

Report for: Cabinet

Date of Meeting:	14 th November 2023
Subject:	Annual Infrastructure Funding Statement; The Infrastructure List
Cabinet Member:	Cllr Steven Keable, Cabinet Member for Planning & Economic Regeneration
Responsible Officer:	Richard Marsh, Director of Place
Enclosures:	Mid Devon District Council Infrastructure List

Executive Summary

The Council maintains an Infrastructure List for the purposes of identifying those items of infrastructure that it intends to fund, either wholly or partly, through development (developer contributions, also known as Section 106 (S106) agreements). The list is informed through development plans, which could include neighbourhood plans, and prioritised in accordance with the importance of the infrastructure item in relation to the implementation of the Local Plan, together with requirement to spend existing developer contributions on the delivery of infrastructure within designated timescales. The Infrastructure List is reviewed and updated annually and Cabinet are requested to approve the updated Infrastructure List for publication on the Council's website as part of the statutory annual Infrastructure Funding Statement.

Recommendation(s):

- 1. Cabinet are requested to approve the list of infrastructure (Appendix 1; the Mid Devon Infrastructure List) that the Council intends to fund, either wholly or partly, by developer contributions.**
- 2. Cabinet are further requested to approve the Infrastructure List to be included within the annual Infrastructure Funding Statement (IFS) to be published on the Council's website by 31st December 2023.**

1.0 Background/Introduction

- 1.1 Developer contributions is a collective term mainly used to refer to the Community Infrastructure Levy (CIL) and planning obligations (commonly referred to as Section 106 or S106 obligations after Section 106 of the Town and Country Planning Act 1990). These are planning tools that can be used to secure financial and non-financial contributions (including affordable housing), or other works, to provide infrastructure to support development and mitigate the impact of development. Developer contributions might also relate to highways works secured under Section 278 of the Highways Act.
- 1.2 Developer contributions are normally a key component of any authority's approach to developing and delivering an infrastructure strategy for their area. Effective infrastructure planning, prioritisation and governance of spend are critical to supporting the delivery of sustainable development and growth. Local authorities have a fundamental role in leading the coordination and delivery of infrastructure that will support their areas.
- 1.3 The Mid Devon Community Infrastructure Levy (CIL) draft charging schedule was withdrawn from its public examination in 2021 and as such Mid Devon is not a CIL charging authority.
- 1.4 Mid Devon currently secures funding for infrastructure and affordable housing through the use of Section 106 planning obligations and Section 278 highways agreements (via Devon County Council).
- 1.5 Identification of S106 requirements should be driven by the impact of specific development(s) and the need to deliver local plan policies. Requirements for developer contributions should be clearly identified in local plan documents, consulted on and tested for viability. The Mid Devon Infrastructure List is the document that identifies and prioritises those requirements.
- 1.6 Developer contributions need to deliver infrastructure or other mitigation measures that support development. There is a statutory responsibility to make sure this happens, and legal and reputational risk where it does not.
- 1.7 Most of the legal agreements containing planning obligations also place an obligation on the Local Authority to spend the money within a designated timescale (which varies from one agreement to another but is commonly 10 (ten) years).
- 1.8 There needs to be clear and transparent processes that ensure timely and effective spend that comply with the legislation on the use of developer contributions. Failure to have clear processes that take you from strategy to allocation and spend on a project is, along with failure to identify priorities, a major cause of unspent developer contributions.

- 1.9 The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 made it a requirement that contribution-receiving authorities must publish an Infrastructure Funding Statement (IFS) by the 31st December annually. The objective of an IFS is to improve transparency of monitoring and reporting so that monies secured, received, allocated, spent and delivered can be followed through the system.
- 1.10 The information published in the IFS responds to questions that are frequently asked of authorities through Freedom of Information (FOI) requests and should be information that can be readily accessed. The annual IFS is published on the Council's website prior to 31st December each year.
- 1.11 The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 (section 121A) set out the required components of the IFS, namely:
 - (a) a statement of the infrastructure projects or types of infrastructure which the charging authority intends will be, or may be, wholly or partly funded by CIL ("the infrastructure list");
 - (b) a report about CIL, in relation to the previous financial year ("CIL report");
 - (c) a report about planning obligations, in relation to the reported year ("Section 106 report").
- 1.12 The Mid Devon Infrastructure List is intended to satisfy part (a) of the IFS. In line with the approach taken previously, although Mid Devon District Council is not a CIL charging authority it may, nevertheless, be considered both beneficial and transparent to continue to publish a list of the infrastructure to be funded wholly or partly by developer contributions over the forthcoming year.
- 1.13 On the basis that Mid Devon District Council is not a CIL charging authority there will be no CIL report published within the IFS.
- 1.14 The IFS will therefore comprise two component parts; the infrastructure list and the Section 106 report.
- 1.15 The Section 106 report is a series of absolute facts and figures which will be signed-off by Finance and Senior Management prior to publication. Members will be notified when the IFS (both component parts) are completed and published.
- 1.16 The National Planning Policy Guidance also advises that the infrastructure funding statement should set out the future spending priorities on infrastructure and affordable housing. This will not dictate how funds must be spent but will set out the local authority's intentions.
- 1.17 The Mid Devon Infrastructure List is prioritised in accordance with the importance of the infrastructure item in relation to the implementation of the Local Plan, together with requirement to spend existing developer contributions on the delivery of infrastructure within designated timescales. For example; affordable housing delivery is essential to the delivery of the Local Plan, and

also the Council holds sums of unallocated contributions which are required to be expedited for expenditure before they become at risk of being returned to the developer under the terms of the legal agreement. Therefore affordable housing is a high priority on the infrastructure list.

- 1.18 The Mid Devon Infrastructure List is a live document capable of being updated at any time. The version of the list proposed for publication is a snap shot in time and includes the best information that is available at the point of its approval and publication. It has been informed through work undertaken as part of the preparation of the Mid Devon Local Plan Review 2013 – 2033. The Infrastructure List can also be informed through infrastructure needs identified in other development plans in Mid Devon i.e. the Devon Minerals and Waste Plans, and Neighbourhood Plans where these have passed their referendum and form part of the statutory development plan for their local area. It can also be informed through infrastructure needs identified through the masterplanning of planned urban extensions and town centres.
- 1.19 The preparation of a new Local Plan for Mid Devon ('Plan Mid Devon') will provide an opportunity to review the infrastructure needed to support new development where this is planned across the district. This will be informed through technical work and engagement with transport, education and other infrastructure and service providers. Infrastructure needs will be looked at in terms of the requirements placed through individual development sites and also the cumulative impacts of development sites at town level and wider area, to enable a strategic approach to be taken to infrastructure planning and its phasing and funding.
- 1.20 The infrastructure list should feed back into reviews of Local Plans to ensure that policy requirements for developer contributions remain realistic and do not undermine the deliverability of the plan.

2.0 Groups consulted

- 2.1 The report and its attachments were circulated to the Planning Policy Advisory Group (PPAG) for consideration at a meeting on 25th October 2023. The Infrastructure List was considered by Members of the PPAG, who confirmed by a majority vote that the list be passed to Cabinet for approval in accordance with the recommendations of this report. No amendments to the list were proposed.

Financial Implications: The Infrastructure List plays an important role in identifying when developer contributions can be used to assist in the delivery of infrastructure. It is an easily accessible document that sets out the Council's priorities for income from development and expenditure.

Risk Assessment: Risk is multi-faceted, but publication of a clear IFS mitigates these by allowing transparency on the utilisation of S106 funds, allows monitoring of

measures to be implemented to support planned development and also safeguards against the loss of S106 receipts through the passage of time.

Impact on Climate Change: The Infrastructure List includes provision for carbon offsetting and air quality improvements. The infrastructure list should feed back into reviews of local plans to ensure that policy requirements for developer contributions remain realistic and do not undermine the deliverability of the plan. The Local Plan has been prepared within a legal framework and national planning policy that has at its heart the principle of sustainable development and policies to help address climate change through the development and use of land.

Equalities Impact Assessment: The Infrastructure List has been informed by the Mid Devon Local Plan Review 2013 – 2033, which has been subject to a full Equality Impact Assessment. The Infrastructure List has been subject to an additional EqIA screening which has found it is likely to have positive impacts on several protected characteristics where infrastructure can benefit a range of age groups in the community, and can include facilities which are accessible to persons with a disability. No negative equalities impacts have been identified.

Relationship to Corporate Plan: The Infrastructure List includes infrastructure items relating to affordable housing, transport, education, libraries, waste, health, community facilities, emergency services, where these relate to built development and Local Plan objectives. Funding the delivery of these items can also help the Council achieve its four Corporate Plan priorities - Homes, Environment, Community and Economy.

Statutory Officer sign-off

Statutory Officer: Andrew Jarrett

Agreed by or on behalf of the Section 151

Date: 31 October 2023

Chief Officer: Richard Marsh

Agreed by or on behalf of the Director of Place

Date: 31 October 2023

District Solicitor and Monitoring Officer: Maria de Leburne

Agreed by or on behalf of the District Solicitor and Monitoring Officer

Date: 31 October 2023

Performance and risk: Steve Carr

Agreed on behalf of the Corporate Performance & Improvement Manager

Date: 06 November 2023

Cabinet member notified: Yes

Contact: Richard Marsh Director of Place

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Background papers: Appendix 1; the Mid Devon Infrastructure List