

Report of	Meeting	Date
Director of Business Development and Growth (Introduced by the Executive Member for (Economic Development and Public Service Reform)	Executive Cabinet	15 November 2018

UPDATE OF COMMUNITY INFRASTRUCTURE LEVY REGULATION 123 LIST

PURPOSE OF REPORT

- To inform Members about the update of the Community Infrastructure Levy (CIL) Regulation 123 List.

RECOMMENDATION(S)

- To approve the revised changes to the Regulation 123 List for a 4 week consultation to Friday 14 December 2018 and to delegate any changes following consultation to an Executive Member decision.

EXECUTIVE SUMMARY OF REPORT

- To approve the revisions to the Regulation 123 list for a 4 week consultation to Friday 14 December 2018

Confidential report Please bold as appropriate	Yes	No
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Key Decision? Please bold as appropriate	Yes	No
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Reason Please bold as appropriate	1, a change in service provision that impacts upon the service revenue budget by £100,000 or more	2, a contract worth £100,000 or more
	3, a new or unprogrammed capital scheme of £100,000 or more	4, Significant impact in environmental, social or physical terms in two or more wards

REASONS FOR RECOMMENDATION(S)

(If the recommendations are accepted)

- To update infrastructure schemes and reflect changes to the Regulation 123 List

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- None

CORPORATE PRIORITIES

6. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all	x	A strong local economy	
Clean, safe and healthy homes and communities		An ambitious council that does more to meet the needs of residents and the local area	x

BACKGROUND

7. The Community Infrastructure Levy (CIL) is a charge on some forms of development. For Chorley this is housing (although some relief can be claimed for certain types of housing development) and retail (excluding neighbourhood convenience stores), which allows Local Authorities to raise funds from developers to pay for strategic and local infrastructure that is needed as a result of development. CIL was adopted by the Council on 16 July 2013 and charging commenced from 1 September 2013
8. CIL is used to contribute to the infrastructure requirements identified in the list prepared under Regulation 123 of the Community Infrastructure Levy Regulations 2010 (as amended). The CIL Regulations define infrastructure as the meaning given in section 216(2) of the Planning Act 2008, as amended by Regulation 63. The list supplied by the Act includes, but is not exclusive to:
- a. Roads and other transport facilities
 - b. Flood defences
 - c. Schools and other educational facilities
 - d. Medical facilities
 - e. Sporting and recreational facilities
 - f. Open spaces
9. The Regulation 123 List (as adopted September 2013) was derived taking into account the background supporting documents that were prepared in association with the Central Lancashire Core Strategy (adopted July 2012), which sets out the infrastructure needed to deliver the development set out in the Core Strategy up to 2026 and the Lancashire County Council adopted Local Transport Plan 3 Strategy and Implementation Plan 2011-2021 which sets out the strategic objectives for transport and travel.
10. The Regulation 123 List specifies the infrastructure projects to be funded in part by CIL in Chorley and includes schemes such as transport improvements, health facilities and education provision. Chorley's Regulation 123 list was adopted in September 2013 and has been updated annually since April 2016.
11. An 8 week consultation was held with appropriate stakeholders asking for expression of interests for inclusion on the Regulation 123 List.

PROPOSED SCHEMES FOR THE REGULATION 123 LIST

12. 14 requests and 9 updates have been received for inclusion on the Regulation 123 List. Of the requests, 5 schemes have been put forward by a parish council and a councillor, 5 schemes (and 7 updates) have been put forward by Lancashire County Council including the education authority, and 4 schemes (and 2 updates) have been put forward by officers. No expressions of interest have been received from Lancashire NHS.

13. The list of 14 schemes requested for inclusion is shown below:
 1. Improvements to the physical access of the building to improve infrastructure including new staircase, accessible DDA toilets and baby changing facilities, Astley Hall and Park (Chorley Council)
 2. Formation of Community car park, adjacent Howarth Road, Chorley (Councillor Brown)
 3. Pedestrian Crossings over Southport Road, Euxton and Westway, Euxton (Euxton Parish Council)
 4. Ransnap Woodland walk and footpaths, Euxton (Euxton Parish Council)
 5. Enhanced 'quality' sport/recreation at land behind houses at Princessway, Euxton (Euxton Parish Council)
 6. Enhanced 'quality' sport/recreation at land adjacent play area on Milestone Meadow, Euxton (Euxton Parish Council)
 7. Electric Charging Points – boroughwide (Lancashire County Council)
 8. Additional Carparking, Buckshaw Parkway Station, Buckshaw Village. (Lancashire County Council)
 9. Pedestrian /Cycle Access connectivity to Buckshaw Parkway Railway Station (Lancashire County Council)
 10. Canal towpath improvements – Riley Green to Cowling (Lancashire County Council)
 11. Opening Footpath FP42 and improving the footpaths that link to the canal and Healy Nab, Chorley (Lancashire County Council)
 12. Highways and infrastructure (the provision of access to and within the site) to support the delivery of the employment allocation at Alker Lane, Euxton Lane, Chorley (Chorley Council)
 13. Clayton-Le-Woods GP Surgery (Chorley Council)
 14. Provision of car park to facilitate event parking for Astley Park and Westway. Westway, Euxton. (Chorley Council)
14. Lancashire County Council (LCC) has previously made representations to the Council to request that opportunity be provided for their education schemes to be added to the CIL Regulation 123 list. There have been some occasions where requests for contributions for education have been made via section 106 requests in response to planning applications. As Chorley Council has CIL in place, it is this which is the mechanism for LCC to access education infrastructure funding to meet the needs generated from development. This means that until LCC come forward with projects for education that identify the specific school for funding, the Council are unable to allocate any CIL monies for generic provision for schools for the benefit of the borough.
15. In light of councillors concerns about the provision of school places, officers have held a meeting with the County Council about school provision and CIL funding. Lancashire County Council officers are to investigate the ratio of match funding for past school place schemes for officers to give consideration to preparing a formula to incorporate in the CIL Methodology funding for school place funding.
16. The 9 updates to the Regulation 123 List comprise 7 by Lancashire County Council whom confirm the schools listed are to remain but require amendments to timings and costings. All the school schemes extend to the end of the Local Plan period 2026 and costings will need to be determined at the point consideration is given to allocate funds subject to match funding so it is not proposed to keep amending costings or dates each year.
17. The main amendment is the provision of a primary school from a one form of entry to one and a half forms of entry at Clayton-le-Woods/Clayton Brook/Green and Whittle-le-Woods because additional dwellings in this area are likely to increase the primary requirement. The

Local Plan allocates a primary school site at Clayton Le Woods (East of Wigan Lane /Shady Lane) (Policy EP10).

- 18 In respect of existing projects on the Regulation 123 List:
- New Leisure Centre, Chorley (Sport and Recreational Facilities) officers propose an amendment to add “New or Refurbished Leisure Centre, Chorley”.
 - “Highways and infrastructure (the provision of access to and within the site) to support the delivery of the employment allocation at Cowling Farm, Chorley”, officers propose amendment to “Highways and infrastructure (the provision of access to and within the Council’s land to support the delivery of allocated uses at Cowling Farm, Chorley”.
- 19 The purpose of the Regulation 123 List is to ensure clarity on what CIL might be spent on and there is no duplication (‘double dipping’) between CIL and S106 agreements in funding the same infrastructure projects or infrastructure types. The Community Infrastructure Regulations 2010 (as amended) restrict the use of planning obligations where there have been 5 or more obligations in respect of a specific infrastructure project or type of infrastructure entered into on or after 6 April 2010. Open space contributions are entered into via s106 agreements and therefore are not included as specific schemes or as a generic open space on the Regulation 123 List.
- 20 CIL monies cannot be used to remedy existing deficiencies in infrastructure unless development would have an impact on that infrastructure.

Schemes Not Appropriate for the Regulation 123 List

21. The following schemes are **not** appropriate for inclusion on the Regulation 123 List:
- 22 **(2) Formation of Community car park, adjacent Howarth Road, Chorley (Cllr T Brown).** The proposal is to form a community car park on Council owned land at Howarth Road, Chorley to provide parking and easy access to Healey Nab, West Pennine Moors, Chorley circular route (as there is no parking at present on the east side of Chorley) for walkers and cyclists. The carpark would also provide parking for fishermen, joggers and dog walkers along the Leeds and Liverpool Canal, and would support the adjacent community playground, be used by the local Scout group and School for Educational visits to the countryside in the East Ward and beyond. Officers estimate the site could accommodate 32 parking spaces (including 2 disabled) at a cost estimate of £100k. No match funding is proposed.
23. Charging authorities are advised to think strategically in their use of the Community Infrastructure Levy to ensure that key infrastructure priorities are delivered to facilitate growth and the economic benefit of the wider area. This may for example include working with neighbouring authorities, Local Enterprise Partnerships and other interested parties and involve consideration of other funding available that could be combined with the levy to enable the delivery of strategic infrastructure, including social and environmental infrastructure, and facilitate the delivery of planned development.
24. The proposal is not a strategic scheme and is considered more suitable as a local area scheme. A local council such as Chorley Parish can use CIL receipts passed to it in accordance with regulation 59A or 59B to support the development of the local council’s area, or any part of that area by funding:
- a) the provision, improvement, replacement, operation or maintenance of infrastructure; or
 - b) anything else that is concerned with addressing the demands that development places on an area.
25. The proposal could be a suitable local scheme when Chorley Parish has additional CIL receipts. The Chorley Parish Share which has already been paid into the Chorley Parish Pot is £107,894.04. They will receive a further £29,250.72 at the end of this financial year.

26. **(3). Pedestrian Crossings over Southport Road, Euxton and Westway, Euxton (Euxton Parish Council).** The proposal is to provide pedestrian crossings at these roads (which have no crossings) to improve safety for all users including young people using the area around Southport road and Westway. Cost unknown. Euxton Parish Council has indicated Lancashire County Council has previously investigated but given this low priority due to other items on the 'shopping list' being first. Lancashire County Council has been asked to provide a comment and cost for this scheme but no information has been forthcoming to date. Highways are normally covered under S106 agreements so it would not be eligible for CIL funds. Officers will discuss this scheme with the County Council as part of the Chorley Transport Strategy/Central Lancashire Highways and Transport Masterplan Review.
27. **(4) Ransnap Woodland walk and footpaths (Euxton Parish Council).** The land mentioned is on the S106 pooling spreadsheet specifically for improving the footpaths and is scored low quality in the current open space strategy (Ref 1696 Rear of Firbank). To date £2,287.85 has been collected through S106 contributions. Chorley Council can work with Euxton PC to progress this project and Euxton Parish Council could put funds (including Euxton Parish Share from CIL) to this project (of the CIL share £199,759.51 has already paid to Euxton Parish Council. They have spent £22,480.75 to date. They will receive a further £43,989.87 at the end of this financial year).
28. **(5) Enhanced 'quality' sport/recreation at land behind houses at Princessway (Euxton Parish Council).** Land adjacent to 80 Princess Way is classed as natural/semi natural in the open space strategy. Officers need to await the results of the Open Space Study which will identify if there is a surplus or a deficit of provision for children and young people. There would need to be a change in the typology to allocate this space for play. Chorley Council can work with Euxton PC to progress this project and Euxton Parish Council could put funds (including Euxton Parish Share from CIL) to this project.
29. **(6) Enhanced 'quality' sport/recreation at land adjacent play area on Milestone Meadow (Euxton Parish Council).** This site (Ref 1815.1) scores low in the open space strategy and officers are pooling S106 towards the improvement of this site. To date £18,760 has been collected. Chorley Council can work with Euxton PC to progress this project and Euxton Parish Council could put funds (including Euxton Parish Share from CIL) to this project.
30. **(7) Electric Car Charging Points – boroughwide (Lancashire County Council).** Estimated cost £200k. No match funding provided. It is proposed CIL funding is spent on provision of equipment and funding of installation. No feasibility work has been undertaken by Lancashire County Council. Officers are keen to support the provision of electric charging points but more information is required on locations and work needs to be undertaken on the capacity of substations to accommodate the infrastructure for off-street electric vehicle charging. Officers will progress this with the County Council as part of the Chorley Transport Strategy/Central Lancashire Highways and Transport Masterplan Review.
31. **(8) Additional Carparking, Buckshaw Parkway Station, (Lancashire County Council).** The proposal will provide additional car parking, encourage greater use of the rail network and reduce on-street parking levels in Buckshaw Village near the railway station. No feasibility work has been undertaken and no costing or match funding is provided. There is a S106 agreement on Buckshaw Village which funds specifically this type of transport and infrastructure requirements. There are still payments due from the Group 1 S106 which is for:
- 1) Public Infrastructure (in and around Buckshaw Village) "Towards making improvements to existing public infrastructure or the provision of new public infrastructure"
 - 2) 2) Public transport and community facilities (in and around Buckshaw Village) "Towards provision, enhancement or replacement of public transport"

Therefore, this scheme cannot be funded from CIL. Officers are keen to support additional car parking in this locality. Officers will discuss this scheme and locations with the County Council as part of the Chorley Transport Strategy/Central Lancashire Highways and Transport Masterplan Review.

32. **(9) Pedestrian /Cycle Access connectivity to Buckshaw Parkway Railway Station. (Lancashire County Council).** The proposal is to provide better connectivity between bus services on Euxton Lane and the railway station which will improve access for staff and students at Runshaw College and businesses off Euxton Lane, potentially reducing car journeys. No feasibility work has been undertaken and no costings. There is a S106 agreement on Buckshaw Village which funds specifically this type of transport and infrastructure requirements. Therefore this scheme cannot be funded from CIL. Officers will discuss this scheme with the County Council as part of the Chorley Transport Strategy/Central Highways and Transport Masterplan Review.
33. **(10) Canal towpath improvements – Riley Green to Cowling (Lancashire County Council).** The proposal is to increase pedestrian and cycle use for both journey to work and leisure by providing a safer and accessible route. Improvements would be to surfacing and provision of lighting (within urban sections). Estimated cost £250k but no feasibility work has been undertaken. The canal towpath is owned by the Canal and River Trust. The canal towpath from Botany to Blackburn is a Local Plan scheme (Policy ST1.3) and is already on the Regulation 123 List. The canal towpath from Blackburn Brow to Cowling was re-surfaced with tarmac in the last 10 years but will over time need to be maintained by the Canal and River Trust.

Schemes for the Regulation 123 List

34. The publication of a Regulation 123 list does not signify a commitment from the council to fund all the projects listed, nor the entirety of any one project through CIL—it just signifies projects that will be considered by the council in its decision as to what might receive CIL funding. The following 4 schemes are appropriate to be included on the Regulation 123 List as shown in bold and underlined at **Appendix 1**.
35. **(1) Improvements to the physical access of the building to include new staircase, DDA toilets and baby changing facilities, Astley Hall and Park.** The proposal is to improve the existing infrastructure for recreational and educational purposes Astley Hall is included in the Corporate Strategy as needing to be developed as a visitor destination. Chorley Council has made an application to the Heritage Lottery Fund (HLF) for £2.8 million with a decision expected Dec 2018. The HLF can be used as match funding. Cost of CIL request would be £30,000.
36. **(11) Opening Footpath FP42 and improving the footpaths (FT45 and FT15) that link to the canal and Healy Nab, Chorley** The proposal is to open FP42 (between Bagganley lane and Froom Street and improve the footpaths (FT45 and FT15) that link to the Leeds and Liverpool canal and Healy Nab which will improve both liner and circular walking routes, enhancing the existing promoted routes. There are reports from members of the public who are not able to access the route due to conditions underfoot and signs of erosion along the Brooks. Footpath 42 along the side of the motorway requires drainage works to make the path accessible. This scheme is suitable for the Reg 123 List, it is on the County Council's PROW Identified Priorities list for inclusion once funding becomes available. The estimated cost is £40,000-£60,000. At present the County Council has no match funding.
37. **(12). Highways and infrastructure (the provision of access to and within the site) to support the delivery of the employment allocation at Aiker Lane, Euxton Lane, Chorley.** This scheme is required to bring forward the employment at this site which is allocated in the Chorley Local Plan. Cost Unknown.

38. **(13). Clayton-le-Woods GP Surgery.** The proposal is for a new GP surgery. This investment in the area of Clayton-le-Woods is essential as the current surgery is no longer operationally fit for purpose putting pressure on the current doctor's surgery. This has been a concern for residents for some time and this investment will give the local services a long term future and provide enough space for them to grow and continue to meet the needs of the local community. The cost of the CIL request would be £1 million.
39. **(14) Provision of car park to facilitate event parking for Astley Park and Westway. Westway, Euxton.** The proposal will provide car parking in this location and associated external works will include hard standing, boundary fencing, highway improvements, landscaping/site investigation and lighting. Cost: £375,410.

Schemes to be Amended from the Regulation 123 List

40. There is one scheme to be deleted from the Regulation 123 List:
- The provision of access to and within the site to support the delivery of the employment allocation at the Digital Health park, Euxton Lane, Chorley. Money from the CIL has been approved and allocated for this scheme. The road is under construction.
41. All deletions are shown at **Appendix 1** in bold and as a strikethrough. The following schemes are to be amended on the Regulation 123 List:
- :
- Clayton-le-Woods/Clayton Brook/Green and Whittle-le-Woods – Amend from one form of entry to ~~one and a half forms of entry~~ CIL requirement increased to £5.5m
 - Coppull – 8 places –Funding adjusted to reflect latest cost per place figures - £126,026
 - Euxton – 36 places –. Funding adjusted to reflect latest cost per place figures - £567,119
 - Amend as “Highways and infrastructure (the provision of access to and within the Council's land to support the delivery of allocated uses at Cowling Farm, Chorley)”.
 - Amend for Sport and Recreational Facilities - New or Refurbished Leisure Centre, Chorley
 - Delete timings for all school schemes
 - Delete timings for all other Regulation 123 schemes

NEXT STEPS

42. **Publication of Regulation 123 List** Following the 4 week consultation which ends on Friday 14 December 2018, any further changes to the Regulation 123 List will be delegated to an Executive Member Decision. Should there be significant objections or comments that are not in accordance with the proposals being consulted on the decision on the amendment of the list will be brought back to Cabinet for consideration. The Regulation 123 List will then be published on the Council's website. Allocation of funds for schemes within the Regulation 123 List will be brought to the Executive Cabinet for approval (14 February 2019).
43. **Infrastructure Funding Statements.** The Government proposes to remove regulatory requirements for Regulation 123 lists which they consider do not provide clarity or certainty about how developer contributions will be used. Using data on Community Infrastructure Levy (CIL) and planning obligations (S106 agreements) the Government recommends that local authorities prepare an Infrastructure Funding Statement using a standard template in an open data format that sets out infrastructure requirements for both CIL and Section 106 planning obligations; anticipated funding from developer contributions; and the choices local authorities have made about how these contributions will be used. Infrastructure Funding Statements will include information on, but not limited to, contributions made towards and delivery of affordable housing, education, health, transport, green, flood and water management, and digital infrastructure.

44. The template, guidance and monitoring tool will be formulated by the Government, and will be subject to further consultation. The Government propose to amend legislation by March 2019. Officers will then populate the Infrastructure Funding Statement (the Regulation 123 List will no longer exist). Infrastructure Funding Statements will need to be reviewed annually to report on the amount of funding received via developer contributions and how this funding has been used. Local authorities are also advised we can report this data in authority monitoring reports.

IMPLICATIONS OF REPORT

45. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	x	Customer Services	
Human Resources		Equality and Diversity	
Legal	x	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

RISK

A risk register has been completed	Yes	No
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COMMENTS OF THE STATUTORY FINANCE OFFICER

- 46 Projects previously on the Regulation 123 list which have been approved to be funded with CIL have been added to the Council's capital programme and removed from the list.
- 47 The updated Regulation 123 list gives an indication of the projects which will be considered by the Council for funding with CIL. Once projects have been designed, costed and approved, they will be added to the Council's capital programme. Other sources of funding may be required in addition to CIL.

COMMENTS OF THE MONITORING OFFICER

48 The report properly sets out the legal position and processes to be followed to amend the Regulation 123 list.

MARK LESTER
DIRECTOR OF BUSINESS, DEVELOPMENT AND GROWTH

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Alison Marland	5281	01/11/2018	***