

Policy on use of Section 106 for infrastructure

Upon implementation of the Mid Devon Community Infrastructure Levy, the Council will also implement the “Regulation 123 List” which sets out the items of infrastructure which will be wholly or partly funded by Community Infrastructure Levy. After that time, it will not be possible to use Planning Obligations under Section 106 to fund infrastructure items on that list. Accordingly, there will be a scaling back of Section 106 use and it is proposed that this policy will provide a guide to the use of Section 106. The following four sections indicate the areas which may still be subject to planning obligations under Section 106.

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.

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. This reflects the fact that these sites are proposed to be zero-rated for CIL. All of the remainder of this policy should be read with this exception in mind.

3 Site – Specific Transport Improvements

Generally, transport provision is included within the Regulation 123 List as a type of infrastructure to be funded wholly or partly by Community Infrastructure Levy. However, excluded from this general limitation are site – specific improvements needed to make a development acceptable in planning terms. These can include (but are not limited to) highways crossovers to access the site and local road junctions, deceleration and turning lanes, measures to facilitate pedestrian and cyclist access, lighting and street furniture needed to mitigate the impact of a particular development. They may also include mitigation works remote from the development site where the need for such works is identified in a Transport Assessment or Junction Capacity Study.

4 Other Infrastructure Provision

Infrastructure provision which meets the necessity, relatedness and fairness tests set out in the CIL Regulations (often referred to as the “CIL Tests”) 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.