

# **Executive Committee**

## **1 November 2016**

### **Community Infrastructure Levy – Revised Regulation 123 List and CIL Apportionment**

#### **For Decision**

#### **Portfolio Holder**

Cllr I Gardner

#### **Senior Leadership Team Contact:**

S Hill, Strategic Director

#### **Report Author:**

Andrew Galpin, Implementation Team Leader

#### **Statutory Authority**

The Community Infrastructure Levy Regulations 2010 (as amended)

#### **Purpose of Report**

- 1 To set out revisions to the existing Community Infrastructure Levy Regulation 123 list for West Dorset.
- 2 To set out the proposed apportionment of CIL income for West Dorset.

#### **Officer Recommendations**

- 3a That the revised regulation 123 list as set out in appendix A is approved.
- 3b That the proposed apportionment of CIL income as set out in appendix B is approved.

#### **Reason for Decision**

- 4 The revised regulation 123 list is necessary to help clarify how funds collected from the levy will be used alongside funds collected from section 106 (S106) agreements for site-specific development proposals.
- 5 The proposed apportionment will help clarify how money collected through CIL will fund the infrastructure themes set out in the councils regulation 123 list.

#### **Background and Reason Decision Needed**

- 6 On the 18 July 2016, West Dorset District Council implemented the Community Infrastructure Levy (CIL), which means that liable development proposals are now required to pay a financial charge related to the

proposed level of development. In time, the levy will help deliver additional funding to carry out a wide range of infrastructure projects that support growth and benefit the local community.

- 7 This report is set out in two parts to cover the two recommendations, 3a and 3b.

## **PART 1 – Revisions to the Regulation 123 List (recommendation 3a)**

### **Changes in Regulations**

- 8 Once an authority introduces the levy, regulation 123 of Community Infrastructure Regulations 2010 (as amended) limits the use of S106 (planning obligations) to cover those matters that are directly related to a specific site. However, there may be some planning applications which are CIL liable and also have a S106 to secure site specific infrastructure, which is required to make the development acceptable in planning terms.
- 9 Regulations introduced nationally in April 2015 also restrict the use of ‘pooled’ contributions towards items that may be funded via the levy. At that point, no more obligations may be collected in respect of a specific project or type of infrastructure, if five or more obligations for that project or type of infrastructure have been entered into since April 2010 and is a type of infrastructure capable of being funded by the levy.

### **Development Allocations**

- 10 The council’s adopted Local Plan (2015) contains a number of development allocations which require site-specific infrastructure (on/off-site) to mitigate their impact. The infrastructure being sought on these sites is set out in table 1 below, and it is intended that these items be secured by way of S106 agreement. Paragraph 6.2.3 of the local plan already establishes that the infrastructure requirements for the sites at Chickerell, Littlemoor, Crossways, Bridport and Markham and Little Francis, Weymouth will be secured through planning obligations and will be excluded from a CIL charge. The allocation BEAM2 is for employment and so is not liable to a CIL charge. This approach ensures that the level of infrastructure provided is commensurate to the level of development proposed and ensures that the development is acceptable in planning terms.

Table 1: Site-specific infrastructure requirements on strategic allocations in West Dorset and Weymouth & Portland

<b>Site</b>	<b>Theme</b>	<b>S106 Requirement</b>
Chickerell (CHIC2)	Recreation	Football Pitches (grass)
	Recreation	Skate Park
	Recreation	Pavilion and Youth Club Facility
	Recreation	Weymouth Swimming Pool enhancements
	Recreation	Budmouth Sports Facility enhancements
	Culture	Weymouth Museum
	Education	Chickerell Primary School (new)
Littlemoor (LITT1)	Community	Community Hall (new/or replacement)
	Community	Cemetery Provision
	Culture	Weymouth Museum

	Recreation	Weymouth Swimming Pool enhancements
	Recreation	Redlands Sports Hub enhancements
	Education	New Primary School and contributions to Bincombe Valley Primary School
Crossways (CRS1)	Highways	Footpath/cycleway improvements along B3390 to Moreton Station
	Highways	Improvements to Moreton Station
	Highways	Improvements to A35 Max Gate junction
	Education	Enhancements to Frome Valley Primary School
	Education	Enhancements to Thomas Hardye School
	Healthcare	Replacement GP surgery
	Community	Replacement Village Hall
Beaminster (BEAM2)	Highways	Tunnel Road Footway
Bridport (BRID1)	Highways	Cycle link to Bridport Town Centre
	Highways	Improvements to A35 Miles Cross junction
	Recreation	Bridport Leisure Centre enhancements
	Recreation	Symene Cricket Club enhancements
	Healthcare	Improvements to Bridport Medical Centre
	Education	New Primary School
Weymouth (Markham & Little Francis) (WEY10)	Education	Enhancements to St Augustine's School
	Highways	Public Transport Provision (through/near site)
	Highways	Signal improvements and stacking lane
	Recreation	Skate Park (The Marsh)
	Recreation	BMX Track (The Marsh)
	Recreation	Parkour Course (The Marsh)

- 11 As a result of the legislative changes and the requirement for S106s on strategic sites, it is important that there is clarity and transparency in the infrastructure that is being sought through the levy.

#### **The regulation 123 list**

- 12 The regulation 123 (r123) list is the tool which the council uses to set out the projects or types of infrastructure that it intends to fund, or may fund, through the levy. The District Council prepared a r123 list for the purposes of the Community Infrastructure Levy examination (2013-2015). The list was approved by the examination and is published online at [www.dorsetforyou.com](http://www.dorsetforyou.com).

- 13 The existing list contains a number of general infrastructure themes, including transport, education, healthcare, green infrastructure and recreation. The existing list also contains a discrete set of identified infrastructure projects that would be funded wholly or partly through the levy. The themes and projects were identified and published in the West Dorset, Weymouth & Portland Infrastructure Delivery Plan (October 2014).

#### **Changing the levy**

- 14 Statutory planning guidance allows the council to amend the r123 list as it sees fit. The reasons for amending the list are set out in paragraph 3. The guidance states that when charging authorities wish to revise their list, they

should ensure that the changes are clearly explained and subject to the appropriate local consultation.

- 15 This report proposes to amend the existing r123 list by separating the list into two columns.
- Column A – the infrastructure themes which will be funded in whole or partly by CIL.
  - Column B – specific infrastructure projects within each theme which will be delivered in whole or in part by S106/S278 agreements, i.e. the infrastructure listed in table 1.
- 16 This approach would avoid the potential for development to pay twice for the same item of infrastructure.
- 17 This report does not propose to change the infrastructure themes set out in the existing r123. It is important to maintain the breadth of infrastructure themes to ensure that development can support a variety of projects and initiatives. Were the themes to change, the effects may impact on the viability evidence that supported the examination of the charging schedule and prompt a review of the charging schedule.
- 18 The changes proposed to the r123 list will allow the council to move forward with greater confidence in both securing and spending contributions from the levy. Nevertheless, the spending of the levy will need to be carefully planned and managed.

## **PART 2 – CIL Apportionment (recommendation 3b)**

- 19 The District Council as charging authority will be the recipient of all CIL money initially. However, all CIL receipts are subject to deductions. The neighbourhood proportion of receipts will be transferred on a regular basis. This proportion will be 15% for the town or parish where the development takes place, or 25% if that area has an adopted neighbourhood plan. The amount that can be transferred is limited to £100 per dwelling in the parish or town area in any financial year, unless there is an adopted neighbourhood plan in which case there is no limit. CIL money passed directly to town or parish councils must be used by them to support the development of the areas. A proportion (up to 5%) will also be retained by the District Council for administration. The remaining money will accumulate over time and it will be the responsibility of the District Council to spend or transfer the money to an appropriate body. The CIL regime gives the council greater spending flexibility but requires new arrangements to be put in place to provide a framework for the allocation of these funds.
- 20 For the remaining CIL funds, i.e. funds not including neighbourhood portions or admin, it is proposed that this money is apportioned to the following infrastructure themes set out in the regulation 123 list:
- Green Infrastructure and recreation provision serving the needs of the wider area.

- Culture & Leisure Facilities – including provision for community and public buildings, youth centres and children’s facilities
- Waste Management Facilities
- Transport, including highway improvements, bus services, walking and cycle improvements.
- Education and Training Facilities – provision for which the Local Education Authority has a statutory responsibility including early years, primary and secondary.
- Healthcare facilities
- Emergency Service Facilities
- Flood Mitigation and Coast Protection schemes
- Utilities
- Poole Harbour Nutrient Management (SPA/SAC mitigation)
- Dorset Heathlands Mitigation - Special Protection Area mitigation from development in the Heathland Mitigation zone in the south-east of the district
- Public Realm including offsite provision / enhancements

- 21 There is no regulation or requirement to apportion CIL money. The approach depends largely on the nature of the infrastructure needs and the evidence to support it. It is therefore entirely at the council’s discretion how it goes about administering its CIL receipts.
- 22 The apportionment method provides clarity, particularly to our external partners of our priority themes based on an informed (evidenced) position. Apportionment also provides an easier and more cost effective way to administer CIL as opposed to deciding how to spend each CIL receipt on a case by case basis.
- 23 It is proposed that each theme (in para 20) receives a fixed proportion of CIL money. The proportion is set using evidence of the infrastructure costs in the Infrastructure Delivery Plan (IDP) 2014.
- 24 The IDP was prepared in consultation with infrastructure stakeholders and includes details of projects which could benefit from CIL money by the end of the current Local Plan period (2031). For West Dorset, the greatest infrastructure cost lies in the provision of Education, (£35 million) which includes, for example, the replacement and expansion of middle schools in Dorchester. The second highest cost is Culture & Leisure (£19 million) e.g. arts centres, community libraries and built leisure facilities. The third highest cost is transport (£13 million), e.g. footpath and cycleway enhancements.
- 25 The total cost of infrastructure which could be funded by CIL is approximately £85 million. This means that the cost of education infrastructure equates to 41% of the total infrastructure cost. Culture & Leisure infrastructure equates to 22% of the total infrastructure cost. Transport equates to 15% of the total infrastructure cost. Because of their high associated infrastructure costs, it is proposed that these themes receive the greatest proportion of CIL money, with education receiving 30%, culture and leisure receiving 17.5% and transport receiving 15%.

- 26 The other themes would share the residual 37.5% of CIL income receiving a smaller proportion of the total CIL income in each case. The full breakdown of apportionment is set out in appendix B. Appendix B also applies the proportions to set out the estimated annual CIL income against each infrastructure theme. The total estimated annual CIL income has been calculated based on past trends of housing delivery which take into account reductions for relief, exempt sites, admin and the neighbourhood proportion.
- 27 These proportions and the rationale behind them have been discussed and agreed in principle with the various infrastructure providers, most notably Dorset County Council (Education, Transport, Highways), and Natural England (Heathland Mitigation). Recommendation 3b seeks agreement to the apportionment of the CIL funds to different infrastructure types. Once collected, CIL monies for some infrastructure categories may need to be passed to other bodies (for example Dorset County Council or Natural England) in order to deliver the necessary infrastructure. Such arrangements will be the subject of further negotiation, but they may be similar to those for S106 monies, which are transferred in tranches (e.g. every 6 months) to these providers where it will be spent on items in the Infrastructure Delivery Plan or more up to date infrastructure programmes.
- 28 A key principle for both CIL funds retained by the District Council and those passed on to other organisations will be to support and provide certainty about the funding of, those projects which are most critical to support growth or which are otherwise strategically/corporately important. This certainty will also enhance the value of CIL as a 'match funding' tool to leverage in money from other sources.
- 29 As CIL money builds over the course of the next 12 months, officers plan to engage with members to agree governance arrangements to identify the process for spending CIL money held by the council. The arrangements will be set out in a report and put before this committee for its future consideration.

## Implications

- 30 **Corporate Plan** Contribute to a Stronger Local Economy – Secure the delivery of infrastructure that is needed to support people and employers to work in the district.
- 31 **Financial.** The contributions secured through the Community Infrastructure Levy will be held by the council. The council can spend up to 5% of the total levy receipts on administrative expenses.
- 32 **Equalities.** There are not considered to be any equalities issues as a result of this report and its recommendations.
- 33 **Environmental.** The provision and enhancement of community infrastructure can have environmental benefits, both in terms of the living environment for local people and the natural environment, where green infrastructure is provided.

- 34 **Economic Development.** The provision and enhancement of community infrastructure can have economic benefits, both in terms of employment and tourist attraction.
- 35 **Risk Management (including Health & Safety).** The proposed changes could mean that infrastructure which is being delivered wholly or partly by S106/S278, would not be able to receive funds from CIL. To avoid this, the list contains as much detail as possible about the site-specific project so that it doesn't preclude the use of CIL for related infrastructure. The approach also allows for additional s106 negotiation, where there is a site specific prerequisite even where s106 is associated with another development site, subject to the pooling - if for any reason, further large/complex sites come forward.
- 36 Some of the S106 requirements set out in the regulation 123 list are subject to negotiation and may or may not be secured as a result of planning permission. Should infrastructure not come forward as expected, the regulation 123 list should be revised accordingly.
- 37 **Human Resources.** The Community Infrastructure Levy is administered by the Community Infrastructure Levy Officer, part of the Implementation Team. Officers from the Implementation Team will work with members on the governance arrangements.

## **Consultation and Engagement**

- 38 The original r123 formed part of the council's evidence base for the Community Infrastructure Levy Examination which was subject to public and stakeholder consultation. The changes proposed to the r123 are considered minor and only necessary to aid its clarification and interpretation. Discussions are taking place with the landowners and developers of the sites listed in Table1 to make them aware of the proposed changes to the r123 list and it is not proposed to undertake any further consultation on the revised list.

## **Appendices**

- 39 Appendix A - Revised West Dorset Regulation 123 List
- 40 Appendix B – Proposed West Dorset CIL apportionment

## **Background Papers**

- 41 Existing West Dorset Regulation 123 List
- 42 West Dorset, Weymouth & Portland Local Plan, 2015
- 43 West Dorset, Weymouth & Portland Infrastructure Delivery Plan 2014

## Footnote

Issues relating to financial, environmental, economic and equalities implications have been considered and any information relevant to the decision is included within the report.

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