

READING BOROUGH COUNCIL

REPORT BY DIRECTOR OF ENVIRONMENT AND NEIGHBOURHOOD SERVICES

TO:	STRATEGIC ENVIRONMENT, PLANNING & TRANSPORT COMMITTEE		
DATE:	4 APRIL 2017	AGENDA ITEM:	10
TITLE:	COMMUNITY INFRASTRUCTURE LEVY - REVIEW OF REGULATION 123 INFRASTRUCTURE LIST		
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1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report proposes a very limited review of the Council's existing Community Infrastructure Levy (CIL) Regulation 123 Infrastructure List. The Council currently collects funding from development towards infrastructure in accordance with its adopted Community Infrastructure Levy Charging Schedule. Under the CIL Regulations, that funding must be spent on items set out on what is known as the Council's Regulation 123 List. The current list can be found on the Council's website via this link: http://www.reading.gov.uk/media/6385/Community-Infrastructure-Levy-Regulation-123-List/pdf/Regulation_123_List_March_2014.pdf That list was agreed in March 2014 and its provisions are now being reviewed in the light of emerging details of the programming and funding of the Mass Rapid Transport System for South Reading and other infrastructure provision.

2. RECOMMENDED ACTION

- 2.1 That Committee approves the Revised Regulation 123 Infrastructure List attached at Appendix 1.

3. POLICY CONTEXT

- 3.1 At its meeting on 19th March 2014, Strategic Environment, Planning & Transport Committee approved a draft Community Infrastructure Levy (CIL) Charging Schedule for consultation and subsequent submission to the Secretary of State. As part of that report the Committee also approved an attached Draft Regulation 123 List that it was intended CIL would be used for, once it was in place. The Draft Regulation 123 List formed part of the evidence base for the submission of the Charging Schedule. Following an examination by a Planning Inspector in November 2014, conducted by written representations rather than a formal hearing, the final

CIL Charging was presented to Council on 27th January 2015. Council agreed the adoption of the Charging Schedule and that it would come into force on 1st April 2015.

- 3.2 The levy can be used to fund a wide range of infrastructure, including transport, flood defences, schools, hospitals, parks and green spaces, cultural and sports facilities, academies and other community safety facilities. This flexibility gives local areas the opportunity to choose what infrastructure they need to deliver their relevant Plan
- 3.3 A Regulation 123 lists the types of infrastructure and/ or specific projects that are intended to be funded in the future through CIL. The priorities for spend will be based on the broad infrastructure types as set out in the Council's Sites and Detailed Policies Document, policy DM3: Infrastructure, and specific projects identified through the Council's Infrastructure Delivery Plan (2014). The specific priorities will, from time to time be reviewed and agreed by Committee on the advice of the Council's Strategic Asset Management Group (SAMG). SAMG, in consultation with respective lead councillors, will oversee the proposed allocation of income streams including S106, CIL, grants and capital receipts with representatives from service areas and key players from Planning, Accounts, Asset and Valuation, Legal and Health and Safety.
- 3.4 Amendments to the Community Infrastructure Levy Regulations since 2014 have changed the procedures for making and reviewing a Regulation 123 Infrastructure List. Previously, the regulations saw the list as an element of the evidence behind the charging schedule. It wasn't specifically considered in the examination of the charging schedule. The regulations also allowed it to be reviewed and published at any time following adoption of the charging schedule. However, changes to the regulations now specifically provide for the Regulation 123 Infrastructure List to be examined as part of the examination of the charging schedule. They also require that any minor amendments to the List be the subject of consultation with interested parties.
- 3.5 National Planning Policy Guidance (NPPG) interprets the regulations. It (<https://www.gov.uk/guidance/community-infrastructure-levy>) states that:

"When charging authorities wish to revise their regulation 123 list, they should ensure that these changes are clearly explained and subject to appropriate local consultation. Charging authorities should not remove an item from the regulation 123 list just so that they can fund this item through a new section 106 agreement. Authorities may amend the regulation 123 list without revising their charging schedule, subject to appropriate consultation. However, where a change to the regulation 123 list would have a very significant impact on the viability evidence that supported examination of the charging schedule, this should be made as part of a review of the charging schedule."
- 3.6 It is therefore clear that any changes to the Regulation 123 list made that is not to be subject to an examination should not involve significant changes. Even then, there will need to be consultation carried out on any change that is made. A review of the Regulation 123 list involving significant changes or any change that might affect viability should await a full review of the CIL Charging Schedule. Such a review is not currently programmed but it is expected that one will be considered over the next 1-2 years, in line viability assessments that will need to be undertaken in relation to the emerging local plan.

4. THE PROPOSAL

a) Current Position

- 4.1 The existing CIL 123 List covers the Council's existing Infrastructure Delivery Plan agreed in 2014. It includes provision for Mass Rapid Transport (MRT) work to be partially funded using CIL funds. However, further work on the funding and implementation of the proposals to construct MRT Infrastructure through South Reading has been undertaken. Funding requirements and proposed phasing of the works are now much clearer. Works are now underway on Phases 1 and 2, which will provide a series of southbound public transport priority measures between the Mere oak Park and Ride facility and the junction on the A33 with Lindisfarne Way (Kennet Island). This section is due to be completed in early 2018.
- 4.2 Funding towards these early phases has been allocated through the LEP growth funding allocation, supplemented by funding under the Council's capital programme. This includes an element of historic Section 106 monies. No CIL monies have yet been allocated. There is some commitment from the LEP towards funding for future phases but this will only cover a proportion of the costs. The Council will continue to have to find further funding from its capital programme. Such funding is obviously highly constrained in the current funding regime for local authorities and there is no guarantee that funding for the whole scheme can be achieved. It will depend on some funding from CIL receipts but is likely to also need funding from other sources. It may ultimately depend on the Council's ability to raise funds through borrowing but that obviously involves increasing budgetary provision to cover borrowing costs in a period when high levels of cost savings are being required and continue to be sought.
- 4.3 It is clear that major commercial development along the A33 corridor, both with planning permission and currently being planned, will have significant transport impacts that need to be mitigated. These developments are CIL liable. However, the way that the CIL charging schedule is constructed around the general viability of various forms of development has meant that in current market conditions, most commercial developments currently attracts a zero charge. The prospect therefore is that major developments could gain planning permission without measures to mitigate their high impacts on local transport systems. In the absence of direct mitigation of their significant transport impacts, such developments may not have been, or may not be, acceptable. The Council has therefore sought, and continues to seek, to negotiate Section 106 contributions to specific local transport works from such major developments.
- 4.4 The most important works to improve capacity in the A33 corridor to deal with new and more intensive development is the MRT link between the Mere oak Park and Ride and the town centre. It is considered that up to 6 major developments could assist in the funding of a future phase of the MRT scheme through Section 106 funding. As a consequence, a further phase will be excluded from the 123 List. A number of other minor changes are also proposed in the light of more recent studies and decisions on infrastructure provision.

b) Option Proposed

- 4.5 It is proposed that the existing CIL Regulation 123 List be amended to refer to the differing phases of the South MRT Project and that Phase 4 of the MRT Scheme be

specifically excluded from the List. This is the only change proposed at the current time. It constitutes a relatively minor change to the existing list and it has no general viability implications.

- 4.6 As noted above, the NPPG indicates that charging authorities should not remove an item from the Regulation 123 list just so that they can fund this item through a new section 106 agreement. While the original Draft Regulation 123 List included reference to Mass Rapid Transit, at that time there was not a detailed scheme, and therefore no phasing and no programme existed. This change therefore involves providing greater detail on an infrastructure item on the Regulation 123 List, providing clarity as to the funding of the various phases.
- 4.7 Some minor additional adjustments have been made to the Regulation 123 list. The reference to Cycle Hire has been removed reflecting recent decisions by the Council. Reference to the West Reading Transport Study has been added to items on the list to provide an example of the type of schemes that are being referred to under a number of the Transport items and to reflect the recent work that has been undertaken in the preparation of this study. It is proposed to carry out limited consultation on the new Draft Regulation 123 List, attached at Appendix 1, which will operate alongside the CIL Charging Schedule, setting out the relationship between CIL and Section 106 planning obligations.

c) Other Options Considered

- 4.8 Another option would be to undertake a full review of the original Draft Regulation 123 List. However, this is not required at this time and anything more detailed than proposed might not meet the guidance on making revisions solely to the 123 List. A full review will be undertaken when a future review of the CIL Charging Schedule is undertaken. As indicated above, it is expected that this will be reviewed during the next 1 - 2 years.

5. CONTRIBUTION TO STRATEGIC AIMS

- 5.1 The minor review of the Regulation 123 List will contribute to achieving the Council's following strategic aims, through providing funding for a range of infrastructure to support development:
- Seeking to meet the 2016-19 Corporate Plan objectives for "Keeping the town clean, safe, green and active."
 - Seeking to meet the 2016-19 Corporate Plan objectives for "Providing homes for those in most need."
 - Seeking to meet the 2016-19 Corporate Plan objectives for "Providing infrastructure to support the economy."

6. COMMUNITY ENGAGEMENT AND INFORMATION

- 6.1 A limited consultation with interested parties will be undertaken on the Draft Regulation 123 List for a period of six weeks. This will involve sending emails/ letters to a number of individuals, organisations, councillors, and internal officers. Advertising and details will be placed on the RBC website.

7. EQUALITY IMPACT ASSESSMENT

- 7.1 The Council has had regard to the general equality duty imposed by the Equality Act 2010 (S.149). This requires public authorities, in the exercise of their functions, to have due regard to the need to eliminate discrimination, harassment and victimisation etc.; to advance equality of opportunity between people who share a relevant protected characteristic and people who do not; and to foster good relations between people who share a relevant protected characteristic and those who do not.
- 7.2 The Council has carried out an Equality Impact Assessment, and considers that the Draft Regulation 123 List will not have a direct impact on any groups with protected characteristics. .

8. LEGAL IMPLICATIONS

- 8.1 The framework for the Community Infrastructure Levy Regulations is governed by The Community Infrastructure Levy Regulations 2010 and subsequent Regulations and through policy set out in the NPPF and the NPPG. This paper meets the provisions in these documents that refer to the preparation and adoption of a Regulation 123 List.

9. FINANCIAL IMPLICATIONS

- 9.1 The cost of administering CIL and associated documentation will be covered by existing budgets and staff costs. The Council retains an element of CIL receipts as for administration of the levy and this is accounted for in existing budgets.

Value for Money

- 9.2 The review of the Draft Regulation 123 List will ensure that the Council maximises developer funding towards infrastructure. This represents good value for money.

Risk Assessment

- 9.3 Without an updated Regulation 123 List there is a risk that sufficient funding for the whole length of the MRT might not be forthcoming. This proposed change provides greater certainty over future funding.

10. BACKGROUND PAPERS

- Town and Country Planning Act 1990
- The Community Infrastructure Levy Regulations 2010 (SI 948)
- The Town and Country Planning (Local Planning) (England) Regulations 2012.
- Reading Borough Council Revised Section 106 Planning Obligations SPD (2013)
- Employment, Skills and Training SPD (2013)
- Affordable Housing SPD (2013) ;
- Reading Borough Council Core Strategy (2008)
- Reading Borough Council Sites and Detailed Policies Document (2012)

- Reading Borough Council Reading Central Area Action Plan (2009)
- Reading Borough Council Infrastructure Delivery Plan (July 2011)
- Reading Borough Council Infrastructure Delivery Schedule (incorporated into the adopted Sites and Detailed Policies Document (2012)