

ITEM 8 Community Infrastructure Levy – Revised Regulation 123 Infrastructure List

Report of the Planning Policy and Transport Portfolio Holder

Recommended:

- 1. That the proposed revisions as a result of public consultation set out in the Draft Revised Regulation 123 List (November 2016) in Annex 2 to the report are approved.**
- 2. That the addendum to the Test Valley Access Plan 2015 as set out in Annex 3 to the report is approved.**
- 3. That the Corporate Director, in consultation with the Planning Policy and Transport Portfolio Holder, be authorised to make changes of a minor nature to improve the presentation of the Draft Revised Regulation 123 List and the Test Valley Access Plan.**

- The Draft Revised Regulation 123 List was publicly consulted on between 12 August and 23 September 2016.
- As a result of public consultation, several amendments have been made to the revised Regulation 123 List to address consultee comments.
- The purpose of this report is to seek approval for the Draft Revised Regulation 123 List and an addendum which categorises the projects within the Test Valley Access Plan.

1 Introduction

- 1.1 Regulation no. 123 of the Community Infrastructure Levy (CIL) Regulations, 2010 (as amended) requires CIL Charging Authorities to set out what types of infrastructure or infrastructure projects it intends to fund, in whole or in part, through CIL receipts. This is to ensure there is a degree of clarity regarding funding of projects and infrastructure from CIL and ensures that CIL and S106 developer contributions are not secured for the same item of infrastructure.
- 1.2 Public consultation was carried out on a revised Regulation 123 List between 12 August and 23 September 2016. A total of 9 responses were received, a summary of which, alongside proposed changes to the Regulation 123 List, can be viewed in Annex 1.

2 Background

- 2.1 The CIL Charging Schedule was adopted in January 2016 and the Council commenced charging CIL from 1 August 2016. Although the accumulation of funds through the gathering of CIL receipts may take a number of years, the publication of an up to date CIL Regulation 123 List provides clarity on what the Council proposes to spend CIL receipts on.
- 2.2 The current CIL Draft Regulation 123 List is out of date and the document refers to key strategies and Supplementary Planning Documents that have been updated.
- 2.3 Furthermore, the CIL Inspector noted at the CIL Examination that the current Regulation 123 List was not sufficiently detailed and should be refined in the future.
- 2.4 The revised Regulation 123 List seeks to strike a balance between addressing consultee comments and developing a sufficiently detailed Regulation 123 List to ensure clarity over the type of infrastructure that the Council intends to fund through CIL.

3 Corporate Objectives and Priorities

- 3.1 As the use of S106 to secure developer contributions is scaled back, CIL receipts will provide an important source of funding to deliver infrastructure to support the Borough's growth from proposed development as identified in the adopted Local Plan 2016.
- 3.2 The accumulation of sufficient CIL funds will allow the Council to prioritise spending which will be informed by the projects and types of infrastructure identified on the Regulation 123 List. The proposed amendments to the CIL Regulation 123 List in this report will help ensure that the Council has a strategy to provide relevant and necessary infrastructure across the Borough and help fulfil the Corporate Plan priority of enabling those that live and work in and also those that visit Test Valley 'to contribute to and be part of a strong community' and 'enjoy the natural and built environment'.

4 Consultations/Communications

- 4.1 Public consultation on revisions to the Draft Regulation 123 List was undertaken between 12 August and 23 September 2016 from which 9 responses were received. A number of the representations made during the public consultation has resulted in several proposed changes to the Regulation 123 List (see Annex 1).
- 4.2 The main changes relate to highways schemes and further detail regarding flood alleviation works arising from comments from both HCC and the Environment Agency.
- 4.3 Highways infrastructure – Hampshire County Council (HCC) raised concerns regarding their ability to seek improvements to the Borough's roads and pedestrian/cycle paths through the use of S278 Highways Agreements.

A S278 Agreement allows HCC as the Highway Authority to enter into a direct agreement with developers to mitigate the impact of additional traffic. TVBC officers have developed an approach to the inclusion of highways projects in the Regulation 123 List in liaison with HCC Highways officers that meets the needs of both TVBC and HCC.

- 4.4 The projects in the adopted Romsey and Andover Town Access Plans are separated into categories, such as 'Measures to reduce the impact of additional traffic' and 'Cycling, walking and accessibility'. The approach to the Revised Regulation 123 List is to fund some Access Plan categories through CIL and other categories to be funded using alternative mechanisms (e.g. S106 developer contributions).
- 4.5 The Test Valley Access Plan (TVAP) 2015 is developed in consultation with Parish Councils and lists highways improvements and pedestrian and cycling schemes in the Borough's rural areas. However, it is not separated into categories. A 're-categorised' addendum to the TVAP, as set out in Annex 3, places the schemes listed into categories to align with the Romsey and Andover Town Access Plans. It should be noted that no schemes have been amended or removed from the TVAP but simply reorganised into two categories – 'Measures to reduce the impact of additional traffic' and 'Cycling, walking and accessibility'. It is intended to inform stakeholders, such as Parish Councils, of the re-categorised version of the TVAP, in addition to the amendments to the Regulation 123 List arising from the consultation.
- 4.6 Flood defences - With regard to flood alleviation schemes, the two schemes now listed have arisen from a review of the impact of flooding across the Hampshire region led by HCC and the Environment Agency (EA). The schemes are one of 1500 schemes identified across England as part of the government's £2.3bn investment plan and both are considered to be a priority by HCC and the EA for Test Valley communities.
- 4.7 Suitable Alternative Natural Greenspace (SANGs) – To satisfy the Habitats Regulations, the Council will need to explore how a proportion or an annual sum could be committed from CIL receipts to deliver SANGs. The Strategic Allocations are nil rated for CIL, therefore will not contribute towards the SANGs 'pot'. However, these sites will need to provide their own SANGs land to mitigate the recreational impact from their development. For Hoe Lane and Whitenap, this has been identified as Luzborough Plantation.
- 4.8 A34/A303 Bullington Cross – It is proposed to remove this scheme from the 'Highways Improvements' section of the Regulation 123 List. An assessment of the possible works to be undertaken to deliver this scheme is being undertaken by Highways England. At this stage there is limited information regarding the cost and feasibility of the works proposed. On this basis, it is proposed to remove this scheme.

5 Options

- 5.1 The Council has 2 options regarding the development of the CIL Regulation 123 List.

Option 1

- 5.2 The first option is retain the existing Regulation 123 List which was developed in 2013.

Option 2

- 5.3 The second option is to refine the existing Regulation 123 List based on the proposed amendments arising from consultee comments as identified in Annex 1.

6 Option Appraisal

Option 1

- 6.1 Test Valley is in the best position to identify necessary infrastructure that will require funding from CIL.
- 6.2 The current CIL Regulation 123 List is out of date. The document refers to key strategies and Supplementary Planning Documents that have been updated.
- 6.3 Furthermore, the CIL Inspector noted at the CIL Examination that the current Regulation 123 List was not sufficiently detailed and should be refined in the future.

Option 2

- 6.4 Option 2 is the preferred option. A revised Regulation 123 List provides certainty and transparency in how the Council allocates funding from CIL in the light of fewer S106 developer contributions. The Council would be at risk of challenge if it does not make clear projects to be funded through CIL receipts.
- 6.5 As of 6 April 2015, the Council is no longer able to pool more than 5 separate S106 contributions towards the one item of infrastructure. CIL is not bound by any pooling restrictions, therefore the Council can direct CIL receipts to projects that are identified on the CIL Regulation 123 List. An updated list provides clarity and transparency regarding how the Council allocates CIL receipts and to avoid any perceptions that the Council is securing CIL contributions and S106 developer contributions for the same item of infrastructure.
- 6.6 The revised List also makes reference to currently adopted documents and strategies. It also provides a more detailed description of projects and removes projects that are no longer relevant (e.g. Andover Discovery Centre).

- 6.7 A more detailed list allows the Highway Authority to secure improvements to reduce the impact of additional traffic on the Borough's roads and highway network for all users through a S278 Highways Agreement. Under the CIL Regulations, a project cannot be funded from both CIL and S278, similar to the restrictions in place with S106 and CIL.

7 Risk Management

- 7.1 An evaluation of the risks associated with the matters in this report indicate that further risk assessment is not needed because the changes/issues covered do not represent significant risks or have previously been considered by Councillors on 13 October 2013 Cabinet, Item 11.

8 Resource Implications

- 8.1 There will be no resource implications for the publication of the revised Regulation 123 List and re-categorised Test Valley Access Plan.

9 Legal Implications

- 9.1 Legal Services have been consulted on the proposed wording in the revised Regulation 123 List to ensure robustness. Legal Services have also advised that the Revised Regulation 123 List can be published following approval by Cabinet.

10 Equality Issues - none

11 Other Issues

- 11.1 Community Safety – none
- 11.2 Environmental Health Issues – none
- 11.3 Sustainability and Addressing Changing Climate – none
- 11.4 Property Issues – none
- 11.5 Wards/Communities Affected – all

12 Conclusion and reasons for recommendation

- 12.1 To seek agreement for the amendments and revisions to the CIL Regulation 123 List will allow the Council to maximise opportunities for expenditure of CIL receipts in a transparent and justified way as well as address the representation made during the August/September 2016 public consultation exercise. The proposed amendments will also address the CIL Inspector's recommendations regarding refinements to the Draft Regulation 123 List, given its preparation in the early stages of the CIL process.

- 12.2 Revisions to the List are timely in the context that the Council commenced charging CIL on 1 August 2016 and CIL receipts will begin to accumulate. The List provides clarity to those developments that will be liable for CIL as to how the CIL receipts will be spent.
- 12.3 In light of the above, it is recommended that the Revised CIL Regulation 123 List is approved and the ‘re-categorised’ addendum Test Valley Access Plan is published following notification of Parish Councils.

<u>Background Papers (Local Government Act 1972 Section 100D)</u> Community Infrastructure Levy Draft Revised Regulation 123 List July 2016 Test Valley Access Plan 2015			
<u>Confidentiality</u> It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
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