



Report for: Scrutiny

Date of Meeting:	28 th September 2025
Subject:	S106 (and infrastructure list) review
Cabinet Member:	Cllr Steven Keable, Cabinet Member for Planning and Economic Regeneration
Responsible Officer:	Richard Marsh, Director of Economy and Place
Exempt:	N/A
Wards Affected:	Relevant to all wards
Enclosures:	Infrastructure Funding list/documents – see https://www.middevon.gov.uk/media/356936/infrastructure-funding-statement-2023-24.pdf

Section 1 – Summary and Recommendation(s)

Further to a Scrutiny committee request in March 2025, this report seeks to outline the approach adopted by the Council in identifying items for inclusion within the Infrastructure Funding List and how the Council seeks to ensure or facilitate delivery of these items.

Recommendation(s):

1. To note the report

Section 2 – Report

1. Introduction and background

- 1.1. In order to follow established best practice and meet the requirements of Regulation 121A of The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019, Mid Devon District Council produces an annual report relating to developer contributions from S106 planning obligations. This report consists of two parts;

- 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 developer contributions (“the infrastructure list”) (The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019; Regulation 121A; paragraph 1(a)), and;
 - b. A report about planning obligations, in relation to the reported year (1st April 2023 to 31st March 2024) (“the S106 report”)
- 1.2. The S106 report takes the form of a number of factual tables. Where any information held within the table has been estimated this is indicated as such.
- 1.3. For the avoidance of doubt, it should be noted that Mid Devon District Council is not a CIL (Community Infrastructure Levy) charging authority, so any discussion contained within this report is focused solely on the securing and utilisation of S106 receipts.

2. The Infrastructure Funding List

- 2.1. The Infrastructure Funding List is broken down into three categories of priority;
 - Priority 1: High importance
 - Priority 2: Important, and
 - Priority 3: Desirable
- 2.2. Under each of these headings the list is broken down by Infrastructure Type (in bold type) and then Infrastructure Item. Where a location is not specified it should be inferred that the infrastructure type of item should be considered district wide.
- 2.3. The items within the List are informed by adopted planning policy and are items where a formal planning ‘need’ and evidence base can be referenced. This basis is set out through regulation 122 of the CIL regulations which require that contributions must be;
 - a. Necessary to make the development acceptable in planning terms;
 - b. Directly related to the development, and;
 - c. Fairly and reasonably related in scale and kind to the development.
- 2.4. As such, the Infrastructure List cannot function as a ‘wish list’ of items to be funded and their inclusion must be supported by appropriate evidence (such as policy and viability testing) to justify their inclusion and, ultimately, funding.
- 2.5. Inclusion on the list does not mean that any infrastructure item will receive funding but the list will be used as a reference document for informing Heads of Terms for new S106 Agreements and also for prioritising the expenditure of existing S106 funds.
- 2.6. In updating the last Infrastructure Funding List, the S106 officer oversaw the refresh of the documents and publication of the statement. In reviewing the

Infrastructure List, the previous iteration of the list was circulated to relevant officers (including those beyond the planning service), and comments sought regarding the inclusion/removal of any items. The list was subsequently presented to and discussed via the Planning, Environment and Sustainability Policy Development Group (PES PDG) in November 2024 with 2 minor amendments recommended to be made to the list, at the request of the PES PDG.

- 2.7. The List was subsequently presented to Cabinet for review and approval in December 2024. Approval to the list was secured, alongside the funding statement, and the list published within the required timescale and before the deadline of 31st December.

3. Future iterations of the Infrastructure List

- 3.1. Members will be aware that the requirement again exists to undertake an annual review of the Infrastructure List. The List is currently under review with officers ahead of its presentation (alongside the Infrastructure Funding Statement) to PPAG and subsequently, Cabinet.
- 3.2. The presentation and discussion of the list via PPAG is necessary owing to the need to sequence meetings and ensure approval of the List via Cabinet no later than December.
- 3.3. However, to support this, and mindful of the need for wider public and member awareness of the review of the List, the review of this year's list via PPAG has also been flagged via the Planning Summary report which is due to go before the PES PDG on 23rd September 2025. Alongside this report to Scrutiny, it is hoped that this advanced notification of discussion at the PPAG meeting will ensure wider Member awareness of the review and also facilitate wider opportunity for Members to provide any feedback or input in to the list via officers/fellow members ahead of discussions at PPAG.
- 3.4. Finally, it should also be noted that the preparation of a new Local Plan for Mid Devon ('Plan Mid Devon') will provide an opportunity to undertake a fully comprehensive review of the infrastructure needed to support new development where this is planned across the district.
- 3.5. This review will be informed through technical planning work and engagement with transport, education and other infrastructure and service providers.
- 3.6. 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.
- 3.7. Having an up to date and current infrastructure list (the list being updated) will also be useful in undertaking the Local Plan refresh as can feed back in to the plan making process and ensure all requirements are captured.

4. Next Steps

4.1. To proceed as set out above.

4.2. It is asked that Members note the contents of this report.

Financial Implications

No direct financial implications arise from this report, albeit it should be noted that publication of the Statement and List are necessary in order to support the collection and utilization of S106 receipts.

There is therefore a significant financial implication to the Council in ensuring that these documents are current, are robust and are published on time.

Legal Implications

The requirements to produce and publish the Infrastructure Funding Statement and List are set out within Legislation. The Authority therefore needs to meet these requirements in order to remain compliant.

Significant Legal implication could also arise where the Authority sought to collect contributions to infrastructure where a sound basis for their collection were not established. There is therefore also a clear need for the list to be robust, compliant and up to date.

Risk Assessment

Risk would accrue through either not publishing the required documents or by including inappropriate/excluding appropriate information. This risk is mitigated by the Council producing and publishing annual reports.

Impact on Climate Change

Potential exists for both positive and negative impact on Climate Change by virtue of funding being provided for infrastructure as a consequence of inclusion within the List. These infrastructure projects could either increase or lessen carbon emissions – directly or indirectly.

However, infrastructure funding through S106 contributions are deemed necessary in order to offset the negative impacts of development and have been subject to consideration and examination through the planning system. Confidence should therefore be had that any project receiving funded is required in order to achieve wide ranging socio economic or environmental requirements.

Equalities Impact Assessment

No equalities issues arise from this report.

Relationship to Corporate Plan

The effective corporate collection and utilization of S106 receipts will support delivery of key corporate objectives, as identified within the Corporate Plan.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Maria de Leburne
Agreed on behalf of the Monitoring Officer
Date: 16 September 2025

Chief Officer: Stephen Walford
Agreed by or on behalf of the Chief Executive/Corporate Director
Date: 16 September 2025

Performance and risk: Steve Carr
Agreed on behalf of the Corporate Performance & Improvement Manager
Date: 15 September 2025

Cabinet member notified: Yes

Section 4 - Contact Details and Background Papers Contact: Richard Marsh,
Director of Economy and Place. Rmarsh@middevon.gov.uk

Background papers: None