

REPORT OF THE HEAD OF PLANNING, ECONOMY AND REGENERATION

SECTION 106 AGREEMENTS AND FINANCIAL CONTRIBUTIONS – PROPOSED GOVERNANCE

Cabinet Member(s): Cllr Richard Chesterton
Responsible Officer: Mrs Jenny Clifford, Head of Planning, Economy and Regeneration

Reason for Report:

The Audit report of May 2018 flagged up the need to review and formalise governance arrangements in relation to Section 106 agreements. Following the decision taken at the Cabinet meeting on 25th October 2018 the draft governance arrangements were sent out for consultation with Parish and Town Councils. This report outlines the comments received from that consultation process and includes the resultant changes to the governance arrangements and guidance notes.

Mid Devon District Council currently collects financial contributions from new development through legal agreements signed under Section 106 of the Town and Country Planning Act 1990 (as amended), sometimes also referred to as planning obligations. It is considered that the governance of the s106 contributions set out in the Councils adopted SPD can be further refined to enhance the transparency of this process. The report therefore sets out the additional recommendations for governance of s106 contributions.

RECOMMENDATION:

- 1. That Cabinet recommend to Council that the governance arrangements at Appendix A be adopted.**
- 2. That Cabinet approve the guidance notes and public open space funding flow chart as attached at Appendices B and C to this report and grant delegated authority to the Head of Planning, Economy and Regeneration in consultation with the Cabinet Member for Planning and Regeneration to make any necessary future changes to these to reflect amendments to Government legislation or guidance.**

Relationship to Corporate Plan:

The Planning Service is a statutory service, the effective operation of which will deliver funds for necessary community projects which are central to the delivery of Corporate Plan priorities of community, housing, economy and environment

Financial Implications:

S106 agreements will normally include clauses stating when the funds will be paid (by reference to some trigger in the development phase) and for what purpose they will be used, often project or location specific. There is also provision for the return of contributions if they remain unspent or uncommitted after an agreed period of time, typically 10 or 15 years depending on the nature of the contribution. All monies collected on applications submitted since April 2015 must be spent on the specific project that it was allocated to at the time the planning application was submitted and

that should be set out clearly in the s106 agreement. It cannot be spent on any other project and will only become available for spending once a development has commenced on site. Therefore if a site is never developed the monies won't become available and equally if development of the site is delayed, some monies may not become available for some time. It is therefore important to track payments to ensure any funds secured are used before they have to be returned.

Legal Implications:

Planning obligations, also known as Section 106 agreements and procedures must comply with the following legislation and Government guidance:

1. The 1990 Town & Country Planning Act
2. Community Infrastructure Levy Regulations 2010 ("CIL Regulations")
3. National Planning Policy Framework 2018
4. Ministry of Housing, Communities & Local Government Planning Practice Guidance.

Risk Assessment:

Clearer governance and the opportunity for Town and Parish Councils to engage with the process results in greater transparency and understanding of the processes that need to be followed in order to comply with the aforementioned legislation and guidance.

Equalities Impact:

There are no equality issues identified in this report.

1.0 BACKGROUND.

1.1 The Governance Arrangements, Guidance Notes and Flow Chart set out in this report were sent out for consultation purposes with Parish and Town Councils, the 5 week consultation period finished on the 4th January 2019. Section 3 of this report summarises the responses from the consultation process, provides an officer response where required and advises of any revisions to the governance arrangements, guidance notes and flow chart that are proposed. A copy of the governance arrangements, guidance note and flow chart are attached at **Appendices A, B and C**. Sections 1.2 – 2.4 below provide a brief overview of the s106 Process.

1.2 Mid Devon District Council currently collect financial contributions from new development through legal agreements signed under Section 106 of the Town and Country Planning Act 1990 (as amended), sometimes also referred to as planning obligations.

1.3 The need for planning obligations are considered on a case by case basis and may only constitute a reason for granting planning permission if they meet the following statutory tests from the CIL Regulations, namely that they are:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind.

- 1.4 Planning obligations must be fully justified (usually by reference to development plan policy requirements) and evidenced.
- 1.5 Since April 2015, Regulation 123 of the CIL Regulations has placed a national restriction on the traditional approach of ‘pooling’ Section 106 contributions from numerous developments towards the provision of infrastructure, such as public open space, schools or roads. Such pooling is now only permissible for up to five separate planning obligations, for any given infrastructure by project or type. **It should be noted that the Government has indicated an intention to remove s106 pooling restrictions in all areas. Once the legislation has been amended accordingly, the governance arrangements and guidance notes will be reviewed and updated as necessary to ensure they reflect the changes to pooling restrictions.**
- 1.6 Local planning authorities are expected to use all of the funding they receive through planning obligations in accordance with the terms of the individual planning obligation agreement. This will ensure that new developments are acceptable in planning terms; benefit local communities and support the provision of local infrastructure. Agreements should normally include clauses stating when and how the funds will be used by and allow for their return, after an agreed period of time, where they are not. Equally, if monies are not spent in accordance with the terms of the s106 agreement, developers can request that their contribution is returned to them.
- 1.7 With the introduction of the CIL legislation, the Government has ‘scaled back’ the use of planning obligations, as CIL is viewed as a replacement for the use of planning obligations in some circumstances. When Mid Devon introduces CIL, the use of planning obligations to raise financial contributions towards infrastructure will be restricted and, with the exception of the identified strategic sites, will generally only be used for site-specific impacts of new development, necessary on-site infrastructure and the provision of affordable housing.
- 1.8 Upon implementation of the Mid Devon CIL, the Council will also implement the “Regulation 123 List” which sets out the items of infrastructure which will be wholly or partly funded by CIL. After that time, it will not be possible to secure Planning Obligations under Section 106 to fund infrastructure items on that list. Accordingly, there will be a scaling back of Section 106 use. Before it can be introduced, Mid Devon CIL will be subject to examination by the Planning Inspector at the end of the Local Plan Review hearings.
- 1.9 The following four sections indicate the areas which may still be subject to planning obligations under S106 following adoption of the Mid Devon CIL:

1. Non – Infrastructure Requirements

- The funding and provision of items which are not defined as infrastructure, such as affordable housing.
- Other non-infrastructure requirements such as development phasing, the implementation of travel plans and construction management.

- For other purposes which do not require developer contributions, such as regulating the use of land.

2. Infrastructure for Urban Extensions.

The provision of infrastructure within, directly related to, or required as a result of, development within the defined areas of the North West Cullompton, East Cullompton and East Tiverton urban extensions allocated in the adopted Local Plan Review. Zone 1 - Zero rated.

3. Site –Specific Transport Improvements.

Site-specific improvements needed to make a development acceptable in planning terms.

4. Other Infrastructure Provision.

Infrastructure provision which meets the tests set out in the CIL Regulations but which is not included on the Regulation 123 list to be funded by CIL may be sought through the use of Planning Obligations. A full list of infrastructure to be sought through planning obligations is not included, since much would depend on the specific development put forward, but the following forms of infrastructure are specifically referred to within the Local Plan.

- Public Open Space -the provision of public open space (publicly accessible open space, allotments, other green infrastructure and sports pitches with associated changing facilities) in accordance with the adopted policies of the Local Plan Review including where necessary replacement provision as a result of the loss of an existing facility.
- Sustainable Urban Drainage Systems
- Wildlife protection, enhancement and mitigation
- Measures related to pollution and contaminated land.

2.0 PUBLIC OPEN SPACE

- 2.1 Since the adoption of the Provision and Funding of Open Space Through Development Supplementary Planning Document (SPD) in 2008 (and the Supplementary Planning Guidance prior to that), the District Council has been collecting and spending financial contributions from developers through s106 Planning Obligations for this purpose. Contributions are taken towards new or improved open space in order to mitigate for the additional demand arising from the development in question. Day to day management and routine maintenance of existing open space may not be funded by S106, but improvements may be. The contributions which have been collected are held in a fund by the Council and made available for spend within the relevant catchment area (referred to as catchment funding) to bring forward new or improved provision of sports areas, children’s play areas and informal open space. This is in accordance with policies within the Development Plan and SPD

- 2.2 The 62 parishes across Mid Devon have been grouped into 28 catchment areas. All the monies which have been collected prior to April 2015 can be spent on any public open space project within that catchment area.
- 2.3 Since April 2015 s106 funds must be spent on the specific project that it was allocated to at the time planning permission was granted. It cannot be spent on any other project, without an agreed variation to the section 106 agreement. It is likely that the Council would be asked to cover the costs of such a variation. The financial contributions only become available to spend once they have been paid to the Council. In some cases, this may be shortly before there is a commencement on site, but in some cases, the contribution is payable on a later trigger e.g. prior to any residential occupation on site.
- 2.4 The SPD specifies that, in spending contributions, the Council will have regard to:
- The views of Council Ward Member(s) in the catchment area;
 - The views of Town or Parish Council(s) in the catchment area;
 - The priorities for improving open space identified in the Council's Open Space and Play Area Strategy (December 2006).
 - Providing value for money;
 - The potential for securing external or matched funding.

3.0 CONSULTATION RESPONSES.

The consultation exercise over the proposed governance arrangements produced 8 responses. The responses and officer comment upon them are set out below:

3.1. Town and Parish Council responses

Bradninch Parish Council – Our main concerns are that the balance between the District and the local community affected is too much in favour of the District and that, within MDDC, the balance between the primacy of officials and elected councillors on the Planning Committee/S106 Board is too much in favour of the officials, in particular the Head of Planning. We've heard in the past that the Committee is led by the recommendations of the Planning Officers and this governance policy will only serve to reinforce that position. We understand that this makes things easier for District Councillors but are not convinced that it is necessarily right. We have seen numerous instances in previous planning matters where dubious decisions have been the result.

The document also needs a good proof read for both grammar and the inclusion of jargon, such as 'SPD'.

The project areas for spend are limited to Public Open Space, Air Quality and 'Other'. Should these be more comprehensively defined and does it mean that projects will only have a reasonable chance of success if they fall into one of the first two categories?

We trust that these comments will be taken on board prior to finalising of the documents.

Officer comments

- a. The documentation has now been updated to explain any abbreviations and to include corrected grammar.
- b. The reason for the documentation is to improve transparency and governance whilst not making the process so bureaucratic as to delay the allocation of funds on much needed community funding.
- c. There seems to be some confusion between the general fund and the project specific funds. The pre 2015 s106 agreements are included in the general funds which relate to the air quality / public open space. Post 2015 s106 agreements are project specific so any funds gathered would be in relation to an agreed project.

Clayhidon Parish Council – Clayhidon Parish Council would like to install some benches for a couple of areas it owns Grays Quarry and Hidon Woods - could these be 106 projects please?

Officer comments

- a. This is a project specific comment and advice has been given to assist with this request.

Cullompton Town Council – Thank you for providing Town and Parish Councils with an opportunity to make comment on the changes to the S106 governance arrangements. Cullompton Town Council discussed these changes at its meeting on 13 December 2018 and agreed to respond as follows:

1. Cullompton Town Council is pleased to note that MDDC intends to consult with Town and Parish Councils and hopes that MDDC will not only consult but also take on board the comments made and act on those comments.
2. That Town and Parish Councils receive regular update reports on what S106 funding is available and when it needs to be spent by.

Officer Comments

- a. The aims of the Governance arrangements are to ensure that the process is transparent and Officers will be looking to consult and take on board comments and act on them as part of this process.

Stoodleigh Parish Council - It's a badly written document - hard to understand with the guidance notes being the only helpful part. There is even one sentence with 81 words in it (a sure sign of bad writing). Abbreviations are not explained making it hard to comprehend. Generally, really not impressed with what's been produced.

Officer Comments

- a. The report and appendices have been amended to remove the overly long sentences and to explain abbreviations. It is welcomed that the Guidance notes were seen as being helpful.

Halberton Parish Council – Response from Halberton Parish Council, December 2018

1. Pre 2015 contributions – not scheme specific
 - o spending under £10k is delegated to officers
 - o spending over £10k is delegated to S106 Board consisting of members and officers. Towns/parishes within catchment area to be consulted 14 days before Board meeting.

Comment: Town/Parishes should be consulted on all proposed spending including up to £10k. It would be useful to have more than 14 days notice where possible as referrals are likely to need to fit in with formal council meeting cycles.

2. Post 2015 contributions – scheme specific
 - o nominations for specific projects and amount made at planning application stage
 - o nominations to come from MDDC departments, Ward members within the catchment area, Town/Parishes within the catchment area, sports/community groups
 - o assessment of nominations delegated to officers, or S106 Board if competing projects.
 - o Note that a project in a neighbouring area may be prioritised over local project if officers feel it is closer/more accessible. Town/Parishes in both areas to be consulted.

Comment: The council welcomes the opportunity to nominate projects, but does not find it helpful to nominate projects now which may not be delivered for many years hence when priorities may have changed. The council does recognise this is a legislative issue and not within MDDC control.

Similar to the comment on 1 above, the council would like as much notice as possible to consider where a neighbouring project is likely to be prioritised over a local project, including MDDC reasons for preferring the neighbouring project, so that a considered response can be made.

3. Requests to vary S106
 - o delegated to officers, unless members require it be considered by MDDC committee
 - o must have clear planning reasons

Comment: Given the current process of nominating projects potentially many years hence, MDDC should make the process of varying the project as straight forward as possible as priorities do change over time.

Officer comments

- a. The Governance arrangements have now been updated to make the proposed consultation arrangements clearer. In terms of the 14 day response time being too short the governance arrangements have now been amended to 28 days to fit in with meeting cycles.
- b. The time lines for funding can be dependent on the delivery rates of the development and legislative constraints which are out of the control of the Planning Service. Whilst the long lead in times for projects are frustrating it is important to ensure that projects are identified as early as possible to ensure that MDDC can secure funds. Hopefully the extended response period will provide the time needed for project discussions. By way of clarification any

new project that has been agreed post April 2015 must meet the legal tests on the CIL Regulations as identified in paragraph 1.3 above. The projects need to directly relate to the development in question.

- c. The process for varying schemes is dependent on legislative constraints which are out of the control of the Planning Service. But wherever possible MDDC will try to make this process as straight forward as possible.

Stockleigh English Parish Council – We have discussed the contents of your letter dated 22 November 2018 at Stockleigh English Parish Meeting held on 11 December.

As Stockleigh English is a tiny parish with no arrangements to handle money we do not wish to participate.

Officer comments

Noted

Tiverton Town Council – The 14 days proposed for comments from Parish and Town Councils is not a long enough period for a democratic view to be provided. One would also question why such a short period would be necessary. We would suggest 28 days is far more realistic. Many Parish Councils meet on a monthly basis; therefore 28 days is far more realistic a period

In the flow chart it would seem that a Parish Council could be by-passed by a S106 Board. This is not acceptable. We would wish to always be consulted.

Officer Comments

- a. Governance arrangements have now been amended to reflect the 28 days needed for consultation.
- b. It is the intention to consult with Town and Parish Councils on s106 decisions where set out in the Governance arrangements at **Appendix A**. This is shown in the flow chart. The Governance arrangements have now been amended to make it clearer where such consultation is proposed.

Willand Parish Council – It was felt that the PUBLIC OPEN SPACE FUNDING FLOWCHART was overly complicated but no alternative layout is offered as it will mainly be used by officers administering the process. It would be helpful if some likely timings could be put on this process.

In the PROPOSED SECTION 106 GOVERNANCE document under paragraph 2 Willand Parish Council are concerned that the suggested makeup of the Board would mean that the decision making is officer controlled and have asked why this is felt to be necessary. It is suggested that there should be an uneven number on the Board, maybe 7 and that the majority should be elected members. The Councillors feel strongly that the officers are there to advise and not to decide, this should be decided by elected members.

Paragraph 2 also states that 'views will be sought from Parish or Town Councils and Ward Members (14 days allowed)'. Although it is recognised that these things need to be moved quite quickly Willand Parish Council also think that this period of time should be longer given that some Councils only

meet bi-monthly, even Willand with its more frequent meetings can have a gap of 3 weeks between meetings

It would be helpful if the note to paragraph 3 Project Selection for Spend could emphasise that this would be discussed during the setting up of new projects from new developments and there would not be any possibility of agreed projects having funding removed to another parish.

In March 2017 the Parish Council submitted details and costings for three projects within the village and it is not clear from the correspondence if these are still relevant and/or current or whether we need to submit them again to be party to the current process. Would it be possible to receive information on the current situation and allocated developments against the projects?

Officer Comments

- a. It is accepted that the flow chart is complicated but it is a true reflection of the process involved and it was thought to be more transparent to show all processes rather than a schematic plan that was easier to read but missed out elements of the process. It is accepted that the timings of the process would be helpful but as each s106 is different and each can have differing degrees of complexity any stated timings would not be a true representation of what happens and would therefore not be that helpful. As such it is felt that timings should not be included on the flow chart.
- b. The number of officers has been identified to ensure that each department involved in the spending and utilisation of s106 funds are involved in the process. Therefore the numbers of officers on the Board are to ensure there is a corporate approach to the decisions made by the Board.
- c. The Governance arrangements have now been amended to reflect the 28 days needed for consultation.
- d. The note referred under Project Selection for Spend identifies that there may be instances where a project in a different catchment area to the development is identified in order to meet the tests of the CIL Regulations. It is unlikely that agreed projects would see funding removed and instead directed to another catchment area.
- e. Two of the three projects referred to have been approved and funds are already being collected. With regard to the third project, discussions have taken place recently between the Willand Parish Clerk and the Planning Obligations and Monitoring Officer (POMO). Following those discussions further information has been provided to the POMO and a further response will be provided to the Parish on this project.

4.0 REFERRALS TO THE S106 GOVERNANCE BOARD

4.1 The referrals of projects or spend requests for consideration at the S106 governance board is proposed to take place where:

- Requests greater than £10,000 are made to spend S106 funds that are not project specific.
- More than one eligible project is nominated to receive S106 funding and prioritisation is required.

It is also proposed to produce guidance to assist Town and Parish Councils submit applications for Board consideration.

5.0 MOTION TO COUNCIL 27 FEBRUARY 2019

- 4.0 A motion from Councillor Evans regarding S106 agreements has been submitted to the meeting of Council on 27th February 2019. Should the motion be passed it should be noted that it will have the potential to affect section 8 of the governance arrangements set out in **Appendix A** dealing with requests to vary s106 agreements.

Contact for more Information: Mr David Green, Group Manager for Development
01884 234348
dgreen@middevon.gov.uk

Mrs Jenny Clifford, Head of Planning, Economy
and Regeneration 01884 234346
jclifford@middevon.gov.uk

Circulation of the Report: Cabinet Members

List of Background Papers: Audit report May 2018
Cabinet Report 25th Oct 2018

APPENDIX A - SECTION 106 GOVERNANCE

1. All payments received by Mid Devon District Council (MDDC) for legal agreements signed under Section 106 of the Town and Country Planning Act 1990 (as amended) which are referred to as Section 106 agreements (S106) must be given the relevant planning application reference upon receipt.
2. **Arrangements for the spending of financial contributions for S106 agreements where financial contributions are not project specific** (generally pre 2015 and by infrastructure type).

- a. Spend <£10,000 delegated to Head of Planning, Economy and Regeneration in consultation with Estates and Operations (if relevant to operational area).

Views will be sought from Parish or Town Council and Ward Members within the catchment area in advance (28 days allowed).

- b. Spend >£10,000 shall be referred to a S106 Board comprising of the following:

1. Cabinet Member of Planning and Regeneration (Chair)
2. Cabinet Member for Community Well being
3. Senior officer from Planning (Head of Planning or Group Manager for Development)
4. Senior officer from Operations
5. Senior officer from Estates
6. Admin support – Planning Obligations Officer.

Views will be sought from Parish or Town Council and Ward Members within the catchment area in advance of Board Meeting (28 days allowed).

4. **Project Selection for spend: PUBLIC OPEN SPACE**

For S106 financial contributions post 2015, these are required to be project specific. Accordingly prior to the signing of a S106 agreement at the planning application stage the project upon which the financial contribution should be spent needs to be specified.

Project nominations will be sought from:

- a. Internal to MDDC – Relevant departments and Ward Members within the catchment area.
- b. External to MDDC – Parish or Town Council within the catchment area, sports and community groups (with 28 days allowed and sports /community group consultation depending on relevance to S106 contribution).
- c. Assessment of the eligibility of a project (assessed against statutory requirements, guidance and its relation to the planning application from which

contribution sought) – Delegated to Head of Planning, Economy and Regeneration via case officers.

d. In the case where project prioritisation is required between two or more eligible projects – Referred to S106 Board.

NOTE – Whilst the Provision and Funding of Open Space Through Development Supplementary Planning Document (SPD) identifies the use of a catchment area approach for the collection and spend of financial contributions towards public open space, in order to ensure that the tests of the CIL Regulations are met, there may be instances where a project or facility in an adjacent catchment area is more likely to be used/accessed due to it being closer/more accessible to the development in question. In such cases the Parish or Town Council and Ward Members of both catchment areas will be consulted during the setting up of new projects.

5. Project selection for spend: AIR QUALITY

- a. For S106 contributions post 2015 towards air quality, these are project specific therefore project nominations will be sought from:
- b. Internal to MDDC – Relevant departments and Ward Members (both Ward within which the development is located and Ward of the relevant Air Quality Management Area if different).

NOTE 1 – Air quality projects are generally those which will assist in the management of air quality within an Air Quality Management Area (AQMA) (Cullompton or Crediton). Contributions may be sought from outside the AQMA where it is identified that new development would have a negative impact upon the AQMA. Actions to address air quality are included within the Air Quality Action Plan. Air quality projects to receive s106 funding will normally be based upon the actions identified within the Mid Devon District Council Air Quality Action Plan.

NOTE 2 – Suggestions for air quality projects from the community to be considered for inclusion in the Air Quality Action Plan (when next reviewed) may be made via the Ward Member.

6. Project selection for spend: OTHER CONTRIBUTIONS.

- a. Delegated to the Head of Planning, Economy and Regeneration in consultation with relevant departments.

NOTE – These are normally identified through adopted planning policies relevant to the development and responses from statutory consultees during the planning application assessment process.

7. Selection of s106 heads of terms and prioritisation between s106 asks where viability an issue.

- a. Delegated to the Head of Planning, Economy and Regeneration in consultation with the Ward Members and relevant services (e.g. Housing, Environmental Health etc.)

NOTE – These are normally identified through adopted planning policies relevant to the development and responses from statutory consultees during the planning application assessment process.

8. Requests to vary s106 agreements

- a. Delegated to the Head of Planning, Economy and Regeneration in consultation with the relevant services unless the Ward Member, Chairman and Vice-Chairman of Planning Committee and Cabinet Member for Housing (the latter in the case of amendments to affordable housing only) require that the Planning Committee consider the proposed changes having given clear planning reasons.

NOTE- Existing process in place, agreed by Planning Committee 6th July 2016. The procedure includes consultation with relevant consultees, Ward Members and the Parish or Town Council (14 days allowed).

APPENDIX B – Guidance Notes on Section 106 Projects

Mid Devon District Council collects financial contributions from new development through legal agreements signed under Section 106 of the Town and Country Planning Act 1990 (as amended), sometimes also referred to as planning obligations.

The need for planning obligations are considered on a case by case basis and may only constitute a reason for granting planning permission if they meet the following statutory tests from the Community Infrastructure Levy (CIL) Regulations, namely that they are:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind.

Planning obligations must be fully justified (usually by reference to development plan policy requirements) and evidenced.

Since April 2015, Regulation 123 of the CIL Regulations has placed a national restriction on the traditional approach of ‘pooling’ Section 106 contributions from numerous developments towards the provision of infrastructure, such as public open space, schools or roads. As such s106 funding must now be project specific and any agreed project can only have contributions from up to five separate planning obligations. Local planning authorities are expected to use all of the funding they receive through planning obligations in accordance with the terms of the individual planning obligation agreement.

The aim of the regulations is to ensure that new developments meet the three statutory tests from the CIL Regulations (shown above), benefit local communities and support the provision of local infrastructure.

Agreements will normally include clauses stating when and how the funds will be used by and allow for their return, after an agreed period of time, where they are not. Equally, if monies are not spent in accordance with the terms of the s106 agreement, developers can request that their contribution is returned to them.

Once discussions as part of the planning application process have agreed s106 contributions for a specific project, the following has to happen before the money becomes available to spend on that project:

- Planning permission has to be granted
- The money has to be collected (sometimes the money will be collected during the planning process and other times certain triggers will have to be met before any payment is due)
- The development must have commenced on site (this does not include preparatory groundworks and certain investigative works)

This process can take place up to five times on some schemes for the maximum amount of funding to become available as funds for the same project will sometimes be collected from more than one development.

It should be noted that it is unlikely that funding generated this way would be suitable for projects that need quick delivery. As it can sometimes take years before the full amount of funding is available and we are therefore asking that all Parish Councils

act now to come up with a list of Public Open Space projects for delivery in five to ten years.

For example; some equipment in your local play park looks tired but is safe and does not need replacing for another four or five years minimum. Contact the Planning Obligations Monitoring Officer (POMO) as soon as possible to nominate this as a project to receive S106 public open space funding for new equipment in the play park. If the project is confirmed as being suitable, contributions can be collected straight away but are unlikely to be available for several years. Therefore in five years when the equipment needs replacing the funding will be there specifically to support new equipment in that play park.

What you need to do to get S106 funding for your projects

We need your help to identify projects at the outset of any planning discussions for a development so we can make our best endeavours to secure funds to help you to deliver the project.

There is no limit to how many projects can be set up within a parish/catchment but it is worth considering the levels of development likely to occur locally. e.g. it would be unlikely for s106 contributions to meet the full cost of a £250,000.00 sports pitch in a locality that only receives one or two small scale planning applications for new dwellings per year.

The key is to be realistic and plan ahead; have a rolling works programme that is deliverable. Contributions that can't be spent on the specified project are liable to be refunded to the Developer so aim for projects that have a degree of certainty when it comes to delivery. Plan for future costs but again, be realistic. Prices will go up over five to ten years but try not to over-estimate as any unspent money may be returned to the Developer. Also please be mindful that funding cannot be transferred to another project unless the S106 agreement is amended with the consent of the developer.

What to do next

All Town and Parish Councils are invited to nominate projects for the allocation of future funding. In fact all Town and Parish Councils are actively encouraged to nominate projects. Without sufficient projects we are unable to allocate contributions and we risk losing the funding. This funding opportunity exists to benefit local communities and support the provision of local infrastructure.

When nominating projects, it is helpful for the following information to be provided:

- A. Applicant Details – (e.g Town/Parish Council or Community body details – name, address, contact email address and telephone number).
- B. Project title – (e.g Provision of new toddler play equipment at Somewhere Recreational Ground, Somewhere).
- C. Description of proposed works – (e.g a written paragraph on the need, purpose and content of the project in this location).
- D. Location – (e.g site address and location plan).
- E. Guide target figure to collect (e.g. Approx £15,000).

Please feel free contact the Planning Obligations Monitoring Officer (POMO) at Mid Devon District Council (see contact details below) with your project suggestions and an estimate of the project cost. As part of this process we will also contact other

Parishes that may be located in the catchment, together with the local Ward Members and relevant Officers at the District Council to ensure there is adequate local support for the project. We will also consider whether it is eligible to receive financial contributions and align it a priority where there is more than one eligible project within the catchment area. Once the project has gained approval it will be added to our list of Public Open Space projects and contributions can be allocated to it

Going forward

Please engage with the POMO who will be happy to advise and assist with prioritising projects. Please remember this is a rolling process so we will always need your suggestions for new public open space projects.

Jo Williams | Planning Obligations Monitoring Officer | Mid Devon District Council | Phoenix House |
Phoenix Lane | Tiverton | EX16 6PP
Direct dial: 01884 234961 | Switchboard: 01884 255255 |
Email: cil@middevon.gov.uk | Website: www.middevon.gov.uk