. From 2022/23, Local Highways and Footpath Improvement Groups (LHFIGs) will be able to identify priority projects for highway and footpath schemes, including cycling in community areas. Funding is allocated to the Area Boards for this purpose, which comprises £400k from Highways Integrated Transport Grant and £400k diverted from Area Board capital which is currently funded through borrowing. This is distributed so that each community area has a set fund to access, with a discretionary fund for more substantive projects that are more than the fund allocated.

19. The terms of reference set out the types of projects identified through LHFIGs:

- Pedestrian improvements: including dropped kerbs, new footways, substantive improvements to existing footways, pedestrian crossings (including assessments).
- Cycle improvements: new cycle paths, cycle parking / storage.
- Bus infrastructure: new and replacement Shelters (subject to agreement on future maintenance liability), bus border kerbs, bus stop road markings.
- Traffic signing: new and replacement signs (including signposts), street name plates, village gateways.
- New road markings: new and replacement of existing markings.
- Speed limits: assessment and implementation.
- Waiting restrictions: assessments and implementation.
- Footpath improvements: styles, gates, surfaces.
- Drainage: minor improvements, new gullies.
- Street lighting: new installations.
- Traffic management measures.

20. While not all on LHFIG projects on the face of it directly relate to infrastructure improvements to support walking and cycling, many can do where they relate to associated safety measures and improving the attractiveness of travel by these modes. The LHFIGs provide a positive way to identify priority projects to support walking and cycling in local communities, which are experiencing the effects of development. Given that funding has already been identified for 50% of the allocated funding pot, it is suggested that the remaining £400k or portion of it could be allocated from the Strategic CIL Fund instead of borrowing.

21. To enable Strategic CIL Funding to be allocated, it is first necessary to agree to a change to the Infrastructure List. It is recommended that this proportion of funding is used for those proposals that invest in pedestrian and cycle improvements to support and encourage people to walk/cycle more, helping them live healthier lives. This would be in line with 'Core Policy 60: Sustainable transport' of the Wiltshire Core Strategy. The Infrastructure List could be updated to state:

*“Infrastructure projects identified through the Local Highways and Footpaths Improvement Groups that provide for pedestrian and cycle improvements”*

22. While the projects identified through LHFIGs are less strategic in nature than projects identified through transport strategies prepared for some of the market towns, the relatively low level of Strategic Funds (up to circa £400k) proposed to be diverted to LHFIG projects as a one off would not significantly compromise spending on strategic transport infrastructure. This will be reviewed in 12 months' time to establish the proportion of LHFIG expenditure which can be funded by CIL.

#### Reporting on future approval of Allocations from the Strategic CIL Fund

23. To better align CIL reporting with financial reporting of the organisation, it is proposed wherever appropriate that updates on CIL allocations are reported as part of the quarterly budget reports to Cabinet.

24. To be transparent, the title and/or purpose of the reports may need to be changed.

25. The agreed process already requires a Cabinet decision to be made when allocated CIL from the Strategic Fund but is not prescriptive in how this is done. The process therefore does not need to change and has sufficient flexibility in it to allow for the reporting and decision to be made in this way.

26. However, exceptionally it may be appropriate to approve funding outside of the normal budget reporting if the timings do not align.

#### Next Steps

26 To complete the further work required in paragraph 8, the next step is to undertake a full review of the projects in the 'Infrastructure Delivery Plan' as well as transport strategies that have been prepared (e.g. for Chippenham, Salisbury and Trowbridge) and on the 'Infrastructure List' through engaging with infrastructure providers (internal and external) to understand whether the projects identified are still needed and why, when they need to be brought forward, and whether there is a demonstrable funding gap.

27 This work may in turn identify new infrastructure projects where there is a clear case these are needed to support current Local Plan growth.

28 At the same time, work can be undertaken by Finance with the support of Planning to profile future CIL income to anticipate available funds and align this with projected spending.

#### **Overview and Scrutiny Engagement**

27. At the time of writing, no engagement had been undertaken with the Council's Overview and Scrutiny function.

#### **Safeguarding Implications**

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

## **Public Health Implications**

29. Air pollution is one of the major environmental detriments to health and there is evidence that it has an impact on incidence and severity of lung health and cardiovascular disease leading to reduced life expectancy. Short term increases in levels of air pollution can cause a range of health impacts. Improving air quality monitoring infrastructure across the county will enable the Council to make informed decisions about actions to be taken in relation to air quality.
30. Delivery of new natural green spaces as part of environmental mitigation and improvements to support walking and cycling will benefit local communities.

## **Procurement Implications**

31. There will be direct procurement implications if CIL funding is approved. Procurement will be undertaken in line with corporate procedures.

## **Equalities Impact of the Proposal**

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

## **Environmental and Climate Change Considerations**

33. All projects for which funding is proposed to be allocated will have environmental benefits. Improvements to walking and cycling infrastructure (including safety measures) will encourage people to use these modes of travel, supporting decarbonisation of transport. Air quality monitoring infrastructure will inform where action needs to be taken to improve air quality.
34. Measures to improve access to alternative open space, as guided by the Trowbridge Bat Mitigation Strategy will ensure that there are no adverse impacts arising from development for a protected wildlife site.

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

35. The recommended allocations as set out in the proposal will provide funding for projects that are considered necessary to support growth, ensuring air quality can continue to be monitored effectively and ensure that there are no adverse impacts on the integrity of protected wildlife sites.

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

36. The costs to deliver mitigation measures and monitoring equipment can only be estimated at this time. While this is based on evidence, spending against the allocated funding will need to be monitored. Use of Strategic CIL Fund for projects identified by LHIGs also will be monitored to ensure effective use of funds.

## Financial Implications

37. Commitments to date have been made for circa £24.7m of the Council's CIL Strategic Fund, leaving a figure of £5.9m as of 31 March 2021, which has grown further during 2021/22.
38. The proposals for new funding allocations as set out in this report total circa £1.56. This would leave at least £4.34m in the strategic fund.
39. As set out in paragraph 23, use of CIL Strategic Fund to support projects identified through the LHFIGs would avoid borrowing by the Council. This is a financing decision and does not affect the total budget approved.
40. Reporting updates on CIL spend and making recommendations for allocation as part of the quarterly budget reporting to Cabinet where appropriate will ensure greater visibility and show the link to the revenue and capital programmes. It will also enable decisions on allocations of CIL to be made without the need for separate CIL focused Cabinet paper.

## Legal Implications

41. Allocations for CIL Strategic Funds has been considered against the Council's approved process that has been prepared in line with the legal framework.
42. The Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019 came into force 1 September 2019. This included the requirement to prepare an annual Infrastructure Funding Statement<sup>2</sup> (by no later than 31 December 2020), which is required to set out:
  - The infrastructure projects or type of infrastructure which the charging authority intends will be, or may be, wholly or partially funded by CIL - known as the 'Infrastructure List' (which replaces the Regulation 123 List).
43. To allocate the Council's Strategy CIL Funds, the project or type of infrastructure must be on the Infrastructure List before funding can be allocated to infrastructure on it. The changes to CIL Regulations also provided the ability for local authorities to combine Section 106 and CIL funding towards the same infrastructure project or item.

## Workforce Implications

44. Infrastructure planning to support growth, prioritisation of spending and preparation of the Infrastructure Funding Statement is undertaken by existing staff. This is led by the Spatial Planning Service and involves Officers from across the Council.
45. Those Services to which the funding allocation proposed in this report relates already have set processes through which the infrastructure can be delivered.

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<sup>2</sup> The Council's Infrastructure Funding Statements can be viewed via this [link](#)

## **Options Considered**

46. Consideration has been given to whether further allocations should be made now or whether the CIL Strategic Fund should be allowed to accrue more. However, there is a clear case for allocating funding for the projects identified for the reasons explained, particularly for the air quality infrastructure and environmental mitigation where no alternative source of funding is available, and the projects are time critical.

## **Conclusions**

47. The Infrastructure List should be updated to include pedestrian and cycle infrastructure improvements including safety measures identified through the LHIGs, as approved by the Area Boards.

48. Approval of strategic CIL funding for three priority projects will ensure the timely delivery of infrastructure and avoid the need for borrowing. The need for further allocations should be made following a review of the evidence underpinning the infrastructure required to support growth in the current Local Plan.

49. Future allocations for CIL funding should be made where possible as part of the reporting on the budget to better align the Council's financial reporting.

## **Parvis Khansari (Director - Highways and Environment)**

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## **Appendices**

Appendix 1: Approved process for allocation of Strategic CIL Fund

## **Background Papers**

None