

Report for: Cabinet

Date of Meeting:	10 th December 2024
Subject:	S106 Governance
Cabinet Member:	Cllr Steven Keable, Cabinet Member for Planning & Economic Regeneration
Responsible Officer:	Richard Marsh, Director of Place & Economy
Exempt:	There are no exemptions within the documents
Wards Affected:	Districtwide
Enclosures:	Proposed S106 Governance Framework and Terms of Reference

Section 1 – Summary and Recommendation(s)

To advise Members of an update to the existing S106 Governance arrangements. The S106 Governance has been updated as a result of a best practice review to ensure that the Mid Devon’s framework and governance arrangements remain the most appropriate and effective approach to S106 management and monitoring.

Recommendation(s):

- 1. That Cabinet approve the revised S106 Governance arrangements (Appendix 1; Mid Devon District Council S106 Governance Framework) as recommended by the Planning, Environment and Sustainability Policy Development Group.**

Section 2 – Report

1.0 Background/Introduction

- 1.1** The current S106 Governance arrangements were adopted by Cabinet on 1st October 2020 following the adoption of the Mid Devon Local Plan 2013 – 2033 (the Local Plan) in July 2020. Officers have reviewed these arrangements and looked to refine them to bring them up to date to reflect best practice, experience gained over the last few years and ensure that they are consistent with the latest government regulations. The proposed revised governance arrangements are consistent with the Planning Advisory Service guidance on Developer Contributions and aim to provide a robust approach to the management of funds secured from Section 106 (S106) Agreements.

1.2 In addition to ensuring that appropriate management arrangements are in place, the governance arrangements also recognises the requirement on local authorities, since December 2020, to submit Infrastructure Funding Statements (IFS) annually. The Infrastructure Funding Statement sets out how much money has been collected through developer contributions, as well as where it has and will be spent. The Framework document in Appendix 1 explains more about this requirement.

2.0 The S106 Governance Framework

2.1 The proposed revised S106 Governance Framework (Appendix 1) sets out a recommended approach to the governance of planning obligations. These financial contributions must be used to offset the implications of an individual development.

2.2 Clear governance, prioritisation and effective project management are required to ensure that any existing or future S106 funds, are used most effectively to deliver infrastructure across the district and to successfully mitigate the impacts of development. The proposed approach will assist in securing a high quality environment and sustainable economic growth in Mid Devon.

2.3 The framework document sets out the process for identifying infrastructure requirements at the planning application/S106 drafting stage. These are often identified as specific projects. There are also instances when a broader definition of obligation is required. The framework therefore also provides a mechanism for determining project spend on schemes which are identified at a later stage by means of an application process.

2.4 The framework document describes the administrative processes, clear levels of decision making authority and monitoring arrangements. As part of the proposed governance arrangements the S106 Governance Board, which considers the more significant decisions, have also been reviewed. The terms of reference for the S106 Governance Board is appended to the framework document. These terms of reference set out the purpose and expectations of the Board, along with setting out the decision making and administrative processes. It also sets out information such as composition of the Board and regularity of meetings.

2.5 The framework document and appended terms of reference were circulated to Planning, Environment and Sustainability Policy Development Group (PDG) for consideration at a meeting on 26th November 2024. They were considered by the members of PDG who confirmed, by a majority vote, that the framework document and appended terms of reference be passed to Cabinet for approval in accordance with the recommendations of this report with one minor amendment as follows:

4.0 Planning obligations (Section 106 agreements) – bullet point 9, to be changed from ‘Highways and Transport’ to read ‘Highways and Transport Infrastructure’

Financial Implications

S106 agreements may include obligations on the developer to make a financial contribution in order to make the development acceptable in planning terms. Contributions become due on a trigger point set out in the legal agreement.

Most S106 agreements contain obligations on the Council as well as on the developer. The obligations on the Council are usually quite straightforward and will usually be;

- To spend any contributions in accordance with the terms of the S106 agreement
- To repay any contributions to the developer which haven't been spent (or contractually committed to be spent) within a timescale stipulated within the S106 agreement (most commonly this is 10 (ten) years).

The purpose of the framework document is to ensure more efficient spend of S106 contributions and ensure prudent and timely management of their expenditure.

Legal Implications: Planning Obligations referred to in this report are secured by means of a legal agreement. The proposed governance arrangements seek to ensure that S106 contributions are managed and monitored effectively and appropriately and in accordance with the legally binding agreements they are associated with.

Risk Assessment: The proposed governance arrangements seek to reduce the risks of non-compliance with legislation or an ineffective governance structure by ensuring we have an effective and robust system in place.

Impact on Climate Change: Effective governance of S106 contributions will ensure the delivery of projects to help mitigate against Climate Change.

Equalities Impact Assessment: This report is with regard to a governance framework of S106 contributions to ensure the delivery of projects (including those involving improved accessibility to infrastructure and facilities). Specific projects will need to consider equality impact implications.

Relationship to Corporate Plan: Clear governance, prioritisation and effective project management are required to ensure that any existing or future S106 funds, are used most effectively to deliver infrastructure across the District and to successfully mitigate the impacts of development. This approach will assist in securing a high quality environment and sustainable economic growth in Mid Devon, and will contribute towards the Council's priority themes of Planning, Environment & Sustainability; Community, People & Equalities; Homes; Economy & Assets.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett

Agreed by or on behalf of the Section 151

Date: 15 November 2024

Statutory Officer: Maria de Leburne

Agreed on behalf of the Monitoring Officer

Date: 15 November 2024

Chief Officer: Richard Marsh

Agreed by or on behalf of the Director of Place and Economy

Date: 15 November 2024

Performance and risk: Stephen Carr

Agreed on behalf of the Corporate Performance & Improvement Manager

Date: 15 November 2024

Cabinet member notified: Yes

Section 4 - Contact Details and Background Papers

Contact: Elaine Barry, Planning and Obligations Monitoring Officer

Email: S106@middevon.gov.uk

Adrian Welsh, Strategic Manager Growth, Economy & Delivery

Email: awelsh@middevon.gov.uk

Background papers:

Section 106 Governance (existing arrangements) adopted October 2020

2020 Cabinet Report

Link to background documents: [Cabinet Report 1st October 2020](#)