

Executive
18th March 2021

Title: Community Infrastructure Levy (CIL) Projects List for 2021/22

Lead Officer: Philip Clarke, Head of Development Services

Portfolio Holder: John Cooke

Public report

Wards of the District directly affected: All

Contrary to the policy framework: No

Contrary to the budgetary framework: No

Key Decision: Yes

Included within the Forward Plan: Yes – ref 1,172

Equality Impact Assessment Undertaken: No

Consultation & Community Engagement: None

Final Decision: Yes

Officer/Councillor Approval

| Officer Approval | Date | Name |
|--|-------------|-------------------------|
| Chief Executive/Deputy Chief Executive | 15/02/21 | Chris Elliott/Bill Hunt |
| Head of Service | | N/A |
| CMT | 15/02/21 | Bill Hunt |
| Section 151 Officer | 15/02/21 | Mike Snow |
| Monitoring Officer | 15/02/21 | Andrew Jones |
| Finance | 15/02/21 | Mike Snow |
| Portfolio Holder(s) | 15/02/21 | Cllr John Cooke |

1. Summary

- 1.1. The report sets out the proposed CIL Projects list for 2021/22 as the basis for focusing the distribution of CIL receipts collected during the year.

2. Recommendation

That Executive:-

- 2.1. Notes the amount spent during 2020/21 on CIL Projects from the current CIL Projects List and the anticipated level of CIL Contributions to be received by the Council in the next five years as set out in paras. 3.1 – 3.6 below.
- 2.2. Approves the CIL Projects List for 2021/22 set out in Appendix 1
- 2.3. Approves that paragraphs 3.16-18 and table 4 below are used as the basis for distributing CIL receipts collected during 2021/22 and, where stated in table 4, 2022/23.

3. Reasons for the Recommendation

- 3.1 In March 2020, the Council agreed the current list of projects (the CIL Projects List) that is to be funded from anticipated CIL receipts in 2020/21. This has formed the basis on which CIL contributions received have been distributed in the last year. In November 2020, Executive agreed that an additional project (Newbold Comyn) would be added to the 2020/21 list. In February 2021, Executive agreed that £6 million would be allocated from CIL to fund the Kenilworth Castle Farm Leisure Centre.
- 3.2 Table 1 below identifies all those CIL projects contained within the current CIL Projects List, indicates how much CIL income was allocated to each project in 2020/21, and then sets out how much it is estimated will be spent by the end of March 2021.

| Table 1: Spending on CIL Projects in the 2020/21 CIL Projects List | | |
|---|---|----------------------------|
| | Expected CIL spending in 20/21 (£) | |
| Infrastructure Project | Agreed | Actual or estimated |
| Destination Parks | Nil | Nil |
| Bath Street Improvement Scheme | 150,000 | 50,000 |
| Emscote Road Multi Modal Corridor Improvements | 115,000 | Nil |
| Kenilworth Leisure (Phase 2): Castle Farm Recreation Centre | 5,000,000 | Nil |
| Medical facilities - N Leamington (Cubbington/Lillington) | Nil | Nil |
| Wayfinding in Leamington, Kenilworth and Warwick | 105,000 | 105,000 |
| Europa Way bridge | Nil | Nil |
| Whitnash Civic Centre and Library | 250,000 | 250,000 |

| Table 1: Spending on CIL Projects in the 2020/21 CIL Projects List | | |
|---|---|----------------------------|
| | Expected CIL spending in 20/21 (£) | |
| Infrastructure Project | Agreed | Actual or estimated |
| Newbold Comyn | 55,000 | 55,000 |
| | | |
| PLUS CIL Administrative charge | £65,000 | 65,000 |
| | | |
| Total | 5,740,000 | 525,000 |
| | | |

- 3.3 The reason why CIL contributions are unlikely to be fully spent during this year is clear from the table. The Kenilworth Leisure project has not progressed at the pace originally envisaged, and this has been separately reported to members. The two highway schemes (Bath St and Emscote Road) are both County Council projects, and the County Council's capacity to progress these has been impacted upon by the pandemic.
- 3.4 In terms of understanding how much money the Council is likely to have available from CIL contributions to fund projects over the next five years, it is possible to estimate this using the latest Local Plan housing trajectory, published by the Council late last year. If the Housing Trajectory is achieved, CIL is predicted to deliver the following as set out in table 2. It should be remembered that a proportion of CIL receipts (15% or 25% - see para 8.4 below) must be distributed to Town and Parish Councils to spend within their areas and therefore is not available to the District Council to allocate.

| Table 2: Estimate of future CIL income to Warwick District Council | | | |
|---|------------------|---|---|
| | Total (£) | If 15% passed to parish councils (£) | If 25% passed to parish councils (£) |
| 2021/22 | 3,700,000 | 3,145,000 | 2,775,000 |
| 2021 - 2026 | 30,720,000 | 26,112,000 | 23,040,000 |

- 3.5 To this income should be added an estimated £3,062,000 of CIL income that has been collected but will remain unspent as at 31st March 2021 (taking account of all spending estimates in the 2020/21 CIL Projects List in table 1). Therefore, the amount of money available for projects within the CIL Projects List is predicted to be in the range of £5,837,000 to £6,207,000 for 2021/22 and £26,101,000 to £29,173,000 for the period 2021 to 2026.
- 3.6 It should be noted that the actual amount of CIL received is not easy to predict accurately. CIL is payable within 60 days of developments starting on site and so is entirely dependent upon the rate at which new development comes forward. Nevertheless, the above figures are the best estimate the Council can provide at the present time for likely future level of CIL income.

Recommendation 2.2

- 3.7 The process that the council has followed for arriving at the proposed CIL Projects List contained in this report is broadly the same as has been undertaken in all previous years. This has involved consulting 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 list for 2021/22. A full description of all submitted proposals is set out in Appendix 2.
- 3.8 The agreed criteria on which proposals are assessed has been previously agreed by the Council and is as follows.
- 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 Council's Infrastructure Delivery Plan (IDP)
 - The extent to which the project can support the Council's commitments as set out in its climate emergency
 - 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?)
- 3.9 These criteria have been included within the forms that infrastructure providers have been asked to complete and have also been used to assess proposals. An analysis of the submitted proposals against these criteria has been undertaken and is set out in Appendix 3.
- 3.10 The schemes set out in appendices 2 and 3 total potentially in excess of £37m. There is clearly insufficient projected income to fund all of these projects and so an element of prioritisation is needed. As para. 3.5 above sets out, it is predicted that between £26,101,000 and £29,173,000 will be available for the period 2021 to 2026. In line with the approach taken in previous years (and recognising the risk that development may not come forward in line with the Housing Trajectory), it is advised that the Council only commits funds in line with the more cautious estimate (i.e. assuming that 25% of all CIL receipts are handed over to Parish Councils). Therefore, a minimum of £26,101,000 is estimated to be available to fund CIL projects between 2021 and 2026
- 3.11 On this basis, it is recommended that two of the projects for which bids have been made are not included in the CIL Projects List for 2021/22.
- Medical facilities (Leamington town centre): This scheme (up to £6.35m requested) 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 sites. 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.

- Destination Parks: This funding (£5m requested) is required to support improvements to Abbey Fields in Kenilworth and St Nicholas Park in Warwick. Whilst this project would be suitable for inclusion on the CIL Projects List (and indeed is included on the current list), these proposals are at an early stage of development and currently no funding from the Council or elsewhere has been committed to them.

3.12 Table 3 below lists the prioritised infrastructure projects which are recommended for inclusion in the List for 2021/22.

| Table 3: Proposed CIL Projects for inclusion on the Projects List for 2021/22 | | |
|--|-----------------------|--|
| Infrastructure Project | Proposed 21-26 | Comment |
| Bath Street improvement scheme | £3.795m | |
| Emscote Road multi modal corridor | £1.992m | Note that in addition to the main project this includes £500,000 to support the delivery of a cross town-centre route as part of the Future High Streets Fund bid. |
| Kenilworth Leisure (Phase 2): Castle Farm Recreation Centre | £6m | Note that this was agreed by Executive in February 2021 in advance of this report. |
| Medical facilities - N Leamington (Cubbington/ Lillington) | £2.74m | |
| Wayfinding in Warwick town centre | £0.035m | Wayfinding projects for Leamington and Kenilworth town centres are being funded from CIL funds in 20/21. |
| Europa Way bridge link | £1m | |
| St Mary's Land, Warwick | 1.343m | New scheme for 2021/22 |
| Newbold Comyn | 3.254m | This includes £425,000 that was committed by Executive in November 2020 to support the early work following the completion of the masterplan. |
| Warwick Gates Community Centre | 0.15m | New scheme for 2021/22 |
| Europa way spine road cycleway/ footpath link | 1.053m | New scheme for 2021/22 |
| Relocation of athletics facility and creation of Commonwealth Park | 1.8m | New scheme for 2021/22 |
| Commonwealth Park bridge | 0.25 | New scheme for 2021/22 |

| Table 3: Proposed CIL Projects for inclusion on the Projects List for 2021/22 | | |
|--|-----------------------|------------------------|
| Infrastructure Project | Proposed 21-26 | Comment |
| Relocation of Kenilworth Wardens | 2.5m | New scheme for 2021/22 |
| PLUS CIL Admin charge | 0.365m | |
| Total | £26.278 m | |

- 3.13 Within the above table is also a CIL Administrative charge. 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%, an administrative charge of £365k (i.e. £73k per year) is considered reasonable. This is a small increase from the £65,000 agreed in 2020 which has been built into the Council's Medium Term Financial Strategy.
- 3.14 Taken together, the above list of schemes brings the total amount committed within the CIL Projects List to £26,278,000. This is against a project CIL income of £26,101,000 (see para. 3.5 above). Whilst there is a small potential funding shortfall identified, this is not considered to be significant, particularly noting that the projected income is based on a conservative scenario whereby 25% of all CIL receipts are passed to parish councils. This has not happened to date and will be extremely unlikely to happen over the next five years.

Recommendation 2.3

- 3.15 As set out in para. 3.5 above, it is estimated that between £5,837,000 to £6,207,000 will be available from CIL contributions to spend in 2021/22. Whilst there is sufficient projected income over the next five years to support all projects on the List, the rate at which CIL is projected to be received would not support the delivery of projects against the project profiles set out in bids. For this reason, some projects have had to have their funding re-profiled. In some cases, this will mean that projects cannot progress at the rate they would ideally wish; in others it may mean that to support the early delivery of projects the infrastructure provider will have to find money from other sources (including borrowing) until the CIL income is eventually received.
- 3.16 Table 4 below sets out the proposed distribution of CIL income for 2021/22. In doing so, it is in line with the lower (more cautious) estimate of likely CIL income for 2021/22.
- 3.17 Table 4 also proposes a number of projects for which Executive is being asked to commit CIL funding for 2022/23. This is the first time for Warwick District Council that this CIL Projects List report has done this. It is being done because some of the projects that are proposed to be supported in

2021/22 will entail the awarding of contracts by the infrastructure provider. The provider has therefore asked whether the council can give greater certainty to any future funding which is required to complete the project.

| Table 4: Proposed distribution of CIL contributions in 2021/22 and partial distribution in 2022/23 | | |
|--|-----------------------|---------------------------|
| Infrastructure Project | Proposed 21/22 | Proposed 22/23 (*) |
| | | |
| Bath Street improvement scheme | 95,000 | |
| Emscote Road | 626,043 | 1,365,957 |
| Kenilworth Leisure (Phase 2): Castle Farm Recreation Centre | 3,000,000 | 3,000,000 |
| Medical facilities - N Leamington (Cubbington/ Lillington) | 840,000 | 1,900,000 |
| Wayfinding in Warwick town centre | 35,000 | |
| Europa Way bridge link | Nil | |
| St Mary's Land, Warwick | 8,000 | |
| Newbold Comyn | 425,000 | |
| Warwick Gates Community Centre | 150,600 | |
| Europa way spine road cycleway/ footpath link | Nil | |
| Relocation of athletics facility and creation of Commonwealth Park | Nil | |
| Commonwealth Park bridge | Nil | |
| Relocation of Kenilworth Wardens | Nil | |
| | | |
| PLUS CIL Admin charge | 73,000 | 73,000 |
| | | |
| Total | 5,252,643 | 6,338,957 |
| * It should be noted that those projects for which funding in 2022/23 is being confirmed now are those for which contracts of work may be let in 2021/22 which will run over two financial years. Where there is no money allocated against a project in 22/23, this does not mean that no CIL funding will be given during 22/23, only that the Executive is not being asked to commit to this at the present time. | | |

- 3.18 It needs to be recognised that it is possible that actual CIL income during 2021/22 will be less than that projected. This occurred during 2020/21, in part owing to a slow-down in development (commencements on site) arising from the pandemic. Whilst it is hoped that development rates will bounce back, this cannot be guaranteed. The latest housing trajectory for Warwick District (prepared in discussion with major developers) does suggest that over the next five years Warwick District will continue to see the level of development (and therefore CIL income) that has previously been expected. It does suggest, however, that this housing growth will be re-profiled. In the event that our income in 2021/22 does not meet our best estimates, it is recommended that the amount given to the Kenilworth Leisure (Phase 2) project in 2021/22 is given first priority for funding, and that other projects are supported only once sufficient CIL contribution to support the Kenilworth

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Leisure project has been received. If this happens, however, any shortfall in payments in 21/22 for these other projects will be rolled over to 2022/23 (and, where relevant, added to the amount awarded to these projects in that year).

3.19 Where CIL income is to be distributed to external partners, legal agreements are put in place to set out when payments will be made and ensure that any CIL contributions is spent appropriately. For projects delivered by the Council, Service Level Agreements have been entered into with the relevant Head of Service.

3.20 The above CIL Projects List, and the proposed distribution in 2021/22 (and partial distribution in 2022/23) was discussed by the Development Programme Advisory Board on 26th January. The Board wished to thank officers for their work on this and gave its general support for the list of projects but with some specific observations.

- Support for the cycle/pedestrian path from the Stadium (Fusilier's Way) through to Myton Road and a desire for CIL funds to be made available to enable this project to be delivered earlier (in 2022/23 rather than 2023/24). Cllr Grey expressed concern on the naming of the spine road project (Community Stadium and Associated Developments) and that it is not included on the Projects list for 2021/22. (NB: The name of this project has since been changed to avoid confusion.)
- Support for the Warwick Gates Community Centre Enhancement.
- Request for further information/clarification regarding the location of the Commonwealth Park Bridge and its wider role and purpose. (NB: It has since been confirmed that the precise alignment of the bridge has not been fixed at the present time. It is anticipated that the location and design of the bridge will be agreed in due course as part of future plans for the redevelopment of the Riverside House site.)
- Wayfinding in Warwick – Suggested that implementation of this scheme is only progressed once there is clarity from Warwickshire County Council regarding its proposals for wider changes to the highway network in Warwick town centre. It is important to understand what the new layout of Warwick will look like before going ahead with different pedestrian wayfinding signs.

3.21 To summarise therefore, the Council is currently projecting and recommending the following:-

| | |
|--|-------------|
| Minimum projected income to the Council from CIL between 2021/2026 (including any receipts carried forward from 2020/21) | £26,101,000 |
| Total value of schemes on which this income can be spent (2021/26) (including an allowance for a CIL admin fee) | £26,278,000 |
| Total CIL projected income to the Council from CIL during 2021/22 (including any receipts carried forward from 2020/21) | £5,837,000 |

| | |
|--|------------|
| Total requested spend during 2021/22 from those infrastructure projects on the proposed CIL Projects list. | £5,252,000 |
| Total requested spend during 2022/23 from those infrastructure projects on the proposed CIL Projects list. | £6,339,000 |

4. Policy Framework

4.1. Fit for the Future (FFF)

4.1.1. 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.

4.1.2. The FFF Strategy has 3 strands, People, Services and Money, and each has an external and internal element to it, the details of which can be found [on the Council's website](#). The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

4.2. FFF Strands

4.2.1 External impacts of proposal(s)

People - Health, Homes, Communities - Will help co-ordinate the timely provision of infrastructure such as community spaces, sports and medical facilities that are essential to enable the growth required in the Local Plan.

Services - Green, Clean, Safe - 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. As part of the Council's ambitions for a Carbon Neutral District by 2030, the criteria against which CIL Projects are assessed includes how the project supports the Council's objectives as set out in its declared climate emergency. Where projects support transport improvements, this will be to ensure that priority is given to multi modal/active travel. Where projects support other infrastructure (e.g leisure facilities) this will seek to make these zero carbon or as close to this as possible.

Money- Infrastructure, Enterprise, Employment - Will help co-ordinate the timely provision of infrastructure that are essential to enable the growth required in the Local Plan.

4.2.2. Internal impacts of the proposal(s)

People - Effective Staff – None.

Services - Maintain or Improve Services - Focusing on our customers' needs; Continuously improve our processes.

Money - Firm Financial Footing over the Longer Term - Better return/use of our assets; maximise income earning opportunities; seek best value for money.

4.3. **Supporting Strategies**

- 4.3.1. Each strand of the FFF Strategy has several supporting strategies and the relevant ones for this proposal are explained here. The CIL Project 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

4.4. **Changes to Existing Policies**

- 4.4.1. None.

4.5. **Impact Assessments**

- 4.5.1. None. The relevant impact assessments will be carried out on projects funded through CIL contributions.

5. **Budgetary Framework**

- 5.1. There are no direct budgetary implications associated with the recommendations. As noted in para. 3.13, £73,000 of the CIL Administration fee has been built into the Council's Medium Term Financial Strategy.
- 5.2. A summary of CIL income paid to infrastructure providers, current levels of CIL income held by the council, and projected income over the period 2020/25 is all contained in paras 3.1 to 3.6 above. A summary of requests for contributions towards CIL projects for the period 2021/26 is contained in Appendix 2.

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. If this is to be the case, the actual amount of CIL received between 2021 and 2026 may be lower than predicted. Given the recommendations above, this will impact mostly on the Kenilworth Leisure Phase 2 project. The Kenilworth project team will keep this under review and will report to members as appropriate. It is, of course, open to the Council to consider further funding requests for this project from CIL in future years.
- 6.2. It should be made clear that if there is a shortfall in anticipated CIL income there is no requirement that the Council meets this through other means. When making offers of CIL to infrastructure providers, officers make it clear that any payment will only be made provided the income has been received. The risk that there may be a shortfall in CIL contribution is a risk for that project, not for the Council as part of its obligations to pay CIL contributions arising from this report.

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 2021/22 CIL Projects list. From this it can be seen that a number of proposals have been excluded from the CIL Projects 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

- 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 and again in 2019
- 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
- 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).
- 8.3. 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.
- 8.4. 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

- 8.5. 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. Prior to regulation changes introduced in 2019 this was called a regulation 123 List. In 2019, regulation 123 was removed, however Councils are still recommended to report on the delivery and provision of infrastructure.
- 8.6. There is also a new requirement to produce a document called an "Infrastructure Funding Statement". Amongst other matters this must set out:-
- A report relating to the previous financial year on the Community Infrastructure Levy;
 - A report relating to the previous financial year on section 106 planning obligations;
 - A report on the infrastructure projects or types of infrastructure that the authority intends to fund wholly or partly by the levy (excluding the neighbourhood portion)
- 8.7. The Council published its first annual Infrastructure Funding Statement in December 2020, and this is available on the Council's website.