

**Infrastructure Delivery Plan (IDP) and Regulation 123 List  
Annual Review**

<b>Final Decision-Maker</b>	Strategic Planning & Infrastructure Committee
<b>Lead Head of Service/Lead Director</b>	Rob Jarman, Head of Planning
<b>Lead Officer and Report Author</b>	Helen Smith, Principal Planning Officer Tay Arnold, Planning Projects and Delivery Manager
<b>Classification</b>	Public
<b>Wards affected</b>	All

**Executive Summary**

At the examination of the Community Infrastructure Levy MBC committed to an annual review of both the Infrastructure Delivery Plan and the Regulation 123 list. This report sets out the process by which the current Maidstone Infrastructure Delivery Plan (IDP), May 2016, has been reviewed and updated, and the reasons for doing so. In total, 27 schemes have been completed since publication of the 2016 IDP. The 129 short and medium term schemes contained in the 2019 IDP have been rated either red, amber or green, based on their considered risk of delivery. In total only 10% of schemes are categorised as 'red' or high risk; with 50% at 'amber' or moderate risk; and 40% at 'green' or low risk of delivery. The report also details the proposed revisions to the Council's current Regulation 123 List, explaining why such revisions are considered to be needed and seeks this committee's agreement to undertake a statutory six week public consultation on the revised draft Regulation 123 List. Both documents will then be brought back to this committee for final decisions.

**This report makes the following recommendations to Strategic Planning & Infrastructure Committee**

1. That the proposed revision to the Regulation 123 List to include 1FE expansion of Lenham Primary School within the exclusions list (Option A, as per Appendix 3) be agreed for a statutory six week public consultation exercise.

**Timetable**

<b>Meeting</b>	<b>Date</b>
Strategic Planning & Infrastructure	9 July 2019

# Infrastructure Delivery Plan (IDP) and Regulation 123 List Annual Review

## 1. INTRODUCTION AND BACKGROUND

### Regulation 123 List

- 1.1 The Council adopted its Community Infrastructure Levy (CIL) Charging Schedule in October 2017, with effect from 1 October 2018. The CIL Charging Schedule was approved by the Full Council, alongside a list of the types of infrastructure to be funded in whole or part by CIL. This is known as the Regulation 123 List (Regulation 123 of the Community Infrastructure Levy Regulations 2010, as amended). It does not limit the types of infrastructure on which CIL funds can be spent; the Council can decide to spend CIL on types of infrastructure that have not been identified in the list. However, it does prevent the Council from entering into new Section 106 (S106) planning obligations to secure contributions for any infrastructure that is included in the list.
- 1.2 Maidstone's current Regulation 123 (R123) List (drawn up to support the examination of the CIL charging schedule) is published on the Council's website and can be found on the following link:  
[https://maidstone.gov.uk/\\_data/assets/pdf\\_file/0005/158036/Approved-Regulation-123-List-October-2017.pdf](https://maidstone.gov.uk/_data/assets/pdf_file/0005/158036/Approved-Regulation-123-List-October-2017.pdf)
- 1.3 The R123 List sets out those types of infrastructure projects that the Council intends will be, or may be, wholly or part funded by CIL. These are currently:
  - **Highways and transportation** (excluding on or off site infrastructure and improvements required to make the development acceptable in planning terms; and improvements to the Strategic Road Network)
  - **Education provision** (excluding on or off site primary and secondary school facilities required specifically to serve a new development including the following schemes identified in the IDP: Provision of a new primary school onsite H1 (10) Land South of Sutton Road; Expansion of an existing school within South East Maidstone to accommodate site H1 (8); and Provision of a new 2FE primary school within Broad Location H2 (2) Invicta Barracks, Maidstone.)
  - **Health provision** (excluding on or off site health infrastructure facilities required to make the development acceptable in planning terms)
  - **Social and community infrastructure** (excluding on or off site community facilities required to make the development acceptable in planning terms)
  - **Public services infrastructure** (excluding on or off site waste management infrastructure required to make the development acceptable in planning terms)

- **Green and blue infrastructure** (excluding on or off site infrastructure, including open space, improvements and mitigation required to make the development acceptable in planning terms)
- **Flood prevention and mitigation** (excluding on or off infrastructure, improvements and mitigation, including drainage infrastructure, required to make the development acceptable in planning terms)

1.4 The R123 List does not prioritise infrastructure funding. The final decision on allocation of the CIL strategic funds sits with this committee. The full governance procedures were approved in January 2019 by this committee and the related constitutional changes were approved by Council in February 2019. The Council is empowered to provide any item of physical infrastructure that is not on the list. In setting this list, the Council is stating that it will not be seeking S106 planning obligations for any infrastructure or types of infrastructure included in the list subject to the specified exceptions. Regulation 123(2) prevents a S106 agreement being a reason for granting planning permission to the extent that it provides for something on the R123 List.

1.5 Maidstone's R123 List must be considered in the context of the Council's Infrastructure Delivery Plan (IDP) which was submitted in April 2017 for the Public Examination of Maidstone's Draft CIL Charging Schedule. The projects listed in the IDP require the provision of types of infrastructure included in the R123 List. The IDP was updated in conjunction with the preparation of MBLP, which itself was adopted in October 2017.

1.6 The Maidstone IDP clearly sets out that income from Maidstone's CIL is earmarked for strategic infrastructure while developer contributions through S106 agreements would provide for site-specific mitigation. This is explicitly set out in the MBLP policy ID1, which states as follows:

"2... Dedicated Planning Agreements (S106 of the Town and Country Planning Act, 1990) will be used to provide a range of site-specific mitigation, in accordance with the S106 tests, which will normally be provided on-site but may where appropriate be provided in an off-site location or via an in-lieu financial contribution.

5... The Community Infrastructure Levy will be used to secure contributions to help fund the strategic infrastructure needed to support the sustainable growth proposed in Maidstone Borough set out in the Infrastructure Delivery Plan."

1.7 Given that officers are now reviewing and updating the IDP, it is prudent to review the R123 List alongside this to determine whether it requires amending in light of the revisions to the IDP. The Council can revise Maidstone's R123 List at any time subject to public consultation. The intent is to achieve a good balance between CIL and other forms of developer contributions, such as S106 agreements. A good balance means CIL is able to fund the infrastructure that is necessary to support development while S106/planning obligations continue to provide site-specific mitigation.

- 1.8 All S106 planning obligations are required to meet the three tests set out in Regulation 122 of the CIL Regulations 2010 as amended. All planning obligations 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.
- 1.9 Currently, S106 pooling restrictions also apply in accordance with Regulation 123(3) of the CIL Regulations 2010 as amended. The pooling restrictions state that there can be no more than five separate S106 agreements dated on or after 6 April 2010 that provide funding for the same infrastructure project or the same type of infrastructure. However, draft regulations<sup>1</sup> currently laid before parliament will come into force on 1 September 2019, bringing about a series of changes to the way in which the Council charges, collects and reports on developer contributions raised through S106 and CIL. One of these changes is the removal of the current S106 pooling restrictions, thereby allowing the Council to pool any number of developer contributions to fund a single piece of infrastructure. At the time of writing, there is no published guidance as to the transitional arrangements from the current system to the new, therefore officers are not in a position to provide further detail as to exactly how and when the changes will be implemented locally.
- 1.10 S106 and CIL both continue to be an important resource to enable the council to achieve its priorities as set out in the latest Strategic Plan 2019-2045. These priorities are: Embracing growth and enabling infrastructure; Safe, clean and green; Homes and communities; and A thriving place.

### **Infrastructure Delivery Plan**

- 1.11 The Maidstone Infrastructure Delivery Plan (IDP) May 2016 accompanied the submission Maidstone Borough Local Plan (MBLP). The primary purpose of the IDP is to identify the infrastructure schemes considered necessary to support the development proposed in the adopted MBLP and to outline how and when these will be delivered. The IDP therefore plays a key role in demonstrating that planned growth can be accommodated in a sustainable manner, through the timely and coordinated delivery of critical and strategic infrastructure.
- 1.12 The IDP is also an infrastructure planning tool, which can be used as a framework to guide decision making on infrastructure delivery, including the future allocations of monies received from the Community Infrastructure Levy (CIL). It is also an important enabling tool to help the Council achieve its priorities as set out in the latest Strategic Plan 2019-2045. These priorities are: Embracing growth and enabling infrastructure; Safe, clean and green; Homes and communities; and A thriving place.
- 1.13 However, the limitation of producing an IDP is that it can only provide a snapshot in time of the infrastructure requirements as they are known at the time of production. In order to ensure the IDP continues to reflect the

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<sup>1</sup> The Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019

correct infrastructure requirements throughout the lifetime of the Local Plan, regular review is necessary. At the examination of the CIL charging schedule the Council committed to an annual review of the IDP. It was agreed this committee on 11<sup>th</sup> September 2018 that the first annual review of the current IDP and Regulation 123 List would be undertaken by October 2019.

- 1.14 There is little national guidance as to how to undertake a review nor with what frequency. However, what is clear is that regular review is essential in order to update current scheme progress, remove completed schemes, and to add new schemes where they are needed to support the sustainable delivery of the MBLP. The National Planning Practice Guidance (NPPG), Paragraph 018 Reference ID: 12-018-20140306, states that councils should pay careful attention to “identifying what infrastructure is required and how it can be funded and brought on stream at the appropriate time.” It also states that this information can be set out in a supporting document [to the Local Plan] such as an infrastructure delivery programme (or plan) that can be updated regularly. As such, officers have undertaken a review of the May 2016 IDP, with the intention that it will continue to be reviewed on an annual basis moving forwards. At this point it should be noted that as part of the current Local Plan Review (LPR), the intention is – in collaboration with infrastructure providers – to produce an entirely new IDP to accompany the LPR submission in 2021. Formal work on this is expected to begin once the preferred spatial approach is known.
- 1.15 In undertaking this current review, known infrastructure providers – both with and without projects currently listed in the IDP – were initially contacted by email in December 2018 and asked to provide updates on their schemes and to suggest new schemes for consideration where appropriate. The full list of those contacted and those who responded is provided in Appendix 1 of this report.
- 1.16 Given that this IDP continues to be based on the adopted MBLP, it was not expected that many new schemes would be identified as part of the review. However, it was recognised that organisational business plans and ways of working/delivering services change over time, and that schemes may come forwards where they were previously not identified as necessary to support planned development.
- 1.17 Based on the responses received, plus further clarifying discussions with infrastructure providers where required, a revised and updated IDP has been produced and is shown in Appendix 2 of this report. The overall content remains very similar to the 2016 IDP, however the new format layout and use of colour-coding is intended to improve the user-friendly navigation of the document, by clearly distinguishing between different infrastructure types and, where appropriate, different geographic areas.
- 1.18 In summary, the key revisions to the IDP include:
- Removal of all completed schemes;
  - Amendment of existing schemes where the output, cost, funding arrangements or scheme status have evolved since 2016;

- Updates to the evidence/justification, for example, references made to planning applications which now have permission; and to the production of more recent evidence by infrastructure providers e.g. The CCG GP Estates Strategy 2018;
- Addition of new schemes where they are justified and required to sustainably deliver the adopted MBLP; and
- Correction of typographical errors such as site allocation references where they were revised subsequent to the production of the 2016 IDP, during the MBLP examination.

1.19 In total: 27 schemes (representing 18% of the total short and medium term infrastructure schemes from the 2016 IDP) have been completed and have therefore been removed from the IDP as part of this review (see Appendix 5); and 7 new schemes were identified for inclusion into the revised IDP. The new schemes are located at the end of each relevant table in the 2019 IDP (Appendix 2) and are shaded grey to make them easily identifiable.

1.20 All 129 short and medium term schemes contained in the 2019 IDP have been reviewed and rated either red, amber or green, based on their considered risk of delivery. An explanation as to how the schemes are categorised is provided within the introductory text of the IDP (see Appendix 2). In total only 10% of schemes are categorised as 'red' or high risk; with 50% at 'amber' or moderate risk; and 40% at 'green' or low risk of delivery. The below table summarises the risk of delivery of the 2019 IDP schemes identified to be delivered in the short and medium term, shown as a percentage and grouped by infrastructure type. By rating the risk to delivery of the schemes this way it enables officers to focus their efforts on collaborating with the key infrastructure providers to ensure that these schemes are delivered in a timely fashion. The long term schemes have not been rated as they relate to infrastructure associated with the later stages of the Local Plan.

Infrastructure type	Risk to delivery (short and medium term schemes)			Total no. of schemes
	Red – High Risk	Amber – Moderate Risk	Green – Low Risk	
Highways and transportation	12%	30%	58%	60
Education	0%	82%	18%	11
Health	5%	95%	0%	21
Social and community	0%	0%	100%	2
Public services	0%	100%	0%	8
Utilities	0%	100%	0%	8
Green and blue	24%	0%	76%	17
Flood prevention	50%	50%	0%	2
<b>TOTAL (%)</b>	<b>10%</b>	<b>50%</b>	<b>40%</b>	<b>129</b>

1.21 Where a response was not received from an infrastructure provider with schemes currently listed in the IDP, the schemes have been rolled forward and will be reviewed again as part of next year's update following further engagement.

1.22 Revisions to the IDP do not require any form of public consultation. As explained in paragraph 1.14, there is little guidance in terms of the IDP review process. It is therefore down to individual local authorities to determine. The draft revised 2019 IDP (Appendix 2) presented as part of this report is an update of the previous IDP and is based predominantly on publicly available and agreed evidence/strategies, such as the Kent Commissioning Plan for Education Provision. The draft revised IDP is provided as background evidence to the proposed changes to the Regulation 123 List and will be brought back to this committee for final agreement and approval to publish alongside the results from the Regulation 123 List consultation.

### **Proposed revisions**

1.23 The Regulation 123 List may be reviewed and updated at any time by the Council, subject to public consultation. At the examination of the CIL charging schedule the Examiner commented that "Whilst the list is not part of my examination, I make the observation that it is relatively broad-brush with some scope for ambiguity." As a result of this the Council committed to an annual review of the R123 List alongside the IDP.

1.24 Since implementing CIL in October 2018 it has been identified that there is some confusion over the meaning of certain wording within the existing R123 List. Specifically, under the title of education provision where the word 'including' is used with regards to schemes excluded from CIL funding. Using the Oxford English Dictionary definition as a basis for clarification, the Council is of the opinion that the word 'including' is to be construed in the sense that additional unspecified infrastructure schemes within the IDP may also fall under the list. The list is not exhaustive and there may be additional education provision that legitimately falls within the exclusions from CIL and as such would be funded through S106 agreements. However, this ambiguity is not helpful for applicants or the Council and potentially leaves us open to challenge.

1.25 Two options on revised wording to the Regulation 123 List are therefore presented to this committee, Option A (Appendix 3) and Option B (Appendix 4). Both options provide greater clarity and transparency over which schemes are intended to be funded through CIL and which are excluded i.e. to be funded through other means, such as S106.

1.26 In reviewing the R123 List, the Council must consider the evidence that was before the Inspector when the MBLP and the CIL Charging Schedule were subject to examination and whether the exclusion of specific infrastructure from the R123 List (in order to be funded through S106/planning obligations) is likely to have a 'very significant impact' on the viability evidence that supported the Charging Schedule as this would trigger a wholesale review of the Charging Schedule.

1.27 The evidence presented included the IDP, which clearly indicated that schools may continue to be funded through S106 agreements where appropriate and meeting the three tests as explained in paragraph 1.8 above.

- 1.28 The final viability study that was presented to the Inspector during the examination entitled 'Maidstone Borough Council Revised Plan and CIL Viability Study' dated July 2015, sets out in paragraph 5.4.42 that "in determining a suitable level of CIL, sufficient headroom needs to be available to fund likely S106 requirements."
- 1.29 This fact that sufficient headroom was allowed in the charging schedule for future S106 obligations to be taken for certain infrastructure requirements reaffirms the approach that the word 'including' in the R123 List does not preclude additional school place provision from being funded through S106 simply because it is not specifically listed. Therefore, the proposed changes to the R123 List presented in option A (Appendix 3) do not undermine the viability evidence that supported the examination of Maidstone's CIL Charging Schedule.
- 1.30 The two options for the revised draft Regulation 123 List, showing the proposed amendments to the existing R123 List through tracked changes, are set out in Appendices 3 and 4. The chosen version will be subject to six weeks of statutory public consultation. The responses to the consultation will be considered and a recommendation made to this committee for a decision alongside the agreement on the updated IDP.
- 1.31 The six week public consultation will be held in accordance with the Council's published Statement of Community Involvement, 2018. In addition, National Planning Practice Guidance (NPPG) contains advice set out in Paragraph 098, Reference ID: 25-098-20140612 in relation to amending the R123 List. Subject to this committee's agreement, it is proposed to commence the six week public consultation before the end of this month.

### **Justification for proposed revisions**

- 1.32 Option A (Appendix 3) shows the proposed addition of the following specific infrastructure project under the 'Exclusions' column for education provision: "1FE expansion of Lenham Primary School for Broad Location H2 (3) Lenham, Maidstone." The reason for this proposed amendment is that at the time of drafting the R123 List the locations for the housing site allocations associated with the broad location were not known. Local Plan policy H2(3) states that the associated infrastructure requirements will be made through the Lenham Neighbourhood Plan and/or the local plan review. Work has commenced on developing the Lenham Neighbourhood Plan and through this it has become clear that a 'block' of at least 3 large sites provides sufficient evidence to combine infrastructure need and its associated funding mechanisms for at least part of the broad location. Linked to this infrastructure planning, clarity regarding primary school provision has also now been obtained and therefore it is deemed to be an appropriate time to update the R123 List to ensure full clarity and transparency regarding funding arrangements for education provision.
- 1.33 The 1FE expansion of Lenham Primary School represents an amendment to the existing scheme (EDR6) listed in the May 2016 IDP, which was for the "provision of a new 2FE primary school within Broad Location H2(3) Lenham". The reason for the amendment to the scheme output is as a

direct result of confirmation from KCC, as the education authority, that based on their most up to date evidence, a one form expansion of the existing primary school in Lenham will provide sufficient capacity for the anticipated increase in pupil numbers.

- 1.34 Subsequent to the above scheme amendment, the proposed more fundamental change between the 2016 and 2019 scheme EDR6 is to amend the funding mechanism from 'CIL' to 'S106'. This amendment brings the proposed funding for the expansion of the primary school in Lenham broad location H2(3) into alignment with the proposed funding for the new primary school within the Maidstone Barracks broad location H2(2). Maidstone Barracks broad location was able to be included in the initial exclusions list as the exact site for development was known at that stage, whereas Lenham broad location was not. This change to the IDP will only be made if this committee selects to consult on option A (Appendix 3) to add the scheme to the exclusions listed on the Reg 123 List and following the results of the consultation being brought back to this committee. If this committee chooses option B (Appendix 4) the funding mechanism will remain as CIL.
- 1.35 Nationally, planning guidance regarding the funding of education through developer contributions has recently been revised. It states that whilst central government provides funding to local authorities for the provision of new school places, this funding is reduced to take account of developer contributions, to avoid double funding of new school places (NPPG Paragraph: 007, Reference ID: 23b-007-20190315). In addition, the Department for Education has published non-statutory guidance on 'Securing developer contributions for education', April 2019, which is a further source of information aimed at helping local education authorities (in this case, KCC) to secure developer contributions for education provision. This further supports the Council's proposed change in position on funding arrangements for scheme EDR6.
- 1.36 It is essential that Maidstone Borough Council facilitate collaborative working with KCC to agree the most appropriate developer funding mechanisms for education, to ensure that school places are provided for concurrent to the delivery of new homes. In this context, the amendment to the IDP and the subsequently proposed revisions to the R123 List outlined in Option A (Appendix 3) are justified.
- 1.37 Alternatively, if this committee feels the above reasons do not justify the changes then Option B (Appendix 4) will be consulted upon. This removes the word 'including' thereby making the current list of education schemes excluded from CIL funding exhaustive. Funding arrangements for Lenham Primary School scheme EDR6 would remain as CIL, and the IDP would reflect as such. This option also provides clarity regarding the interpretation of the Regulation 123 List but cannot guarantee that strategic CIL funds will be put towards education provision in Lenham.

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## **2. AVAILABLE OPTIONS**

- 2.1 **Option 1:** Agree for officers to undertake a six week statutory public consultation on the revised draft Regulation 123 List – Option A (appendix 3); the results of which are to be bought back to this committee seeking decisions to publish the final revised Regulation 123 List along with the finalised 2019 IDP.
- 2.2 By agreeing to publish the revised R123 List for public consultation, the Council has the opportunity to provide a greater level of certainty and clarity to all stakeholders regarding the sources of funding for education provision. The wording of Option A (Appendix 3) seeks to ensure that funding is secured specifically for the provision of new primary school places in Lenham that are anticipated as a direct result of the future development within the broad location. This approach aligns with recent DfE guidance on securing developer contributions for schools and ensures necessary and timely provision of school places concurrent with housing development.
- 2.3 **Option 2:** Agree for officers to undertake a six week statutory public consultation on the revised draft Regulation 123 List – Option B (appendix 4); the results of which are to be bought back to this committee seeking decisions to publish the final revised Regulation 123 List along with the finalised 2019 IDP.
- 2.4 By agreeing to publish the revised R123 List for public consultation, the Council has the opportunity to provide a greater level of certainty and clarity to all stakeholders regarding the sources of funding for education provision. The wording of Option B (Appendix 4) makes clear that no other schemes beyond those listed on the current R123 List could be considered to be 'exclusions' from CIL funding i.e. S106 contributions could only be sought on the education schemes as currently listed in the 'exclusions' column of the R123 List. As such, S106 developer contributions could not be explicitly sought for the 1FE expansion at Lenham Primary School and KCC, as the education authority, would need to bid for strategic CIL funds. However, CIL funding cannot be guaranteed, therefore placing the necessary and timely provision of school places in Lenham at risk of non-delivery.
- 2.5 **Option 3:** Agree to make no changes to the current Regulation 123 List, leaving it in its current format; and agree for publication the 2019 IDP as presented at this committee – making a decision as to whether the main funding mechanism for scheme EDR6 is to be CIL or S106.
- 2.6 The risk with this option is that it leaves a degree of uncertainty and ambiguity around the interpretation of Regulation 123 List, particularly with regards to the provision of education and may result in potential S106 funding not being secured to deliver clearly identified educational requirements. It may also result in costly appeals against the Council's decisions. By only updating the IDP without removing the ambiguity of the S106 could leave the Council open to challenge when securing funding for infrastructure provision.
- 2.7 **Option 4:** Agree to make no changes to the current Regulation 123 List, leaving it in its current format; and agree to make no changes to the IDP, instead retaining the May 2016 version IDP.

- 2.8 The risk with this option is that it leaves a degree of uncertainty and ambiguity around the interpretation of Regulation 123 List, particularly with regards to the provision of education and may result in potential S106 funding not being secured to deliver clearly identified educational requirements. It may also result in costly appeals against the Council's decisions. In addition, it would leave the Council with an IDP that is not reflective of the current infrastructure requirements needed to sustainably deliver the development as outlined in the adopted MBLP.
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### **3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 3.1 It is recommended for this committee to choose option 1: To agree for officers to undertake a six week statutory public consultation on the revised draft Regulation 123 List – Option A (Appendix 3); the results of which are to be bought back to this committee seeking decisions to publish the final revised Regulation 123 List along with the finalised 2019 IDP.
- 3.2 In agreeing to publish the revised Regulation 123 List for public consultation, this committee acknowledges that the increase in transparency and clarity of infrastructure funding arrangements is beneficial to – and in the interest of – all stakeholders. It is of particular importance for applicants and officers to understand exactly which schemes are to be excluded from CIL and funded through alternative mechanisms e.g. S106 agreements, to ensure that monies are collected through the correct mechanisms and that there is no perceived or actual 'double dipping' in order to fund infrastructure. The wording of Option A (Appendix 3) would ensure that funding is secured specifically for the provision of new primary school places in Lenham that are anticipated as a direct result of the future development within the broad location. This approach aligns with recent DfE guidance on securing developer contributions for schools and ensures necessary and timely provision of school places concurrent with housing development.
- 3.3 It should be reiterated that the proposed revision to the Regulation 123 List is for the purposes of clarity and transparency, and not for reasons of necessity.
- 3.4 With regard to the 2019 IDP, the final version reflecting the latest infrastructure requirements needed to sustainably deliver the development as outlined in the adopted MBLP is to be bought back to this committee along with the recommendations for the R123 List post-consultation. All stakeholders will clearly be able to see the full list of infrastructure schemes required, along with all relevant information pertaining to each scheme such as the lead delivery body, likely delivery timescales and proposed funding arrangements. It also fulfils national guidance on undertaking regular updates of the IDP.
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## **4. RISK**

- 4.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. That consideration is shown in this report in Section 2. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.
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## **5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 5.1 As explained in Section 1, the current 2016 IDP has been updated for 2019 through consultation and engagement with all known infrastructure providers operating in the borough. The feedback from this engagement process has led to the revised draft 2019 IDP and the proposed revisions to the Regulation 123 List.
- 5.2 Subject to this committee's agreement of the proposed recommendation as set out in this report, a six week public consultation on the revised Regulation 123 List will be undertaken. Further details are given under Section 6 of this report.
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## **6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 6.1 If agreed by this committee, officers will run a six week public consultation on the proposed revised Regulation 123 List (Option A, Appendix 3). The consultation will be undertaken in accordance with the Council's 2018 Statement of Community Involvement. Responses to the consultation along with the final proposed Regulation 123 List (having taken account of the comments received), will then be brought back to this committee for approval and agreement to publish on the Council's website. Alongside this, the final 2019 IDP will also be brought back to this committee for agreement to publish on the Council's website.
- 6.2 In publishing a post-consultation revised Regulation 123 List and updated 2019 IDP, the Council will produce explanatory website text as well as informing all key stakeholders of the revisions to both the R123 List and IDP, including colleagues in KCC and our own Development Management team. This will ensure that applicants are aware of the changes as early as possible in planning application process.
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## 7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	Accepting the recommendations will materially improve the Council's ability to achieve its corporate priorities, in particular, "embracing growth and enabling infrastructure". The reasons other choices will be less effective is set out in section 2 of the report.	Rob Jarman, Head of Planning and Development
<b>Risk Management</b>	Refer to paragraph 4.1 of the report.	Rob Jarman, Head of Planning and Development
<b>Financial</b>	The proposals set out in the recommendation are all within already approved budgetary headings and so need no new funding for implementation.	Finance Trainee
<b>Staffing</b>	Recommendations will be delivered with our current staffing.	Rob Jarman, Head of Planning and Development
<b>Legal</b>	Accepting the recommendations will fulfil the Council's duties under Planning Act (2008) and the Community Infrastructure Levy Regulations (2010, as amended). Whilst there is no prescribed procedure for amending a Regulation 123 List, the government's Planning Practice Guidance makes it clear that local planning authorities are able to amend the List so long as they consult the public. In undertaking this public consultation, the Council will fulfil its duties under the adopted Statement of Community Involvement (2018).	Cheryl Parks, Mid Kent Legal Services (Planning)
<b>Privacy and Data</b>	Accepting the recommendations	Cheryl Parks,

<b>Protection</b>	to publicly consult on the revised Regulation 123 List may increase the volume of data held by the Council. We will hold that data in line with GDPR.	Mid Kent Legal Services (Planning)
<b>Equalities</b>	<p>The preferred option for public consultation on the revised R123 List allows for important engagement with the local community and other interested parties. In line with the Statement of Community Involvement, this should be accessible to all residents, inclusive of seldom heard groups.</p> <p>Separate Equalities Impact Assessments are completed as part of individual schemes, as appropriate.</p>	Equalities and Corporate Policy Officer
<b>Public Health</b>	The recommendations may have a positive impact on population health or that of individuals, through the identification of healthcare infrastructure and schemes which support healthy lifestyles e.g. improvements to footpaths and provision of open space.	Rob Jarman, Head of Planning and Development
<b>Crime and Disorder</b>	No implications identified as a result of the recommendations in this report.	Rob Jarman, Head of Planning and Development
<b>Procurement</b>	No implications identified as a result of the recommendations in this report.	Rob Jarman, Head of Planning and Development

## 8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix 1: List of infrastructure providers contacted
- Appendix 2: Maidstone Infrastructure Delivery Plan (IDP) 2019
- Appendix 3: Draft Regulation 123 List (tracked changes) – Option A

- Appendix 4: Draft Regulation 123 List (tracked changes) – Option B
  - Appendix 5: Completed infrastructure schemes from May 2016 IDP
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## **9. BACKGROUND PAPERS**

Maidstone Infrastructure Delivery Plan (IDP), May 2016:

[https://www.maidstone.gov.uk/\\_data/assets/pdf\\_file/0016/121129/SUB-011-Infrastructure-Delivery-Plan-May-2016.pdf](https://www.maidstone.gov.uk/_data/assets/pdf_file/0016/121129/SUB-011-Infrastructure-Delivery-Plan-May-2016.pdf)

CIL Regulation 123 List, October 2017:

[https://maidstone.gov.uk/\\_data/assets/pdf\\_file/0005/158036/Approved-Regulation-123-List-October-2017.pdf](https://maidstone.gov.uk/_data/assets/pdf_file/0005/158036/Approved-Regulation-123-List-October-2017.pdf)

Securing developer contributions for education, April 2019, Department for Education:

[http://offlinehbpl.hbpl.co.uk/NewsAttachments/RLP/Securing\\_developer\\_contributions\\_for\\_education.pdf](http://offlinehbpl.hbpl.co.uk/NewsAttachments/RLP/Securing_developer_contributions_for_education.pdf)