

 Executive Committee 6 March 2019		Agenda Item No. 3
Title	Community Infrastructure Levy (CIL) Regulation 123 List for 2019/20	
For further information about this report please contact	Philip Clarke – Policy & Projects Manager 01926 456518 philip.clarke@warwickdc.gov.uk	
Wards of the District directly affected	All	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	5 th April 2018 Minute no. 151	
Background Papers	Infrastructure Delivery Plan	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Yes	No
Included within the Forward Plan? (If yes include reference)	Yes – Ref 985
Equality Impact Assessment Undertaken	No
Not applicable	

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	31/1/19	Chris Elliott/Bill Hunt
Head of Service	31/1/19	Dave Barber
CMT	31/1/19	Bill Hunt
Section 151 Officer	31/1/19	Mike Snow
Monitoring Officer	31/1/19	Andrew Jones
Finance	31/1/19	Mike Snow
Portfolio Holder(s)	12/2/19	Cllr Alan Rhead
Consultation & Community Engagement		
<p>The Infrastructure Delivery Plan (IDP) was subject to consultation as part of the Local Plan process. The CIL Regulation 123 is based on the IDP. In developing the proposals in the Reg 123 list, there has been significant consultation with Infrastructure Providers including Warwickshire County Council, SWFT, the Clinical Commissioning Group, the Police, and other services within WDC.</p>		
Final Decision?	Yes	
Suggested next steps (if not final decision please set out below)		

1. **Summary**

- 1.1 The report sets out the proposed CIL Regulation 123 list for 2019/20 as the basis for focusing the distribution of CIL receipts collected during the year.

2. **Recommendations**

That Executive:-

- 2.1 Approves the CIL Regulation 123 List set out in Appendix 1
- 2.2 Approves that the table set out at paragraph 3.13 below is used as the basis for distributing CIL receipts collected during 2019/20.
- 2.3 Recommends to Council that changes are made to the Scheme of Delegation to give delegated authority to the Head of Development Services as follows: "To enter into agreements providing for the transfer of funds received, as a result of payments to the Council under the Community Infrastructure Levy Regulations 2010 (CIL), to an infrastructure provider for a scheme which has been agreed by the Council under CIL Regulation 123."

3. **Reasons for the Recommendations**

- 3.1 In preparing the proposals for the Reg. 123 List, officers have consulted with Infrastructure Providers including Warwickshire County Council, NHS South Warwickshire Foundation Trust, the Clinical Commissioning Group, the Police, and other services within Warwick District. These providers have submitted proposals for consideration for inclusion in the Reg. 123 list for 2019/20. A full description of the submitted proposals is set out in Appendix 2. Having assessed these proposals, taking particular account of likely CIL receipts for the year and alternative sources of funding, the recommended CIL Reg. 123 list is set out in Appendix 1.
- 3.2 In August 2017, prior to the introduction of CIL and in consultation with the Development Portfolio Holder, the following criteria were put forward as the basis for assessing proposals for the Reg. 123 list:-
- Identified benefits of project
 - § Relationship to development proposed within the Local Plan
 - § Extent to which project addresses current and projected issues
 - § Anticipated impact on infrastructure capacity once project completed
 - Identification of the project within the IDP
 - Overall cost of project
 - Required level of funding from CIL (taking account of other sources of funding and the degree to which these are committed)
 - State of progress (is the scheme clearly planned and deliverable within the timescale envisaged?)
- 3.3 These criteria have been circulated to infrastructure providers to help shape any proposals which they would wish to see funded from CIL and have also been used to assess the proposals as set out in the table below.
- 3.4 These criteria were identified to provide a way of fairly assessing infrastructure proposals from different organisations. In doing, officers have been conscious

that, although Warwick District Council is the CIL charging authority and has the ultimate say on where CIL money is spent, the purpose of CIL is to collect money to spend on infrastructure that the community needs. In this context, the relationship between the Reg. 123 List and the Infrastructure Delivery Plan is important. The IDP is underpinned by an evidence base which was prepared alongside the Local Plan. Schemes in the IDP have therefore been identified as being priorities to address the impact of growth. It is therefore reasonable to use the IDP as the starting point for the Reg. 123 list as we can be confident that the benefits of these schemes have been evidenced and tested alongside the Local Plan preparation and examination.

3.5 Notwithstanding this, it should also be noted that the IDP is a dynamic document which recognises and responds to changing infrastructure needs. It also needs to be kept under regular review with new items of infrastructure included where these are justified. For this reason, the Council has established an IDP Member Reference Group to review and update the IDP and assess the schemes that have been proposed for inclusion on the Reg 123 list. This group meets quarterly, and its work informs both this report and the twice yearly review by the Finance & Audit Scrutiny Committee of the IDP.

3.6 It should also be noted that currently the CIL regulations prevent Section 106 contributions being sought for any items that are included within the Reg.123 List (however see para. 3.19 below). It is therefore important to consider which infrastructure projects are directly related to specific developments (and are therefore best funded through Section 106 contributions) and which relate either a large number of developments or do not relate well to any specific development, in which case CIL may be more appropriate.

3.7 A summary of the assessment of each proposal is set out below:

Infrastructure Project Title	Total CIL requested 2019-2024	CIL requested 2019/20	Assessment	Include in Reg 123 list y/n
Improvements to Destination Parks – St Nicholas, Warwick and Abbey Fields, Kenilworth	£3.00m	Nil	Aligns with IDP and given nature and location infrastructure may be difficult to achieve through S106 funding.	Yes
Bath Street Improvement Scheme	£3.9m	£195k	This is an area of significant congestion which requires improvements. It is defined as a key project within the IDP and due to the pattern of development across the District, there are unlikely to be significant S106 contributions available. It aligns well with the Creative Quarter proposals in terms of both location and timing. No other sources of funding have been identified.	Yes
Emscote Road Multi Modal Corridor Improvements	£1.66m	£200k	Contribution towards a wider package of improvements along main link between Warwick and Leamington. This is an area of significant congestion which requires improvements. It is defined as a key project within the IDP and due to the pattern of development across the District,	Yes

Infrastructure Project Title	Total CIL requested 2019-2024	CIL requested 2019/20	Assessment	Include in Reg 123 list y/n
			there are unlikely to be significant S106 contributions available. In addition to CIL, over £2.1m has been secured from other sources of funding.	
Warwick Town Centre Improvement works – traffic flow changes, junction enhancements and improved pedestrian and cycle connectivity	£1.98m	£373k	Contribution towards a wider package of improvements in the Town Centre. It is defined as a key project within the IDP and due to the pattern of development across the District, there are unlikely to be significant S106 contributions available. Total project costs are approx. £4.1m.	Yes
Kenilworth Leisure (Phase 2): Castle Farm Recreation Centre	£6m	Nil	Included in IDP and is part of WDC's commitment to improve leisure infrastructure in Kenilworth. Note that the amount being requested from CIL has increased from £4.4m in 2018 as a result of the further design and feasibility work and public consultation (to RIBA stage 1) carried out on this project during 2018. (A separate report on this project was considered by Executive in January 2019.)	Yes
Medical facilities - North Leamington Spa (Cubbington/Lillington)	£2.8m (GP only scheme) OR £4.3m (hub incl other health services)	Nil	Included in IDP as a key project. Given the pattern of development there are unlikely to be significant opportunities to identify S106 contributions. WDC has affirmed its commitment to this project through a report to Executive in May 2018.	Yes
Medical facilities - Leamington Spa Town Centre	£5.5 - 6m (TBC)	Nil	This scheme could potentially be suitable and eligible for CIL, in particular, recognising that there is significant population growth in Leamington town centre and that this is taking place on a large number of schemes. The scheme is, however, at a very early stage (no site has been identified at this stage and little feasibility and design work has been undertaken) and so the project requires further development before it can be considered further. Also, other sources of project funding have yet to be fully explored.	No
Wayfinding	£140k	£70k	Whilst not included specifically in IDP, this project supports proposals to improve accessibility in Town Centres for cyclists and pedestrians. Improving wayfinding is considered important in terms of improving links between Leamington town centre and the station, supporting the	Yes

Infrastructure Project Title	Total CIL requested 2019-2024	CIL requested 2019/20	Assessment	Include in Reg 123 list y/n
			Creative Quarter initiative and enhancing the town in advance of its role as a host venue for the Commonwealth Games in 2022.	
Warwick Hospital Multi-Storey Car Park project (500 spaces)	£3.63m	Nil	This scheme is not being included within the IDP at the present time. More work needs to be done to establish the business case for this, how it would enable other improvement at the hospital to be made and whether CIL money is appropriate to help fund it.	No
Warwick Hospital Day Surgery development	£5m	Nil	This scheme is potentially suitable for funding through CIL however scheme is at an early stage. It is noted that the total project cost is estimated at £10m however other sources of funding have yet to be established.	No
Electric Charging Infrastructure Developments	£475k	£275k	This scheme is potentially suitable for funding through CIL however is subject to a number of grant applications, the outcomes for which are currently awaited, and therefore delivery cannot be guaranteed at the present time. It is recognised that if other sources of funding are forthcoming, a CIL contribution could be significant to support the delivery of this project.	No
Warwick Wheels Bike Scheme	£1m - £4m	Nil	This scheme is not being included within the IDP at the present time. It is at an early stage of development. Further work is required before this project can be considered further.	No
Total (maximum)	£35,085,000 – £40,085,000	£1,113,000		

3.8 The schemes in the table above total potentially in excess of £40m. Two schemes however can be discounted immediately; the Warwick hospital multi-storey car park (because more work is done to establish the business case for this and whether it requires any other funding to be viable) and the Warwick Wheels Bike Scheme (because this proposal is at a very early stage and needs further scoping before the case for it can be fully understood). This leaves £32,455,000 of schemes which are identified as fitting the Reg. 123 criteria for the period 2019 to 2024.

3.9 This level of demand exceeds the predicted CIL income (see paras 5.2 and 5.3 below) of between £16.2m to £18.36m. As noted in paras. 5.3 and 8.5, this range recognises that a proportion of CIL receipts will need to be passed to Parish and Town Councils at an amount dependent upon whether there is a Neighbourhood Plan in place. To manage the risk that development may not

come forward in line with the Housing Trajectory, it is proposed that the total cost of schemes over 5 years to be included within the Reg.123 risks should not exceed £16.2m in line with the more cautious estimate. There is also, however, as noted in para. 5.3 a further £438k available that has been raised through CIL in 2018/19 but has not yet been distributed. This makes total available CIL receipts for the period 2019/24 of £16,638,000. In view of the level of demand identified above, it is therefore necessary to further prioritise these schemes to ensure CIL provides sufficient funds.

3.10 Prioritised proposals: Within the table at para. 3.7, there are a number of schemes that are suitable for inclusion within the IDP and therefore potentially included within the Reg. 123 list. Three of these (Medical facilities - Leamington Spa Town Centre, Warwick Hospital Day Surgery development and Electric Charging Infrastructure Developments) are not, however, proposed for inclusion in the Reg. 123 list this year. The reasons for this are as set out in the table and also to reflect the scale of projected CIL receipts. These schemes will be kept under review, and officers will work with infrastructure providers as part of any review of the Reg. 123 list to explore whether, when and how these schemes can be supported.

3.11 To align the potential costs with projected receipts, it is proposed that the Reg. 123 List is comprised of the Infrastructure projects set out in the table below and that over the 5-year period 2019 to 2024, the CIL receipts contribute accordingly to the following projects. It should be noted that these are the same projects that are on the current (2018) Reg. 123 list.

Infrastructure Project	Requested	Proposed 19-24	Comment
Destination Parks	£3.0m	£3.0m	Project still being scoped. This provides potential to prioritise works to align with CIL receipts, therefore full request may not be required.
Bath Street Improvement Scheme	£3.9m	£3.9m	
Emscote Road Multi Modal Corridor Improvements	£1.66m	£1.66m	
Warwick Town Centre Improvement works	£1.98m	£373k	Unique amongst the major schemes included within the Reg 123 list, these improvement works are made up of a number of smaller discrete projects. It is therefore possible to part-fund the scheme. The amount proposed reflects that requested for 2019/20.
Kenilworth Leisure (Phase 2): Castle Farm Recreation Centre	£6m	£4.2m	Whilst the value of this project remains strong, and indeed further feasibility and design work undertaken during 2018/19 has been helpful in confirming costs, it is not possible to increase the amount offered by CIL to this project without removing another project. The amount proposed is the same as that offered last year.
Medical facilities - N Leamington (Cubbington/ Lillington)	£4.3m	£2.8m	The requested amount reflects the potential total cost of a new health facility. However as there are likely to be alternative sources of funding, it is unlikely that the whole amount will need to be funded from CIL. It may also be that the scheme, once designed, will be less expensive. Given the

Infrastructure Project	Requested	Proposed 19-24	Comment
			level of projected CIL receipts available, the amount being offered reflects the cost of the GP surgery only (not that of a wider "health hub"). The amount proposed is the same as that offered last year. It should be noted that little progress has been made on this project in the last 12 months, notwithstanding the report that was taken to Executive in May 2018 to seek Council support for the project. This is due to resource/capacity issues within the CCG and SWFT. Therefore, although the CCG did not request any CIL funds for 2019/20 (see appendix 2), it is considered that allocating some limited CIL money to support further feasibility and design work would provide an impetus to the project (see table under para. 3.13 below).
Wayfinding	£0.14m	£0.14m	The amount proposed is the same as that offered last year.
Total		£16.073m	

3.12 In addition to the above, CIL charging authorities are entitled under regulations to take up to 5% of CIL income as an administrative charge. In order to implement and deliver CIL, the Council has had to employ a full-time CIL Administrative Officer and has had to invest time and resources changing its systems and procedures. Whilst it is not proposed that the Council takes its full 5% (which would equate to over £800k over five years) an administrative charge of £300k (i.e. £60k per year) is considered reasonable. This has been built into the Council's Medium Term Financial Strategy. Taken together with the above list of schemes brings the total amount committed within the Reg. 123 list to £16,373,000; within that of the projected level of CIL income.

3.13 In accordance with the calculations set out in para. 5.3 there will be between £2,370,000 and £2,686,000 of CIL income due to the Council during 2019/20, plus the £438,000 of un-allocated money from 2018/19. Taking the lower figure as the basis for allocating money, this gives a total of available CIL receipts in 2019/20 of £2,808,000. Noting that some of the Infrastructure Projects within the proposed Reg 123 list do not require specific funding during 2019/20, it is possible to support all funding requests of those schemes which are in the proposed Reg 123 list. It is therefore proposed that CIL receipts during 2019/20 be applied as follows:

Infrastructure Project	Proposed 19/20	Percentage
Destination Parks	Nil	-
Bath Street Improvement Scheme	£195k	20.3%
Emscote Road Multi Modal Corridor Improvements	£200k	20.9%
Warwick Town Centre Improvement works	£373k	38.9%
Kenilworth Leisure (Phase 2): Castle Farm Recreation Centre	Nil	
Medical facilities - N Leamington (Cubbington/Lillington)	£60k	6.3%
Wayfinding in Leamington, Kenilworth and Warwick	£70k	7.3%
PLUS CIL Administrative charge	£60k	6.3%
Total	£958,000	

3.14 Any surplus in CIL receipts for 2019/20 over and above £958,000 will be carried forward to 2020/21 and applied proportionately to the Reg 123 list priorities for

2020/21. There are two schemes in the Reg 123 list (destination parks and Castle Farm Recreation Centre) which do not specifically require funding in 2019/20. These are included for transparency as each of them will require significant CIL funding in future years and any surplus in CIL receipts in 2019/20 may be applied to these schemes. It is therefore appropriate to include these from the start to ensure Section 106 agreements do not require future amendments.

- 3.15 CIL receipts will be distributed each April and October to infrastructure providers (with the distribution in April 2019 being made in line with the agreed proportions from the 2018/19 Reg 123 list and those made in October 2019 and April 202 being made in line with the 2019/20 Reg 123 list). The money will be paid against an invoice and will be accompanied by a legal agreement which commits the infrastructure provider to spend the money in line with the scheme set out in the Regulation 123 list. In general, the money will be distributed in line with the proportions set out in the table above. However, in the event that total receipts within the year fall short of those predicted, discussions will take place with infrastructure providers and the April distribution will to adjusted accordingly to ensure essential requirements are met.
- 3.16 The making of payments to infrastructure providers in accordance with the above paragraph is a new procedure for the Council which is not covered by any existing scheme of delegation. To allow smooth and timely payments to be made, it is requested that delegated authority is given to the Head of Development Services in accordance with the wording set out in recommendation 2.3 above.
- 3.17 To summarise therefore, the Council is currently projecting the following:-

Minimum income to the Council from CIL between 2019/2024 (plus any receipts from 2018/19)	£16,638,000
Total value of schemes on which this income can be spent (2019/24) (including an allowance for a CIL admin fee)	£16,373,000
Total CIL income to the Council from CIL during 2019/20	£2,808,000
Total requested during 2019/20 from those infrastructure projects on the proposed CIL Reg 123 list.	£958,000

- 3.18 It can be noted that the total projected income for the period 2019/24 exceeds the projects on which this can be spent by £265,000. As noted elsewhere in this report, it is considered prudent not to over-commit funds at this stage particularly given the difficulties in accurately predicting CIL income over the medium term. Future reviews of the Reg. 123 list will allow all these figures to be considered further to ensure that CIL income is fully spent.
- 3.19 Finally, it should be noted that the Government has recently finished consulting on proposed reforms to developers' contributions. These relate both to s106 agreements and CIL. Under these proposals:-
- Local authorities will be allowed to use both CIL and s106 planning obligations to fund the same item of infrastructure
 - Reg. 123 lists will be replaced with a more transparent approach to reporting by charging authorities on how they propose to use developer

contributions through Infrastructure Funding Statements. These will be produced annually and will report 'what has happened' on revenues from developer contributions and the way in which those revenues have been applied. It will also look forward to anticipated revenues from developer contributions and how local authorities propose to apply them in the following years.

3.20 As these changes have not yet been introduced they have not informed the recommendations in this report. It is likely, however, that the next review of the Reg. 123 list will be as part of a wider Infrastructure Funding Statement.

4. Policy Framework

4.1 Fit for the Future (FFF)

The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects.

The FFF Strategy has 3 strands – People, Services and Money and each has an external and internal element to it. The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

FFF Strands		
People	Services	Money
External		
Health, Homes, Communities	Green, Clean, Safe	Infrastructure, Enterprise, Employment
<u>Intended outcomes:</u> Improved health for all Housing needs for all met Impressive cultural and sports activities Cohesive and active communities	<u>Intended outcomes:</u> Area has well looked after public spaces All communities have access to decent open space Improved air quality Low levels of crime and ASB	<u>Intended outcomes:</u> Dynamic and diverse local economy Vibrant town centres Improved performance/productivity of local economy Increased employment and income levels
Impacts of Proposal		
Will help co-ordinate the timely provision of infrastructure such as schools, community spaces, medical facilities that are essential to enable the growth required in the Local Plan	Will help co-ordinate the timely provision of infrastructure such as new parks, play areas and open spaces that are essential to enable the growth required in the Local Plan	Will help co-ordinate the timely provision of infrastructure such as roads that are essential to enable the growth required in the Local Plan
Internal		
Effective Staff	Maintain or Improve Services	Firm Financial Footing over the Longer Term
<u>Intended outcomes:</u> All staff are properly	<u>Intended outcomes:</u> Focusing on our	<u>Intended outcomes:</u> Better return/use of our

trained All staff have the appropriate tools All staff are engaged, empowered and supported The right people are in the right job with the right skills and right behaviours	customers' needs Continuously improve our processes Increase the digital provision of services	assets Full Cost accounting Continued cost management Maximise income earning opportunities Seek best value for money
Impacts of Proposal		
None	None	None

4.2 Supporting Strategies

The CIL Regulation 123 list aligns with the Infrastructure Delivery Plan which formed a key part of the Local Plan evidence base. The CIL scheme ensures the delivery of appropriate infrastructure to enable the growth required through the plan period. It therefore directly supports the Local Plan.

5. Budgetary Framework

- 5.1 There are no direct budgetary implications associated with the recommendations. Funding to appoint a CIL Officer to coordinate the work to collect CIL monies is already in place and the recruitment process has taken place.
- 5.2 If the Local Plan Housing Trajectory is achieved for 2018/19, CIL is predicted to deliver approximately £3,160,000 during 2019/20 and a total of approximately £21,600,000 between 2019 and 2024. This is on top of the estimated £438,000 in CIL receipts for 2018/19 – the first full year in which CIL has been operating in Warwick District. It should be noted however, that CIL is payable within 60 days of developments starting on site. CIL receipts are therefore heavily dependent which developments start during any given year. Therefore, the actual amount of CIL received is not easy predict accurately.
- 5.3 It should also be noted that a proportion of CIL receipts (15% or 25% - see para 8.5 below) must be distributed to Town and Parish Councils. This proportion does not need to be spent on items within the Reg 123 list. Therefore, the amount of money available for projects within the Reg 123 list is predicted to be in the range of £2,370,000 to £2,686,000 for 2019/20 and £16,200,000 to £18,360,000 for the 5-year period to 2024. The income from 2018/19 has not been allocated and this therefore boosts this total by an estimated £438,000.

6. Risks

- 6.1 The predicted CIL income is derived from the Local Plan Housing Trajectory. There is a risk that housing will not come forward at the rate suggested in the trajectory. Were this to be the case the actually amount of CIL received during 2019/20 may be lower than predicted. The same applies to the predicted receipts over the five-year period to 2024. The IDP Member Reference Group will keep this under review and will consider whether a report needs to be brought to Executive later in 2019 to further review and amend the Reg. 123

list. Further adjustments will then also be made in March/April 2020 when proposals are brought forward for the 2020/21 CIL Reg. 123 list.

7. Alternative Option(s) considered

7.1 Appendix 2 sets out the full range of proposals that have been put forward by infrastructure providers for inclusion in the 2019/20 Reg. 123 list. From this it can be seen that a number of proposals have been excluded from the Reg. 123 list. From this full range of proposals, members could choose different priorities for inclusion. However, this is not recommended for the reasons set out in this report.

8. Background

General information about CIL

8.1 The Community Infrastructure Levy (CIL) was introduced under the Planning Act 2008 and is a tariff system that enables local authorities to make a charge on new development to fund infrastructure needed to support development. The CIL Regulations came into effect in April 2010 and minor amendments were made to the Regulations in April 2011. Further Regulations were published during 2012.

8.2 CIL is a charge on new development; it is charged per square metre on net additional floor-space of development. CIL is not charged on social housing and developments used for charitable purposes. The amount payable will be set at the time planning permission is granted and payment will be linked to the commencement of development. Larger amounts will be payable in instalments over fixed time periods.

8.3 CIL is intended to complement rather than replace other funding streams and is intended to promote development rather than hinder it. Its main advantages are that:

- It is modest representing around 2-5% of total development costs and is not charged on types of development that cannot sustain it.
- It is a fixed, non-negotiable charge and is therefore transparent and predictable.
- It is less time-consuming and complicated than Section 106 planning obligations, with less need for protracted negotiations with applicants and the drawing up of legal agreements (although these will still be required to secure affordable housing and addressing site specific mitigation).

8.4 Unlike funding from Section 106 agreements, CIL funds can be spent on a wide range of infrastructure to support development without the need for a direct geographical or functional relationship with the development. Section 106 agreements will still be used, but in a more focused way to directly provide both 'off-site' infrastructure, (through financial contributions), and 'on site' improvements through site specific obligations.

8.5 Warwick District Council is responsible for collecting CIL monies due. A proportion of the money collected is distributed to Town and Parish Councils in which developments fall. For Town and Parish Councils with an adopted Neighbourhood Plan this proportion is 25%, for Councils without an adopted

Neighbourhood Plan this is 15%. This proportion must be spent to support the impacts of developments on local communities.

- 8.6 To adopt a CIL Charging Schedule, we will need to demonstrate that there is a funding gap which exceeds the likely receipts from other sources. This is set out in a live and evolving document called a Reg. 123 List.