

	Urgent Delegated Executive Decisions 17th March 2020	Agenda Item No. 3
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Title	Community Infrastructure Levy (CIL) Projects List for 2020/21
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Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?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	6 th March 2019 Minute no. 157
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 1,102
Equality Impact Assessment Undertaken	No
Not applicable	

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	17/02/20	Chris Elliott/Bill Hunt
Head of Service	17/02/20	Dave Barber
CMT	17/02/20	Bill Hunt
Section 151 Officer	17/02/20	Mike Snow
Monitoring Officer	17/02/20	Andrew Jones
Finance	17/02/20	Mike Snow
Portfolio Holder(s)	17/02/20	Cllr John Cooke
Consultation & Community Engagement		
<p>The Infrastructure Delivery Plan (IDP) was subject to consultation as part of the Local Plan process. The CIL Projects List is based on the IDP. In developing the proposals in the 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 Projects list for 2020/21 as the basis for focusing the distribution of CIL receipts collected during the year.

2. Recommendations

That Executive:-

- 2.1 Notes the amount spent during 2019/20 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 – 3.5 below.
- 2.2 Approves the CIL Projects List for 2020/21 set out in Appendix 1
- 2.3 Approves that paragraphs 3.17-18 and table 4 below are used as the basis for distributing CIL receipts collected during 2020/21.
- 2.4 Amends the existing 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" and recommends to Council the Scheme of Delegation is updated to reflect this change.

3. Reasons for the Recommendations

Recommendation 2.1

- 3.1 In March 2019, Executive agreed the "Regulation 123 List" projects that the Council would be funding from anticipated CIL receipts in 2019/20. This has formed the basis on which CIL contributions received have been distributed in the last year. An additional project was added to the 2019/20 list in November 2019 (the Whitnash Civic Centre and library).
- 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 2019/20, and then sets out how much it is estimated will be spent by the end of March 2020.

Infrastructure Project	CIL spending for 2019/20 (£)	
	Agreed	Actual spend
Destination Parks	Nil	Nil
Bath Street Improvement Scheme	195,000	45,000
Emscote Road Multi Modal Corridor Improvements	200,000	100,000
Warwick Town Centre Improvement works	373,000	373,000
Kenilworth Leisure (Phase 2): Castle Farm Recreation Centre	Nil	Nil
Medical facilities - N Leamington (Cubbington/Lillington)	60,000	60,000
Wayfinding in Leamington, Kenilworth and Warwick	£70,000	Nil
Whitnash Civic Centre and Library	410,000	410,000 (*)
PLUS CIL Administrative charge	60,000	60,000

Table 1: Spending on CIL Projects in the 2019/20 CIL Projects List		
	CIL spending for 2019/20 (£)	
Infrastructure Project	Agreed	Actual spend
Total	1,368,000	1,048,000
* This money has been allocated in 2019/20, however will not be drawn down by Whitnash Town Council until later in 2020 during the construction of the centre.		

- 3.3 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. If the Housing Trajectory is achieved for 2019/20, 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 8.5 below) must be distributed to Town and Parish Councils 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 (£)
2020/21	6,020,500	5,037,000	4,444,000
2020 - 2025	30,827,300	26,226,000	23,140,000

- 3.4 To this income should be added an estimated £1,013,000 of CIL income that has been collected but will remain unspent as at 31st March 2020 (taking account of all spending commitments in the 2019/20 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 £5,458,000 to £6,050,000 for 2020/21 and £24,153,000 to £27,238,000 for the period 2020 to 2025.
- 3.5 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

- 3.6 In the autumn of 2019, the Government changed CIL regulations to remove Regulation 123 and with it the legal requirement to produce a list of CIL-funded projects. It is, however, still considered good practice to produce a list of CIL Projects, and indeed this gives the Council a clear basis and mandate on which to allocate CIL receipts. For this reason, officers have undertaken the same process as in previous years to seek to identify possibly infrastructure projects that CIL can fund, and to recommend which ones the Council should support. This process 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 2020/21. A full description of all submitted proposals is set out in Appendix 2.

- 3.7 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 (then) 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?)
- 3.8 These criteria have formed the basis upon which CIL projects have been considered annually since that time. In the autumn of 2019, and following the declaration of the climate emergency in Warwick District, councillors asked that a further criterion be added to assist in assessing proposals for 2020/21, that of the extent to which the proposal can support the commitments made to the climate emergency.
- 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 These criteria were identified to provide a way of fairly assessing infrastructure proposals from different organisations. In doing so, 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 CIL Projects 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 CIL Projects list as we can be confident that the benefits of these schemes have been evidenced and tested alongside the Local Plan preparation and examination.
- 3.11 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 CIL Projects List. This group meets quarterly, and has been used to assess these proposals as part of preparing this report. The IDP Member Reference Group supports the list of proposals on the CIL Projects List and the proposed distribution of CIL contributions for 2020/21 as set out in this report.
- 3.12 The schemes set out in appendices 2 and 3 total potentially in excess of £38m. There is clearly insufficient projected income to fund all of these projects and so an element of prioritisation is needed. In recommending a way forward, the following principles are proposed to underpin this prioritisation:-

- As para. 3.4 above sets out, it is predicted that between £24,153,000 and £27,238,000 will be available for the period 2020 to 2025. 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 £24,153,000 is estimated to be available to fund CIL projects between 2020 and 2025.
- The Development Portfolio Holder and IDP Member Reference Group have suggested that the Council does not identify projects to meet all of the anticipated income (in line with the more cautious estimate) but holds some of this in reserve. A figure of 15-20% has been suggested as being held in reserve. The reason for this is that there may be occasions during the year when new projects emerge which would be legitimate for, and benefit from, CIL contributions. If there is no "headroom" with the CIL Projects List, then the Council has less flexibility to support new projects. An example that came forward during 2019/20 was the Whitnash Civic Centre and library proposal.

3.13 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 2020/21.

- Medical facilities (Leamington town centre): This scheme (up to £6.5m 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.
- Newbold Comyn: This funding (£10.03m requested) is required to support improvements to Newbold Comyn following an options assessment and public consultation that took place there during 2018 and 2019. The amount included in the bid reflects the amount proposed by the consultant. This scheme could potentially be suitable and eligible for CIL. The scale of the funding request is, however, beyond the limit of anticipated CIL income over the next five years. Furthermore, the scheme is still at a consultative stage and final proposals have not been agreed, nor have all opportunities for outside funding, including private sector investment, been fully explored. (A draft masterplan for Newbold Comyn is to be considered by Executive in March 2020.)

3.14 Table 3 below lists the prioritised infrastructure projects which are recommended for inclusion in the List for 2020/21. In some cases, it is not proposed that the full amount of the bid should be supported, and the reasons for this are set out in the table. Please note that all of the projects are on the current (2019/20) CIL Projects List unless indicated.

Table 3: Proposed CIL Projects for inclusion on the Projects List for 2020/21			
Infrastructure Project	Requested	Proposed 20-25	Comment
Destination Parks	£5.0m	£5.0m	This project has been on the Projects (regulation 123) list for the past two years. There has been some increase to the scope of the project and a revision of the costs. This is set out in appendix 2. The value of this project remains strong.
Bath Street	£3.85m	£3.85m	Improvement Scheme. This project has been on the Projects (regulation 123) list for the past two years. See appendix 2 for more details. The value of this project remains strong.
Emscote Road	£1.56m	£1.56m	Multi Modal Corridor Improvements. This project has been on the Projects (regulation 123) list for the past two years. See appendix 2 for more details. The value of this project remains strong.
Kenilworth Leisure (Phase 2): Castle Farm Recreation Centre	£6m	£5m	Whilst the value of this project remains strong, it is not possible to pay the entire amount requested. This is because the money is all requested for 2020/21 and the profiling of anticipated CIL income will not produce enough income to pay this. The amount proposed is therefore capped at the maximum that it is anticipated that CIL receipts will be able to bear in 2020/21.
Medical facilities - N Leamington (Cubbington/ Lillington)	£4.3m	£2.8m	The value of this project remains strong. 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 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.
Wayfinding	£0.14m	£0.14m	The value of this project remains strong. This project has been on the Projects (regulation 123) list for the past two years. See appendix 2 for more details. The amount proposed is the same as that offered last year.
Europa Way bridge link	£1m	£1m	A new pedestrian and cycle route bridge across Europa Way. In addition to providing a gateway feature for Leamington, Warwick and the Tach Brook Country Park, the new bridge will provide improved and more sustainable link across Europa Way between the new residential developments on either side, the new Country

Table 3: Proposed CIL Projects for inclusion on the Projects List for 2020/21			
Infrastructure Project	Request ed	Proposed 20-25	Comment
			Park and the proposed new Secondary School and Sixth Form at Oakley Wood Road. NEW PROJECT FOR 2020/21.
Whitnash Civic Centre & library	£0.25 m	£0.25m	This is additional to the CIL contribution of £410,0000 allocated in 2019/20 and recognises increased costs in delivering the project.
PLUS CIL Admin charge	£325k	£325k	This is an annual charge of £65k to cover the cost of WDC administering the collection and distribution of CIL income.
Total	£22.4 25m	£19.92 5m	

3.15 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 £325k (i.e. £65k per year) is considered reasonable. This is a small increase from the £60,000 agreed in 2019 which has been built into the Council's Medium Term Financial Strategy.

3.16 Taken together with the above list of schemes brings the total amount committed within the CIL Projects List to £19,925,000. This is against a project CIL income of £24,153,000 (see para. 3.4 above). This leaves a reserve of £4,228,000, approximately 17% of the total, in line with the recommendations of the IDP Member Reference Group. (It should be noted, however, that whilst there is a reserve projected over the next five years, none of this will be available during 2020/21. This is explained in the paragraphs below.)

Recommendation 2.3

3.17 As set out in para. 3.4 above, it is estimated that between £5,458,000 and £6,050,000 will be available from CIL contributions to spend in 2020/21. Taking the lower (more conservative) figure as the basis on which CIL contributions will be available, the following is recommended as the basis on which CIL receipts will be distributed in 2020/21.

Table 4: Proposed distribution of CIL contributions in 2020/21	
Infrastructure Project	Proposed 20/21
Destination Parks	Nil
Bath Street Improvement Scheme	£150,000
Emscote Road Multi Modal Corridor Improvements	£115,000
Kenilworth Leisure (Phase 2): Castle Farm Recreation Centre	£5,000,000

Medical facilities - N Leamington (Cubbington/Lillington)	Nil
Wayfinding in Leamington, Kenilworth and Warwick	£105,000
Europa Way bridge	Nil
Whitnash Civic Centre & Library	£250,000
PLUS CIL Administrative charge	£65,000
Total	£5,685,000

- 3.18 It will be noted that there is an estimated shortfall of £227,000 in projected income against planned expenditure in 2020/21. Given that this is less than 4% of the total estimated income, and that the income is based on a more cautious estimate in any event, this level of possible "overspend" is considered reasonable. Notwithstanding this, as stated elsewhere in this report, it is recognised that it is possible that actual income during 2020/21 will be less than that projected. In the event that this happens, it is recommended that the amount given to the Kenilworth Leisure (Phase 2) project is reduced accordingly and not that each project takes a proportionate reduction in funding (as has been the practice in previous years).
- 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 To summarise therefore, the Council is currently projecting and recommending the following:-

Minimum income to the Council from CIL between 2020/2025 (including any receipts carried forward from 2019/20)	£24,153,000
Total value of schemes on which this income can be spent (2020/25) (including an allowance for a CIL admin fee)	£19,925,000
Total CIL income to the Council from CIL during 2020/21 (including any receipts carried forward from 2019/20)	£5,458,000
Total recommended requested during 2020/21 from those infrastructure projects on the proposed CIL Projects list.	£5,685,000

Recommendation 2.4

- 3.21 The existing Scheme of Delegation allows for the Head of Development Services to enter into agreements providing for the transfer of funds received through CIL. The wording of the existing delegation specifically refers to CIL Regulation 123. Given that Regulation 123 is no longer in operation, a minor amendment to this wording is now required as set out in the recommendation.

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 and to be carbon neutral by 2030. 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> Becoming a net-zero carbon organisation by 2025 Total carbon emissions within Warwick District are as close to zero as possible by 2030 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 trained All staff have the appropriate tools All staff are engaged, empowered and supported	<u>Intended outcomes:</u> Focusing on our customers' needs Continuously improve our processes Increase the digital provision of services	<u>Intended outcomes:</u> Better return/use of our assets Full Cost accounting Continued cost management Maximise income earning opportunities

The right people are in the right job with the right skills and right behaviours		Seek best value for money
Impacts of Proposal		
None	None	None

4.2 Supporting Strategies

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.

5. Budgetary Framework

- 5.1 There are no direct budgetary implications associated with the recommendations. As noted in para. 3.15, £60,000 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 paragraphs 3.1 to 3.5 above. A summary of requests for contributions towards CIL projects for the period 2020/25 is contained in Appendix 2 above.

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 2020 and 2025 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 2020/21 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

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 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.
- 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. 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. 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 will have to have this Infrastructure Funding Statement in place by December 2020, however some of the information it is required to provide have been included in this report.