

Vale of Glamorgan Local Development Plan 2011-2026

Planning Obligations



Draft Supplementary Planning Guidance

APPENDIX 2

2015



Appendix 2

**THE VALE OF GLAMORGAN COUNCIL
DRAFT PLANNING OBLIGATIONS SPG
SUPPLEMENTARY PLANNING GUIDANCE
NOVEMBER 2015**

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1. Introduction

1.1 Background

New development can have an impact on existing community infrastructure and create the need for new facilities such as school places, parks, public transport and community halls. Planning obligations serve an important role in the planning system to deliver these facilities. They can help to remedy genuine planning problems and enhance the quality of development and its contribution to a particular area. Developers are required to provide works, services or financial contributions to help mitigate the impacts that arise as a consequence of their development. Section 106 agreements are legally binding agreements entered into between a local authority, a landowner and a developer to secure such planning obligations.

1.2 Purpose of document

This Supplementary Planning Guidance (SPG) provides clarification of where, what, when and how planning obligations will be sought, in order to assist the Council in creating sustainable communities that provide social, economic, and environmental benefits. This guidance offers advice on planning obligations in support of the policies in the Vale of Glamorgan Local Development Plan.

This guidance has been prepared to provide advice on the Council's approach to seeking planning obligations prior to introducing a Community Infrastructure Levy (CIL) for the Vale of Glamorgan. Once the Council has introduced a CIL, this guidance will be amended to reflect the fact that some of these matters will be covered by CIL receipts rather than planning obligations.

The Council does not propose a blanket approach to planning obligations, as each planning application will be considered on its own merits however this guidance seeks to ensure that a consistent approach to site assessment and requirements for planning obligations is taken. This SPG will form the basis of negotiations between all parties and it will represent a material consideration in the determination of relevant planning applications and appeals. Obligations relating to matters not covered by this SPG may be sought where there is sufficient robust evidence to justify such obligations.

This SPG is available on the Council's website and will be reviewed and updated as appropriate. The financial contributions will be updated annually to reflect changes to inflation to ensure they reflect the actual cost of delivering community infrastructure.

1.3 Status of Guidance

The SPG has been prepared as background evidence to the forthcoming Public Examination of the Vale of Glamorgan Local Development Plan. Formal consultation in accordance with the Council's protocol for the preparation and adoption of SPG will be undertaken following adoption of the LDP. The SPG may be used as a material consideration for Development Management decisions, in accordance with the Cabinet Report dated 14th December 2015.

2. Legislative and Policy context

2.1 Legislation and National Policy

2.1.1 Section 106 of the Town and Country Planning Act (TCPA) 1990, as amended by Section 12 of the Planning and Compensation Act (1991) and the Community Infrastructure Levy Regulations

2010 (as amended), provides the legislative framework for planning obligations. Section 106 agreements can comprise both bi-lateral agreements (usually between the Council and the developer / land owner) and unilateral undertakings, where the developer pledges to undertake certain planning obligations, without the Council being party to the agreement.

2.1.2 Circular 13/97 Planning Obligations states that planning obligations should only be sought where they meet the following tests:

- 1) Necessary to make the development acceptable in planning terms;
- 2) Relevant to planning;
- 3) Directly related to the development;
- 4) Fairly and reasonably related in scale and kind to the development; and
- 5) Reasonable in all other respects.

Acceptable development should never be refused because an applicant is unwilling or unable to offer benefits. Equally an unacceptable development should never be permitted because of unnecessary or unrelated benefits offered by the applicant.

2.1.3 Community Infrastructure Levy Regulations

The CIL Regulations 2010 came into force on 6th April 2010 in England and Wales and therein Regulation 122 had immediate effect, which gave a regulatory basis to the above tests. It states that a planning obligation may only legally constitute a reason for granting planning permission if it is:

- (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.

Furthermore, it should be noted that the CIL Regulations (Regulation 123) restricts the pooling of s106 contributions insofar as no more than 5 separate obligations (entered into since 6th April 2010) shall be used on a single infrastructure project. The Council keeps up to date records of all section 106 agreements entered onto on the Planning Register and provides a summary on the Council's website. In discussions with developers the Council will consider whether the pooling restriction is relevant and seek to ensure that the development can be appropriately mitigated through planning obligations, whilst ensuring that the pooling restriction is not breached. If a development is not capable of delivering appropriate infrastructure because of the pooling restriction, this may make it unacceptable in planning terms.

2.1.4 Planning Policy Wales (PPW)

PPW Edition 7 – July 2014 states in section 3.7 that 'planning obligations are useful arrangements to overcome obstacles which may otherwise prevent planning permission from being granted. Contributions may be used to offset negative consequences, to help meet local needs, or to secure benefits which will make development more sustainable. It is essential that arrangements are fair to both the developer and community, that the process is transparent as possible, and that development plans provide guidance on the types of obligations which authorities may seek from developers' (paragraph 3.7.1).

2.4 Local Planning Policy

The Council's policy on planning obligations is set down in Policy MD4 of the Vale of Glamorgan LDP Community Infrastructure and Planning Obligations, which states:

'Where appropriate, and having regard to development viability the Council will seek to secure new and improved community infrastructure, facilities and services appropriate to the scale, type and location of proposed developments through the use of planning obligations and / or the Community Infrastructure Levy. Community infrastructure may include the provision or improvement of:

1. Affordable housing;
2. Education facilities;
3. Transport infrastructure and services for pedestrians, cyclists, public transport and vehicular traffic;
4. Public open space, public art, leisure, sport and recreational facilities;
5. Community facilities;
6. Healthcare facilities;
7. Service and utilities infrastructure;
8. Environmental protection and enhancement such as nature conservation, flood prevention, town centre regeneration, pollution management or historic renovation;
9. Recycling and waste facilities; and
10. Employment opportunities and complementary facilities including training.'

There are a number of other policies which refer to the provision of infrastructure and/or allocate particular sites for the provision of new community facilities namely:

- Policy SP 4 Affordable Housing Provision
- Policy SP 7 Transportation
- Policy MG 4 Affordable Housing
- Policy MG 6 Provision of Educational Facilities
- Policy MG 7 Provision of Community Facilities
- Policy MG 8 Provision of Health Facilities
- Policy MG 16 Transport Proposals
- Policy MG 25 Public Open Space Allocations
- Policy MD 3 Design of New Development
- Policy MD 10 Promoting Biodiversity

These policies are appended at Appendix 1.

3. The Use of Planning Obligations in the Vale of Glamorgan

The Vale of Glamorgan boasts a diverse and attractive environment. Its desirability has resulted in increased pressure for a range of developments including residential, employment, leisure uses and associated infrastructure, in both the rural and urban Vale. The Vale of Glamorgan also has a number of social, economic and physical issues, which can often be exacerbated due to the impacts of new development.

The Council expects all eligible new development in the Vale to contribute to site related impacts and broader infrastructure needs through a combination of:

3.1 Conditions

Where a condition could be used to secure the same end as a legal agreement in accordance with the tests set out in Circular 13/97 (discussed in section 2.1.2 above) and the Conditions Circular (WGC 016/2014), the Council will use conditions rather than a planning obligation.

3.2 Planning Obligations

Planning obligations are an important mechanism to help mitigate the negative impacts of development. The Council will use planning obligations for the provision of local infrastructure requirements that are required as result of the development, such as site specific local provision of open space and landscaping, habitat protection, access arrangements including sustainable transport facilities, education and community facilities and affordable housing.

A planning obligation is a legally binding agreement which usually runs with the land rather than with the person entering into the agreement. Planning obligations are therefore enforceable against subsequent owners of the land, as well as the original covenantor.

Planning contributions may include the following:

- 1. In Kind Contributions** – The developer carries out required works directly such as the provision of a children's play area.
- 2. On Site / Off Site Financial Contributions** – The developer contributes financially towards the provision of measures that would mitigate the detrimental impacts of development such as improved public transport, pedestrian access and traffic calming measures.
- 3. Maintenance Contributions** – The developer contributes financially towards the physical upkeep of facilities that they have funded or provided such as open spaces.
- 4. Pooled Contributions** – The Council may seek to pool no more than 5 contributions in order to address the wider impacts across developments such as the provision of large scale road improvements, new schools and community facilities.

There are two types of planning obligations:-

- 1. Planning (Section 106) Agreement** – entered into by the Local Planning Authority and the developer.
- 2. Unilateral Undertaking** – commitment by the developer only.

Where a developer fails to show they can adequately mitigate the negative impacts of a development, it is likely the planning permission will be refused.

The Council will therefore seek that where applicable, planning obligations are negotiated to ensure that new development makes a positive and sustainable contribution to the Vale of Glamorgan. The Council endorses the fundamental principle that planning permission may not be bought or sold, and understands that this principle is best served when negotiations are conducted in a way which is seen to be fair, open and reasonable.

This guidance provides clarification on where, when, what and how planning obligations will be sought in association with new development in the Vale of Glamorgan.

3.3 Community Infrastructure Levy in the Vale

The Council intend to introduce a CIL levy once the Local Development Plan has been adopted and this SPG will then be updated to reflect the principle that CIL and planning obligations run side by side, and to ensure that developers are not expected to provide planning obligations for those matters proposed to be covered by CIL.

4. Where will planning obligations be sought?

The Council considers that it will be most likely to seek planning obligations on major developments or where development will impact upon a particularly sensitive site. **Major developments** are defined in the Town and Country Planning (General Development Procedure) Order 1995 and for the purpose of this guidance are taken to mean:

- **the erection of 10 or more dwellings or where this is unknown, the site area is 0.5 hectares or more; or**
- **Commercial development (including retail, employment, tourist or leisure uses which employ staff and / or attract visitors), where floorspace to be created exceeds 1000 square meters or the site area is 1 hectare or more.**

It may be necessary to seek planning obligations on smaller development sites where there are specific needs created by the proposed development or where local needs are so acute that all sites are expected to deliver the appropriate infrastructure (e.g. Affordable Housing and Public Open Space) .

Where a site is subdivided, the Council will treat such sites in their totality if the schemes, together, would accommodate more than the relevant number of dwellings or floor area. Under such circumstances, each subdivided plot will be required to provide a contribution towards the relevant obligation proportionate to its size and relative to the overall site requirements for such facilities. Where the new development involves more than one developer, the Council may seek joint contributions from developers to implement or pay for improved facilities and / or services.

Where a site cannot deliver appropriate facilities because it has been subdivided the Council will expect developers and landowners to work together to reach agreement to deliver the necessary facilities across the whole site. If sites are proposed in such a way as to undermine the delivery of appropriate infrastructure necessary to make the development acceptable in planning terms, this could lead to a refusal of planning permission.

Where developments are proposed which fall short of the threshold by up to 10%, the Council will consider whether this is deliberate underdevelopment of the site to avoid the relevant planning obligation threshold. If so, there is planning case law to support a stance that the requirement should be applied. As a general rule, LDP Policy MD 7 (Housing Densities) sets out a minimum density of 30 dwellings per hectare will be considered appropriate to most sites, with a lower density of 25 dwellings per hectare being appropriate in the minor rural settlements.

Site specific or contextual constraints may make lower densities necessary and this will need to be considered by the Council on a site by site basis. Sensitive sites are likely to include: visually prominent sites, sites in Conservation Areas, sites within Special Landscape Areas (SLAs), sites in close proximity to Listed Buildings or scheduled Ancient Monuments, sites within the Glamorgan Heritage Coast, sites with other statutory designations such as Tree Preservation Orders (TPOs), Sites of Special Scientific Interests (SSSIs) or Special Areas of Conservation (SACs).

5. What will planning obligations be sought for?

Planning obligations may be sought for a wide range of facilities and / or services, in association with new development as set out in LDP Policy MD4.

The Council may enter into a planning obligation with a developer to:

- Restrict development or use of land;
- Require operations or activities to be carried out in, on, under or over land;

- Require land to be used in a specified way; or
- Require payments to be made to the authority either in a single sum or periodically.

Where it is felt that a particular planning obligation is necessary to enable a development to proceed, the Council will ensure that the necessary facilities and / or infrastructure can be accommodated by the new development. For example, where commuted sums are sought to provide a bus service to and from a development, the scheme must have the necessary infrastructure required to run such a service, such as a bus turning area or a bus lay by to collect passengers. Each case will however be considered on its own merits having regard to existing provision in the area and quantity and quality of existing facilities and services.

Details of the development thresholds and formulas for each type of obligation are appended to this guidance (refer to Appendix 2). These are summarised in the table below. For ease of reference these are split into those applicable to residential developments and commercial developments. Commercial developments include all non-residential development schemes such as retail, employment, tourism, or leisure uses which employ staff and / or attract visitors.

Type of Obligation	Residential development threshold	Commercial Development Threshold	Formula
*Affordable Housing in Barry	5	-	30% on site
*Affordable Housing in Llanwit Major, Rhoose and St Athan	5	-	35% on site
*Affordable Housing in the rest of the Vale of Glamorgan	2	-	40% on site unless otherwise agreed
Sustainable Transport	10	1000sqm floor space / 1ha site	£2200/dwelling or £2200/100m ² floor space
Education	10	-	Contributions per dwelling (depending on available capacity in local schools) Nursery = £1,745 Primary = £4,850 Secondary = £5,468 Post 16 = £1,140 Total = £13,203
Training and Development	-	1000sqm floor space / 1ha site	one trainee (£1200) per 500m ² of new floor space
Community Facilities	25	-	0.74sqm of community floor space per dwelling = a financial contribution of £1208 per dwelling
Public Open Space	5	1000sqm floor space / 1ha site	2.4 ha per 1000 population = 55.68m ² per dwelling or £1100 per person = £2,552 per dwelling
Public Art	10	1000sqm floor space / 1ha site	1% of Build Costs
Biodiversity	Assessment on a case by case basis	Assessment on a case by case basis	No specific formula.

* For further information refer to the Affordable Housing SPG

The cost formulae has been derived on the basis of current costs and will be reviewed on an annual basis to ensure inflationary price increases are accounted for. Commuted sums may be paid to the Council, through a Section 106 legal agreement for services which the Council are then obliged to pursue e.g. landscape maintenance of public open space. In these circumstances, the Council usually requires commuted sums for a 20 year period.

The formulas contained in this guidance are provided as a guide to developers as to the Council's general expectations in respect of planning obligations. Other issues may be relevant to particular planning applications and each case will be considered on its own merits. In most cases, the Council will encourage developers to provide facilities and infrastructure on site to serve the future occupiers of the development. Where this is the case, these 'in-kind' contributions will be taken into account when calculating the amount of any off-site contributions. Where a development is considered to meet all its needs on site and mitigate its impacts through sufficient in-kind contributions, it is unlikely that any additional financial contributions will be sought.

6. When will planning obligations be sought?

Where it is felt that a particular planning obligation is necessary to enable a development to proceed, the Council will ensure that the necessary facilities and / or infrastructure can be accommodated by the new development. Whilst the payment of the CIL charge when it is introduced will be mandatory, planning obligations remain open to negotiation. However, by following the guidance contained in this SPG the Council will seek to ensure a consistent approach is taken to development across the Vale of Glamorgan.

6.1 Site Viability

The policies set out in the LDP and the obligation requirements outlined in this SPG have been set having regard to viability evidence in the Vale of Glamorgan. Therefore, they are considered to be the starting point for negotiation, and provided they are taken into account at an early stage, should not undermine viability in most circumstances.

Developers must take account of the necessary planning obligation requirements at an early stage to ensure these are reflected in the land value assumptions. Where a developer contends that the s106 requirements are too onerous and will potentially make the scheme unviable, they will be expected to submit a breakdown of the development costs and sales values and anticipated profits based on properly sourced evidence. The assessment must be submitted to the Council to provide evidence of the scheme's viability issues. Preferably this should form part of the pre-application negotiations but must be submitted with a full or outline planning application. The Affordable Housing SPG sets out in more detail the information required to support a viability appraisal and the process for considering such matters. Failure to provide this information will delay the determination of the application or the completion of any legal agreement.

The Council will assess viability either in-house or through a chosen independent consultant. Where other professional advice is required, for example highways or ecological advice, other specialist consultants may be involved. All costs associated with these assessments will need to be met by the developer. Developers will be required to highlight any abnormal development costs at the earliest possible stage, in order that their impact on the viability of a scheme may be assessed. Developer

profits should not be protected at the expense of required contributions like affordable housing where too much has been paid for a site.

The Council will expect the developer to consider ways in which phasing or delayed trigger points could be used to deliver the obligations at a later date but still ensuring delivery. Where a developer can demonstrate that a scheme is unviable because of the required planning obligations, the Council is prepared to consider a reduction to the planning obligations. The Council considers that reduced planning obligations will only be justified on the grounds of development viability where there is sufficient planning merit weighing in favour of the development, such as:

- The delivery of a strategically important development site in the context of the Local Development Plan.
- There are unusual or extraordinary site constraints affecting viability that must be overcome for the site to be developed and the development would be in the wider public interest (e.g. protection of a listed building, contaminated land, urban renewal project etc.)
- The development itself is being used as a means of delivering / subsidising a mixed use, commercial or community project (in the public interest) which would not be deliverable without financial support.

In considering a reduction, the Council will assess the acceptability of a proposal without the required contributions. Schemes which are considered unacceptable without the required contributions will be refused.

6.2 Prioritising Planning Obligations

The Council accepts that it may not always be possible for developers to satisfy all the planning obligation requirements as discussed in section 5. Where an applicant can robustly demonstrate that a planning obligation would adversely affect the viability of a development, the Council will negotiate obligations in the following order of priority:

1. Works required to secure a safe environment for the community and future occupiers of the proposed development or which are necessary to meet statutory obligations (e.g. satisfactory access arrangements, off-site highway improvements, natural or built environment and flood risk prevention).
2. In the case of residential development, the provision of affordable housing to meet the needs of the local community.
3. Measures required to meet the needs of the future occupants of the proposed development where the failure to provide the measure would impose unacceptable impacts on the local community (e.g. public open space provision and education).
4. Measures required to mitigate the impact of the proposed development on the local community or matters of acknowledged importance (e.g. community safety, public art, employment and training).

The above list is provided for guidance and will be applied on a case by case basis. The choices made will reflect the site circumstances, the proposed land use, the scale of the proposed development and the issues facing the local community. In all cases pre-application discussion can help identify local priorities and avoid delay in the determination of the planning application.

6.3 Phasing of Planning Obligations

Where the reductions are justified on the basis of unusual market circumstances, such as an unpredicted drop in house prices or unexpected rise in build costs, the Council will need to consider the most appropriate way to ensure that developers do not benefit from planning permission with reduced obligations based on particular market conditions, and then benefit from a change in the market that

would have enabled the delivery of infrastructure or affordable housing without prejudicing viability. The Welsh Government's advice 'Delivering Affordable Housing using Section 106 agreements: A Guidance Update (2009)' sets out various mechanisms available in these circumstances:

- Re-phasing planning obligations;
- Reduced obligations with a time limited permission;
- Reviewing obligations through the life of a permission; and
- A deferred payment arrangement.

Paragraph 5.1 of the guidance states "These mechanisms aim to enhance scheme viability and therefore maintain the momentum of development while guarding against the developer / landowner 'pocketing' an advantageous planning permission, which they implement when the market picks up." It continues in paragraph 5.7 "Reducing or otherwise altering planning obligations (including affordable housing requirements) should not be agreed without mechanisms in place, (such as a reduced time limited permission) to encourage early development of the scheme and to guard against an advantageous permission being pocketed' and not developed until market conditions improve."

6.4 Cumulative Impact of Development

In certain circumstances sums will be pooled by the Council from more than one development within the local authority and where all parties agree, across two or more local authorities. The CIL Regulations prevent the pooling of more than 5 obligations for one project.

The Council keeps up-to-date detailed records of all section 106 agreements which can be viewed on the Council's website. In cases where obligations are pooled, the Council has a clear audit trail between the contributions made and the infrastructure provided to ensure transparency of the process to the public and developers.

6.5 Review of Section 106 Agreements

Any reduction in planning obligations is only likely to be justified where there is planning merit and / or public interest in the site being developed e.g. the reuse of a listed building or the regeneration of an urban area. The Council will need to weigh up the planning merits of allowing the development without the full obligations package against the harm caused by a lack of infrastructure or affordable housing.

The Council will usually require developers to agree to timely review. The use of formal thresholds to trigger planning obligations ensures greater transparency and allows potential financial contributions to be assessed up front, thereby providing greater certainty to developers. The review will be triggered by reaching certain phases of a scheme or to a specified timetable and will form the basis for re-negotiating planning obligation requirements for the remainder of the development.

Where a developer believes that a historic Section 106 agreement, signed in strong market conditions, is preventing the development of a site in a weaker market, the Council is prepared to discuss with developers whether a renegotiation of planning obligations could unlock a site whilst still delivering an acceptable form of development.

7. How will planning obligations be negotiated and delivered?

7.1 Planning Application Negotiations

The Council has an established process for negotiating, implementing monitoring planning obligations which is set out at **Appendix 4** of this guidance. During pre-application discussions and the subsequent assessment of a planning application, the Council as Local Planning Authority will consider where

planning obligations should be sought in relation to a proposed development, often in light of representations received from consultees. The case officer and the Council's Section 106 officer will negotiate with the developer to agree 'Heads of Terms' (the terms of the legal agreement and planning obligations to be contained within the agreement).

7.2 Planning Approval and Drafting Section 106 Agreement

The planning application report will include details of the planning obligations being sought in association with the proposed development. Once the planning application has been agreed in principle, having had due regard to the adopted Development Plan and any other material considerations, the legal agreement is drafted by Council's legal department and signed by all the relevant parties. In some cases, the developer may choose to draft the agreement themselves. In such cases, the agreement would need to satisfy the planning obligation requirements deemed to be necessary by the Council. In addition, the agreement must be checked by the Council's legal representatives and the developer will be expected to cover the reasonable costs of doing so. A template of a standard section 106 legal agreement is available on the Council's website.

The Council keeps a register of all planning obligation legal agreements to ensure that a consistent approach is adopted for similar developments where the likely impacts are comparable and it is in accordance with the CIL Regulations. The register is available to the public for their information and to ensure transparency of the system. The Council retains copies of such legal agreements on the relevant planning application files, which are available for members of the public to view on the Council's website. Where a planning obligation is drawn up seeking a developer / developers to provide facilities, services or commuted sums, the legal agreement must contain clearly defined trigger points whereby the Council will seek the implementation of the agreement.

All financial contributions are Index Linked from the date the legal agreement is signed until the date of payment. In addition, interest (usually at 4% per cent above the base lending rate of the Barclays Bank Plc) will be payable on any amounts which are overdue payable from the date on which the amount was due until it is received by the Council. Where it is deemed necessary, the Council will expect the developer to pay a bond to ensure delivery of the necessary facilities or services.

7.3 Unilateral Undertakings

The Council is willing to accept unilateral undertakings where a developer wishes to submit one for consideration instead of having the legal agreement drafted by the Council's legal service. This can speed up the application process if submitted and agreed in advance of the Planning Committee meeting. In such cases, the undertaking would need to satisfy the planning obligation requirements deemed to be necessary by the Council and be legally sound and enforceable.

7.4 Phasing and Trigger Points

When assessing major strategic developments or mixed-use schemes, phasing is an important consideration for the Council. Section 106 agreements provide a useful mechanism to ensure that developments are phased to secure the delivery of mixed communities and appropriate infrastructure. When stipulating phasing obligations, the Council will need to have regard to site specific circumstances and viability issues.

Most Section 106 agreements will include trigger points which specify when a particular planning obligation is due. These will usually be at key stages in the implementation of the planning permission such as 'commencement of development' or 'first beneficial occupation'. Trigger points offer a useful mechanism to ensure that the delivery of planning obligations is timely. When deciding upon appropriate trigger points, the Council and the developer will need to consider when the facilities or

services to be provided under the planning obligation are needed to serve the development and also have regard to site viability and delivery issues. It is essential that the trigger points are clear, specific and enforceable to ensure that planning obligations will be delivered. The Council will have regard to trigger points used on similar developments, for consistency sake, but will need to consider each case on its own merits have regard to particular site or development constraints

If the Council fails to spend financial contributions or commuted sums within a stipulated time period, the legal agreement will usually require such sums to be returned to the person who paid them with interest, usually at Barclays Bank base rate from time to time.

7.5 Implementation

Where contributions are required to deliver off-site facilities, the Council will identify where these contributions can be most effectively used to meet the additional demand and will ensure that no more than 5 separate planning obligations are entered into to deliver the same facilities, in accordance with CIL Regulation 123.

Consultation is carried out with local ward members, service areas and other appropriate consultees prior to determining where or how the contribution can be most effectively utilised to ensure best value for money having regard for other match funding opportunities. Records of spend are kept on a central planning obligations database and reported on an annual basis to the Council's Cabinet and Planning Committee.

In implementing Section 106 planning obligations, the Council will ensure that all other relevant policy and legislative requirements are considered, e.g. ensure that schemes are DDA compliant.

The Council monitors developments which are subject to legal agreements to ensure compliance with the terms of the agreement. Where the obligations are 'in-kind' obligations (i.e. facilities or services to be provided on site) the Council will agree details and check compliance. Where the obligations require financial contributions to be paid, the Council has established protocols to ensure timely and effective spend (refer to section 7.4 above).

7.6 Enforcement

Developments subject to legal agreements are continually monitored. Where it is found that a legal agreement is not being complied with in relation to a planning application the Council will in the first instance, informally seek to enforce compliance with the legal agreement. If this approach remains unsuccessful the Council's legal section may serve a Mandatory Injunction upon the landowner and / or signatory of the legal agreement to ensure compliance.

Section 106 legal agreements are registered as a charge on the land and will be referred to on legal searches carried out as part of conveyancing when land ownership is transferred. This ensures that future purchasers are made aware of their obligations under the agreement. Whilst, the Council usually enforces the terms of s106 agreements on the main developer, such as the house-builder, there may be occasions when it is necessary to enforce against other landowners, including subsequent purchasers where they are responsible for causing or continuing to allow a breach of a planning obligation. Any person wishing to enquire about the status of a planning obligation and liability should contact the Council's planning department.

7.7 Legal Costs and Administration

Developers are expected to pay the Council's legal fees in drafting and preparing a Section 106 agreement, including any work for an agreement that is not signed. Legal fees will be charged at the

hourly rate for the Council's Borough Solicitor. These are in addition to planning application fees and other costs. Where developers provide a unilateral undertaking to deal with any planning obligations they will still be expected to cover the Council's legal costs in considering and advising on the unilateral undertaking.

The Council charges a fee for progressing and the subsequent monitoring of planning agreements or obligations in addition to the planning application fee to reflect the additional work which goes above and beyond the normal cost of assessing a planning application. The fee is calculated on the basis of 2% of the total financial contribution being sought under the agreement, or 20% of the planning application fee, whichever is the greater, subject to a minimum fee of £200. The 2% figure is based on the total financial contributions sought plus the financial value of the in-kind contributions, where this can be appropriately calculated. The Council has an approved set of service standards in respect of negotiating and implementing planning obligation matters.

In those cases relating to large scale strategic developments which involve significant planning obligation contributions, it may be appropriate to negotiate an appropriate fee based on the amount of necessary officer involvement rather than the above formula, to provide the developer with a degree of certainty about the amount of fee required.

8. Further Information

Further information can be sought from:

Development Management,
The Vale of Glamorgan Council,
Dock Office,
Barry Docks,
Barry,
CF63 4RT.

Tel. 01446 704662
Planning&transport@valeofglamorgan.gov.uk

www.valeofglamorgan.gov.uk

Appendix 1: Local Development Plan Policies

- **Policy SP 4 Affordable Housing Provision**

THE RESIDENTIAL REQUIREMENT IDENTIFIED IN POLICY SP 3 WILL BE EXPECTED TO CONTRIBUTE TO THE ESTABLISHED COMMUNITY HOUSING NEEDS OF THE VALE OF GLAMORGAN BY PROVIDING 2,914 AFFORDABLE RESIDENTIAL UNITS OVER THE PLAN PERIOD.

- **Policy SP 7 Transportation**

SUSTAINABLE TRANSPORT IMPROVEMENTS THAT SERVE THE ECONOMIC, SOCIAL AND ENVIRONMENTAL NEEDS OF THE VALE OF GLAMORGAN AND PROMOTE THE OBJECTIVES OF THE SOUTH EAST WALES REGIONAL TRANSPORT PLAN WILL BE FAVOURED. KEY PRIORITIES FOR THE DELIVERY OF STRATEGIC TRANSPORTATION INFRASTRUCTURE WILL BE:

1. A NEW BARRY ISLAND LINK ROAD;
2. A NEW NORTHERN ACCESS ROAD AT ST ATHAN ENTERPRISE ZONE;
3. IMPROVEMENTS TO THE A4226 BETWEEN WAYCOCK CROSS, BARRY AND SYCAMORE CROSS, A48 (FIVE MILE LANE);
4. IMPROVEMENTS TO THE B4265 AT GILESTON – OLD MILL;
5. ELECTRIFICATION OF THE VALE OF GLAMORGAN LINE;
6. THE NATIONAL CYCLE NETWORK ROUTE 88;
7. CYCLE ROUTES AT:
 - A4050 CULVERHOUSE TO CARDIFF AIRPORT;
 - A48 CULVERHOUSE CROSS TO BRIDGEND VIA COWBRIDGE; AND
 - BARRY WATERFRONT TO DINAS POWYS
8. BUS PARK AND RIDE AT COSMESTON, PENARTH
9. BUS PRIORITY MEASURES AT:
 - A4050 CULVERHOUSE TO CARDIFF AIRPORT;
 - A48 CULVERHOUSE CROSS TO BRIDGEND VIA COWBRIDGE;
 - MERRIE HARRIER CARDIFF ROAD BARRY TO CARDIFF VIA BARRY ROAD;
 - LECKWITH ROAD, LLANDOUGH TO CARDIFF; AND
 - LAVERNOCK ROAD TO CARDIFF VIA THE BARRAGE

PRIORITY WILL ALSO BE GIVEN TO SCHEMES THAT IMPROVE HIGHWAY SAFETY AND ACCESSIBILITY, PUBLIC TRANSPORT, WALKING AND CYCLING.

ALL NEW DEVELOPMENTS THAT HAVE A DIRECT IMPACT ON THE STRATEGIC TRANSPORTATION INFRASTRUCTURE WILL BE REQUIRED TO DELIVER APPROPRIATE IMPROVEMENTS TO THE NETWORK.

- **Policy MG 4 Affordable Housing**

RESIDENTIAL DEVELOPMENTS (INCLUDING MIXED USE SCHEMES) WILL BE REQUIRED TO CONTRIBUTE TO MEETING AFFORDABLE HOUSING NEED AND SHOULD MEET THE LEVELS OF AFFORDABLE HOUSING SET OUT BELOW:

30% AFFORDABLE HOUSING ON RESIDENTIAL DEVELOPMENTS RESULTING IN A NET GAIN OF 5 OR MORE UNITS IN:

- BARRY;

35% AFFORDABLE HOUSING ON RESIDENTIAL DEVELOPMENTS RESULTING IN A NET GAIN OF 5 OR MORE UNITS IN:

- LLANTWIT MAJOR ;
- RHOOSE; AND
- ST ATHAN.

40% AFFORDABLE HOUSING ON RESIDENTIAL DEVELOPMENTS RESULTING IN A NET GAIN OF 1 DWELLING OR MORE; OR THE CONVERSION OF EXISTING BUILDINGS RESULTING IN A NET GAIN OF 2 OR MORE DWELLINGS IN:

- COWBRIDGE;
- DINAS POWYS;
- LLANDOUGH;
- PENARTH;
- SULLY;
- WENVOE;
- THE MINOR RURAL SETTLEMENTS; AND
- THE RURAL VALE OF GLAMORGAN.

THE PROVISION OF AFFORDABLE HOUSING WILL BE NEGOTIATED ON A SITE-BYSITE BASIS TAKING INTO ACCOUNT THE EVIDENCED VIABILITY OF THE DEVELOPMENT. CONTRIBUTIONS WILL BE MADE IN ACCORDANCE WITH THE REQUIREMENTS SET OUT IN THE COUNCIL'S AFFORDABLE HOUSING SPG, WHICH PROVIDES GUIDANCE ON VIABILITY AND THE CIRCUMSTANCES UNDER WHICH CONTRIBUTIONS MAY BE VARIED OR REVIEWED.

● **Policy MG 6 Provision of Educational Facilities**

LAND IS ALLOCATED FOR THE DEVELOPMENT OF NEW SCHOOLS AT: -

1. THE PENARTH LEARNING COMMUNITY, SULLY ROAD, PENARTH (12.89 ha);
2. LLANTWIT MAJOR (SECONDARY AND PRIMARY SCHOOLS) HAM LANE, LLANTWIT MAJOR (10.79 ha)
3. A NEW PRIMARY AND NURSERY SCHOOL AT BARRY WATERFRONT, BARRY (2.0 ha)
4. A NEW PRIMARY SCHOOL AT LAND TO THE NORTH AND WEST OF DARREN CLOSE, COWBRIDGE (2.0 ha)
5. A NEW PRIMARY AND NURSERY SCHOOL AT LAND AT UPPER COSMESTON FARM, LAVERNOCK (1.0 ha)
6. A NEW PRIMARY AND NURSERY SCHOOL ON LAND TO THE NORTH OF THE RAILWAY LINE, RHOOSE (1.0 ha)

IN ADDITION, EXISTING SCHOOLS WILL BE EXTENDED OR IMPROVED TO MEET DEMAND FOR SCHOOL PLACES DURING THE PLAN PERIOD.

● **Policy MG 7 Provision of Community Facilities**

LAND IS ALLOCATED FOR THE FUTURE DEVELOPMENT OF NEW COMMUNITY INFRASTRUCTURE AT:

1. BARRY WATERFRONT (AS PART OF MIXED USE)
2. ST CYRES (AS PART OF MIXED USE)
3. OGMORE RESIDENTIAL CENTRE
4. COSMESTON FARM (AS PART OF MIXED USE)

TO MEET THE IDENTIFIED NEEDS OF DEVELOPMENT WITHIN THE PLAN PERIOD, NEW / ENHANCED COMMUNITY FACILITIES WILL BE SOUGHT IN THE FOLLOWING SETTLEMENTS: -

- BARRY
- COWBRIDGE
- DINAS POWYS
- LLANDOUGH

- LLANTWIT MAJOR
- PENARTH
- RHOOSE
- ST ATHAN
- SULLY
- WENVOE

PROPOSALS WHICH PROVIDE NEW OR ENHANCED MULTI USE COMMUNITY FACILITIES, INCLUDING THE CO-LOCATION OF HEALTHCARE, SCHOOL, LIBRARY AND LEISURE FACILITIES AND OTHER COMMUNITY SERVICES IN ACCESSIBLE LOCATIONS WILL BE FAVOURED.

- **Policy MG 16 Transport Proposals**

LAND FOR THE FOLLOWING TRANSPORTATION SCHEMES IS ALLOCATED:

WALKING AND CYCLING

1. NATIONAL CYCLE NETWORK ROUTE 88 AND ASSOCIATED LOCAL URBAN AND RURAL CONNECTIONS.
2. A4050 PORT ROAD TO CARDIFF AIRPORT.
3. A48 CULVERHOUSE CROSS TO BRIDGEND.
4. EGLWYS BREWIS ROAD IN CONJUNCTION WITH THE PROPOSED NORTHERN ACCESS ROAD, ST ATHAN ENTERPRISE ZONE.
5. BARRY WATERFRONT TO DINAS POWYS.

RAIL

6. ELECTRIFICATION OF THE VALE OF GLAMORGAN LINE.

BUS

7. A4050 CULVERHOUSE TO CARDIFF AIRPORT.
8. A48 CULVERHOUSE CROSS TO BRIDGEND VIA COWBRIDGE.
9. MERRIE HARRIER CARDIFF ROAD BARRY TO CARDIFF VIA BARRY ROAD.
10. LECKWITH ROAD, LLANDOUGH TO CARDIFF.
11. LAVERNOCK ROAD TO CARDIFF VIA THE BARRAGE.
12. BUS PARK AND RIDE AT COSMESTON PENARTH HIGHWAYS.
13. BARRY ISLAND LINK ROAD.
14. NORTHERN ACCESS ROAD (ST ATHAN ENTERPRISE ZONE).
15. GILESTON - OLD MILL B4265.
16. IMPROVEMENTS TO THE A4226 BETWEEN WAYCOCK CROSS, BARRY AND SYCAMORE CROSS, A48 (FIVE MILE LANE).
17. CROSS COMMON ROAD JUNCTION IMPROVEMENTS.
18. NORTH OF A48, BONVILSTON ROAD IMPROVEMENTS.
19. LINK ROAD BETWEEN A48 AND LLANTWIT MAJOR ROAD, COWBRIDGE.

INTERCHANGES

20. BARRY DOCK STATION BUS INTERCHANGE.

HIGHWAY IMPROVEMENT WORKS

IN ADDITION, TO MITIGATE THE IMPACT OF DEVELOPMENT ON THE HIGHWAY NETWORK, HIGHWAY IMPROVEMENT WORKS IN THE FORM OF CORRIDOR OR JUNCTION IMPROVEMENT SCHEMES WILL BE REQUIRED.

- **Policy MG 25 Public Open Space Facilities**

LAND IS ALLOCATED FOR THE PROVISION OF OPEN SPACE AND RECREATIONAL FACILITIES AT: -

1. COSMESTON LAKES COUNTRY PARK (27HA)
2. PORTHKERRY COUNTRY PARK (42HA)
3. BARRY WATERFRONT (7.83HA)
4. WHITE FARM (6.9HA)
5. LAND ADJOINING YSGOL MAES DYFAN (0.16HA)
6. HEADLANDS SCHOOL, ST.AUGUSTINE'S ROAD, PENARTH (0.24HA)
7. LAND TO THE NORTH OF THE RAILWAY LINE, RHOOSE (3.60HA)
8. LAND TO THE EAST OF BONVILSTON (0.55HA)
9. ITV WALES, CULVERHOUSE CROSS (1.03HA)
10. LAND TO THE EAST OF ST. NICHOLAS (0.48HA); AND
11. LAND OFF SANDY LANE, YSTRADOWEN (0.43HA).

IN ADDITION, IN AREAS OF NEED, OPEN SPACE WILL BE PROVIDED OR ENHANCED TO MEET ADDITIONAL DEMAND THAT CANNOT BE CATERED FOR ON DEVELOPMENT SITES DURING THE PLAN PERIOD.

- **Policy MD 2 Placemaking**

DEVELOPMENT WILL BE FAVOURED WHERE IT CONTRIBUTES TO CREATING HIGH QUALITY, HEALTHY, SUSTAINABLE AND LOCALLY DISTINCT PLACES. IN PARTICULAR PROPOSALS SHOULD:

1. BE OF A HIGH STANDARD OF DESIGN THAT POSITIVELY CONTRIBUTES TO THE CONTEXT AND CHARACTER OF THE SURROUNDING NATURAL AND BUILT ENVIRONMENT;
2. RESPOND APPROPRIATELY TO THE LOCAL CONTEXT AND CHARACTER OF NEIGHBOURING BUILDINGS IN TERMS OF TYPE, FORM, SCALE, MIX, AND DENSITY;
3. IDENTIFY OPPORTUNITIES TO PROVIDE NEW OR ENHANCED AREAS OF PUBLIC REALM PARTICULARLY IN KEY LOCATIONS SUCH AS TOWN CENTRES, MAJOR ROUTES AND JUNCTIONS;
4. IN THE CASE OF RETAIL CENTRES, PROVIDE ACTIVE STREET FRONTAGES TO CREATE ATTRACTIVE AND SAFE URBAN ENVIRONMENTS;
5. PROVIDE A SAFE AND ACCESSIBLE ENVIRONMENT, GIVING PRIORITY TO PEDESTRIANS, CYCLISTS AND PUBLIC TRANSPORT USERS;
6. WHERE APPROPRIATE, CONSERVE AND ENHANCE THE QUALITY OF, AND ACCESS TO, EXISTING OPEN SPACES AND COMMUNITY FACILITIES;
7. SAFEGUARD EXISTING PUBLIC AND RESIDENTIAL AMENITY, PARTICULARLY WITH REGARD TO PRIVACY, OVERLOOKING, SECURITY, NOISE AND DISTURBANCE;
8. INCORPORATE SENSITIVE LANDSCAPING INCLUDING THE RETENTION AND ENHANCEMENT OF EXISTING FEATURES AND BIODIVERSITY INTEREST; AND
9. MAKE A POSITIVE CONTRIBUTION TOWARDS TACKLING THE CAUSES OF AND ADAPTING TO THE IMPACTS OF CLIMATE CHANGE BY PROMOTING RENEWABLE AND LOW CARBON ENERGY USE

- **Policy MD 10 Promoting Biodiversity**

DEVELOPMENT PROPOSALS

WILL BE REQUIRED, , TO POSITIVELY CONTRIBUTE TO BIODIVERSITY INTERESTS WITHIN THE VALE OF GLAMORGAN BY:

1. MAINTAINING AND ENHANCING EXISTING IMPORTANT BIODIVERSITY FEATURES SUCH AS WOODLAND, TREES, HEDGEROWS, WETLAND, WATERCOURSES, PONDS, GREEN LANES, GEOLOGICAL FEATURES AND HABITATS; AND
2. INCORPORATING NEW BIODIVERSITY FEATURES EITHER ON OR OFF SITE TO ENABLE A NET GAIN IN BIODIVERSITY INTEREST. WHERE IT IS DEMONSTRATED THAT THE IMPACT OF DEVELOPMENT ON BIODIVERSITY CANNOT BE ADDRESSED ON SITE, DEVELOPERS WILL BE REQUIRED TO PROVIDE ALTERNATIVE OFF-SITE COMPENSATION TO MAINTAIN NET BIODIVERSITY INTEREST; AND BY
3. DEMONSTRATING HOW THEY MAINTAIN AND ENHANCE FEATURES OF IMPORTANCE FOR ECOLOGICAL CONNECTIVITY, INCLUDING WILDLIFE CORRIDORS AND 'STEPPING STONES' AND OTHER GREEN INFRASTRUCTURE THAT ENABLES MIGRATION, DISPERSAL AND/OR GENETIC INTERCHANGE.

WHERE PROPOSALS HAVE A NEGATIVE IMPACT ON SITES SHOWN TO BE IMPORTANT FOR BIODIVERSITY, DEVELOPERS WILL BE REQUIRED TO DEMONSTRATE THAT THE DEVELOPMENT COULD NOT BE LOCATED ELSEWHERE AND THAT THE NEED FOR THE DEVELOPMENT OUTWEIGHS THE BIODIVERSITY INTERESTS OF THE SITE.

Appendix 2 : Development thresholds and formulas

Planning Obligations : Sustainable Transport	
Justification	<p>The Sustainable Transport Assessment (2013) and Transport Assessment of LDP Proposals (2013) identified the transport implications of growth planned in the LDP and outlined proposals for improvements to highway and sustainable transport infrastructure to address the increased demand for travel. These improvements will need to be provided for on a site by site basis through planning conditions and obligations and this guidance sets out the framework for delivery.</p> <p>Planning applications for major developments will usually need to be accompanied by a Transport Assessment (TA) which should detail the necessary improvements to transport infrastructure required as a result of the development. This must take account of the needs of all modes of transport and the needs of all future users. It is likely this will detail off-site improvements to strategic and local highway networks and potential opportunities to provide facilities for public transport, pedestrians and cyclists.</p>
Highway Development Agreements	<p>Many highway matters can be dealt with through agreements made under Sections 38 and 278 of the Highways Act 1980. These matters usually include the provision of access roads, drainage, street lighting, traffic management and road safety schemes etc. Section 38 relates to the adoption of new roads such as estate roads on new housing developments. Section 278 usually relates to works by developers on existing adopted highways.</p> <p>However, there are often times when legal agreements under Section 106 of the Planning Act include matters relating to highways infrastructure. The content of such agreements and the requirements of the Council in terms of Highway infrastructure should be discussed with the Highway and Local Planning Authority in respect of individual development requirements.</p>
Nature of Contribution	<p>Contributions will be sought for the following:</p> <ul style="list-style-type: none"> • Off-site highway infrastructure improvements • Provision and enhancement of existing walking network eg. Improved surfacing, lighting, signage and other street furniture on public rights of way and public footways off site linking the development site with key destinations within reasonable walking distance of the site. • Provision and enhancement of existing cycling network including: <ul style="list-style-type: none"> ○ Improved surfacing, lighting and signage on new or existing cycleways ○ Provision of cycle parking at key destinations, within reasonable cycling distance of the site. ○ Completion of missing links to the National Cycle Network (NCN), where close proximity to the site • Improving the public transport and taxi services including: <ul style="list-style-type: none"> ○ The provision or enhancement of waiting facilities; ○ Transport interchange facilities; ○ 'Pump priming' local services to increase frequency, improve routes or extend hours with a view to making improved services operate on a commercial basis. This will usually require at least 3 years worth of financial support to get established and develop customer patronage; ○ Maintenance / cleaning costs for associated infrastructure;

	<ul style="list-style-type: none"> ○ Public transport information services; ○ Designated highway improvements e.g. bus lay-bys, dedicated bus lanes, taxi bays etc. ● Provision of car share scheme (on large scale developments) ● Mitigation for pollution including tree planting, noise limiting materials etc.
Threshold for obligation	<p>The starting point for considering requirements for sustainable transport facilities will be a desk-top and site assessment of existing facilities in light of the likely needs arising from the proposal.</p> <p>On large developments, this will usually be informed by the Transport Assessment (TA) which should include a Transport Implementation Strategy (TIS) setting out: the objectives for the development referring back to the development plan, the measures to achieve those objectives, and identifying the impacts that will be mitigated by the strategy including proposed conditions or obligations. Further guidance on Transport Assessment is contained within TAN 18. Developers are encouraged to enter early discussions with the Planning and Highway authorities to discuss the scope of the TA</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>The threshold for obligations is:</p> <ul style="list-style-type: none"> ● Residential developments of 10 or more residential dwellings ● Commercial developments of 1000m² or site area of 1 hectare or more. </div> <p>In some cases it may be necessary to seek contributions on smaller developments (i.e. fewer than 10 dwellings) or seek a higher level of contribution, for example where a location is particularly poorly accessible by alternatives to the private car at present, or access to local services is weak, or to mitigate against inadequate levels of car parking being provided on site. Each application is considered on its own planning merits</p>
Requirement	<p>For the provision or enhancement of off-site sustainable transport facilities, the following requirement applies:</p> <p>£2200 per residential unit and / or £2200 per 100sqm of commercial floor space</p>
Payment types	<p>All capital costs of implementation of infrastructure Revenue costs for delivery of services or upgrading facilities Commutated sums for maintenance</p>
Implementation	<p>Refer to section 7.5 for general advice</p> <p>The Council will work with developers to deliver sustainable transport facilities collaboratively to achieve best value and minimise disruption to transport services during works. Where developers are carrying out works on the highway (such as new access into a site), it may be feasible for them to provide 'additional' facilities at the same time such as enhanced cycle ways, bus shelters, lighting or signage which might otherwise be considered to be 'sustainable transport facilities' for the purpose of this guidance. In such cases, the Council will take account of the costs of these 'in-kind' works when calculating the amount of off-site sustainable transport contribution payable by the developer.</p>

<p>Additional Requirements</p>	<p>In addition to off-site sustainable transport requirements, the following is required:</p> <table border="1" data-bbox="472 277 1460 1411"> <thead> <tr> <th data-bbox="472 277 660 315">Provision</th> <th data-bbox="660 277 1460 315">Requirements</th> </tr> </thead> <tbody> <tr> <td data-bbox="472 315 660 465">Walking on site</td> <td data-bbox="660 315 1460 465"> <ul style="list-style-type: none"> Highly permeable walking routes, with links through to adjoining areas, local public transport facilities and other local services. Emphasis on the secure-by-design principles and the guidance contained within Manual for Streets. </td> </tr> <tr> <td data-bbox="472 465 660 616">Cycling on site</td> <td data-bbox="660 465 1460 616"> <ul style="list-style-type: none"> On site cycle paths with links to the adjoining areas Secure usable cycle parking. Emphasis will be placed on secure-by-design principles and the guidance contained within Manual for Streets. </td> </tr> <tr> <td data-bbox="472 616 660 808">Car Share Scheme (if appropriate)</td> <td data-bbox="660 616 1460 808"> <ul style="list-style-type: none"> Demonstrate that the scheme will operate on a long term basis and is properly managed to ensure it offers a viable alternative to the private car. Other mechanisms such as 'car share' parking bays will be encouraged at appropriate locations. </td> </tr> <tr> <td data-bbox="472 808 660 1088">Travel Plans</td> <td data-bbox="660 808 1460 1088"> <ul style="list-style-type: none"> Produce a Travel Plan setting out a package of measures tailored to the needs of the site and its future users, which aims to widen travel choices by all modes of transport, encourage sustainable transport and cut unnecessary car use. Travel Plans are sought for all development proposals with a gross floor area exceeding 1000m² and on residential developments of over 100 units, or commercial developments which employ over 20 staff. </td> </tr> <tr> <td data-bbox="472 1088 660 1411">Pollution Control</td> <td data-bbox="660 1088 1460 1411"> <ul style="list-style-type: none"> Contributions towards monitoring the pollution effects of new development and / or mitigation against pollution in order to protect the environment. Air Quality and Traffic Assessments along the main thoroughfares in the vicinity of new developments over a defined time period will be required on major developments. This will usually be required on developments of 10 or more residential dwellings or where floorspace to be created exceeds 1000 square meters or the site area is 1 hectare or more. </td> </tr> </tbody> </table>	Provision	Requirements	Walking on site	<ul style="list-style-type: none"> Highly permeable walking routes, with links through to adjoining areas, local public transport facilities and other local services. Emphasis on the secure-by-design principles and the guidance contained within Manual for Streets. 	Cycling on site	<ul style="list-style-type: none"> On site cycle paths with links to the adjoining areas Secure usable cycle parking. Emphasis will be placed on secure-by-design principles and the guidance contained within Manual for Streets. 	Car Share Scheme (if appropriate)	<ul style="list-style-type: none"> Demonstrate that the scheme will operate on a long term basis and is properly managed to ensure it offers a viable alternative to the private car. Other mechanisms such as 'car share' parking bays will be encouraged at appropriate locations. 	Travel Plans	<ul style="list-style-type: none"> Produce a Travel Plan setting out a package of measures tailored to the needs of the site and its future users, which aims to widen travel choices by all modes of transport, encourage sustainable transport and cut unnecessary car use. Travel Plans are sought for all development proposals with a gross floor area exceeding 1000m² and on residential developments of over 100 units, or commercial developments which employ over 20 staff. 	Pollution Control	<ul style="list-style-type: none"> Contributions towards monitoring the pollution effects of new development and / or mitigation against pollution in order to protect the environment. Air Quality and Traffic Assessments along the main thoroughfares in the vicinity of new developments over a defined time period will be required on major developments. This will usually be required on developments of 10 or more residential dwellings or where floorspace to be created exceeds 1000 square meters or the site area is 1 hectare or more.
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<p>Current Guidance / Legislation</p>	<ul style="list-style-type: none"> Planning Policy Wales (Edition 7, February 2014) TAN 16: Sport, Recreation and Open Space (2009) TAN 18: Transport (2007) [paragraphs 9.20-9.23] Manual for Streets (DfT) Vale of Glamorgan LDP [Policies SP7, MG16, MD2, MD3 & MD4] Sustainable Transport Assessment (2013) Transport Assessment of LDP Proposals (2013) Draft Infrastructure Plan (2013) 												

Planning Obligations : Education																									
Justification	<p>All new residential developments which are likely to house school aged children create additional demand for places at existing schools. Additionally, developments which generate new pupils usually have implications for school transport provision. There are statutory requirements to provide free school transport where schools are beyond walking distance. In addition, if there is demand to attend specialist schools (e.g. a denominational school) then there is likely to be a requirement to provide additional transport, at a cost and place pressure upon school and public transport services.</p> <p>Whilst there is no statutory obligation to provide free transport if the walking distance to the nearest school is within three miles there is usually a demand for fare paying buses to go to school. These usually need to be subsidised if they are unlikely to be provided on a commercial basis.</p>																								
Nature of Contribution	<ul style="list-style-type: none"> • Contributions towards improving and extending existing schools. • Provision of new schools on large development sites which generate significant new pupil numbers or where there is limited opportunity to extend existing schools. (refer to LDP Policy MG6). • Contributions to school transport facilities. 																								
Threshold for obligation	<p>Residential developments with a net gain of 10 or more dwellings shall be assessed to determine how many new pupils will be generated by the development. Studio apartments, 1 bed units, or accommodation specifically provided for elderly or student communities are excluded from any calculations.</p> <p>Where the new pupils generated cannot be met by available spare capacity within existing local schools, a planning obligation will be required to enable additional places to be provided.</p> <p><i>NOTE: Existing spare capacity will not automatically be credited to developers, particularly where it is likely to be taken up by other development (permitted or identified in the Local Development Plan), or works are required to make the existing school accommodation fit for purpose. This is to ensure that new developments do not undermine the school's ability to respond to other need issues from existing pupils in the area.</i></p>																								
Requirement	<p>Number of dwellings X number of school places per dwelling X cost per pupil for new school place</p> <table border="1"> <thead> <tr> <th></th> <th>No of school places per dwelling*</th> <th>Cost per pupil for new school place **</th> <th>Average cost per dwelling</th> </tr> </thead> <tbody> <tr> <td>Pre School</td> <td>0.1</td> <td>£17,446</td> <td>£1,745</td> </tr> <tr> <td>Primary School</td> <td>0.278</td> <td>£17,446</td> <td>£4,850</td> </tr> <tr> <td>Secondary School (11 - to 16 years)</td> <td>0.208</td> <td>£26,289</td> <td>£5,468</td> </tr> <tr> <td>Secondary School (Post 16 years)</td> <td>0.04</td> <td>£28,511</td> <td>£1,140</td> </tr> <tr> <td>Total per dwelling</td> <td></td> <td></td> <td>£13,203</td> </tr> </tbody> </table> <p>*The calculation for pupil numbers is derived from census data of householder in the Vale of Glamorgan. ** Costs based on the Department for Children, Schools and Families (DCSF) cost multipliers 2015 including an allowance of 18% fees for design, feasibility, planning and project management.</p>		No of school places per dwelling*	Cost per pupil for new school place **	Average cost per dwelling	Pre School	0.1	£17,446	£1,745	Primary School	0.278	£17,446	£4,850	Secondary School (11 - to 16 years)	0.208	£26,289	£5,468	Secondary School (Post 16 years)	0.04	£28,511	£1,140	Total per dwelling			£13,203
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Additional requirements	The developer will be expected to meet the initial cost of the additional pressure on school and public transport services for 3 years. School transport is revenue funding which is not considered to be restricted by the pooling restriction of CIL Regulation 123 as it does not relate to the provision of infrastructure.
Assessment of impact	<p>When considering impacts upon schools and available capacity, the Council will consider pupil data trends, catchment information and parental preference patterns to try to establish where future residents are most likely to require school places. In particular, each catchment area can vary in terms of the proportional split between English medium, Welsh medium and Denominational education at both primary and secondary level.</p> <p>For further information refer to the Education Facilities Background Paper (2013) which:</p> <ul style="list-style-type: none"> • Provides the proportional split by catchment area at 2013. This information will be updated regularly by the Local Education Authority and therefore consultation will be undertaken with the LEA on individual planning applications at the time of submission. • Considers housing growth across the plan period for the whole of the Vale of Glamorgan and identified where new schools would be needed or where existing schools would need expansion. <p><i>NOTE: Whilst each development will be considered on its own merits, regard will be had to planned growth throughout the plan period so that, where appropriate, the liability for providing new schools places is spread fairly across development sites within a catchment area. However, this can only be done paying due regard to the restriction on pooling set out in CIL Regulation 123. The Council will ensure this is managed effectively to ensure adequate school places are provided to meet the demands of new development.</i></p>
Payment types	Where a new school is required, developers may be required to provide an appropriate new school on site to be transferred at no cost to the Local Education Authority (LEA).
Implementation	Refer to section 7.5 for general advice.
Current Guidance / Legislation	<ul style="list-style-type: none"> • Vale of Glamorgan LDP [In particular Policies MG 6, MD4 & MD 5] • Education Facilities LDP Background Paper (2013) • Planning Policy Wales (Edition 7, February 2014, paragraphs 2.4.4, 4.4.3 & 12.1.1)

Planning Obligations : Public Open Space

Justification

Open space includes all open space of public value, including not just land, but also areas of water such as rivers, canals, lakes and reservoirs. Open space offers vital opportunities for sport, recreation and tourism, and can also act as a visual amenity, and may have conservation and biodiversity importance. Provision of public open space is important for people's health and well being.

Residential developments are expected to make provision for Public Open Space and / or recreational facilities to meet the needs of the future population they will bring to the area. In addition large scale retail or employment developments are expected to provide public open space for their staff and / or customers.

Nature of Contribution

- Provision of local facilities close to people's homes including children's equipped play space
 - Local Area of Play (LAP)
 - Local Equipped Area of Plan (LEAP)
 - Neighbourhood Equipped Area of Play (NEAP)
- Contributions towards strategic outdoor sport including playing field provision, tennis courts, cricket pitches etc.)
- Enhancement of existing open space and recreational facilities including equipped play space, playing fields, changing rooms, multi-use games areas, skate parks etc
- On large sites (ie. over 500 dwellings) or where there is a local deficit in provision, provision of on-site outdoor sports facilities will be required (refer to Policy MG25 and the LDP Open Space Background Paper).

Threshold for obligation

1. **Threshold for Public Open Space Provision**

- 5 or more residential dwellings
- Retail or employment developments where floorspace to be created exceeds 1000sqm or the site is 1 hectare or more

2. **Trigger for Recreational Facilities**

Type of provision and dimensions	Threshold	Ratio
Cricket Net (12m x 3m)	<50 units	1 per 20 units
Tennis Court (36.5m x 18.3m = 668m ²)*	<50 units	2 per 50 units
Multi Use Games Area (40m x 18m = 720m ²)	<50 units	1 per 50 units
Allotment gardens	<50 units	1 per 10 units
Skate park or BMX Track (50m x 20m= 1000m ²)*	100+ units	1 per 100 units
Rugby / Football pitch (100m x 80m)	200+ units	1 per 200 units
Changing facilities	500+ units	1 per site fit for purpose
Astroturf Pitch	500+ units	1 per 500 units
Lawn Bowling Green (40.7m x 40.7m = 1656m ²)*	500+ units	1 per 500 units

* Source of dimensions: Sport England 'Comparative Sizes of Sports Pitches & Courts' (2009) – further dimensions of outdoor sports facilities are available in this document

Each planning application will be assessed to consider the appropriate amount and type of formal recreational provision, given the scale and type of development proposed, the character of the area and existing provision within the area. For example, family sized housing is likely to generate the need for children and young person's play equipment, whereas single person or retirement accommodation would generate other needs such as tennis courts, bowling greens, allotments or parks and gardens.

	Where developers provide play equipment or other recreational facilities the specification must be fully agreed by the Local Planning Authority in consultation with the Council's Parks & Grounds Division. Developers should enter early discussions with the Council to establish what the required specifications are.																															
Requirement for POS provision (formula)	<p>Minimum standard 2.4ha per 1000 population* = 24 m² per dwelling = 55.68 m² per dwelling**</p> <p>* <i>Fields in Trust Benchmark Standard for Outdoor Play</i> ** <i>Based on the average household size in the Vale of Glamorgan being 2.32 persons per dwelling (Census 2011).</i></p> <table border="1"> <thead> <tr> <th>Residential Development POS Requirements</th> <th>Ha per 1000 population*</th> <th>m² person</th> <th>m² per dwelling**</th> </tr> </thead> <tbody> <tr> <td>Children's equipped play facilities</td> <td>0.25</td> <td>2.50</td> <td>5.80</td> </tr> <tr> <td>Other Children's Play Space</td> <td>0.55</td> <td>5.5</td> <td>12.76</td> </tr> <tr> <td>Outdoor Sport</td> <td>1.60</td> <td>16.00</td> <td>37.12</td> </tr> <tr> <td>Total</td> <td>2.40</td> <td>24.00</td> <td>55.68</td> </tr> </tbody> </table> <table border="1"> <tr> <td>Retail or Employment POS Requirements</td> <td>16m² per person^ or 15% of site area</td> </tr> </table> <p>^ based on maximum numbers of staff to be in the workplace at any one time.</p>	Residential Development POS Requirements	Ha per 1000 population*	m ² person	m ² per dwelling**	Children's equipped play facilities	0.25	2.50	5.80	Other Children's Play Space	0.55	5.5	12.76	Outdoor Sport	1.60	16.00	37.12	Total	2.40	24.00	55.68	Retail or Employment POS Requirements	16m ² per person^ or 15% of site area									
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Exclusions	Areas of public realm such as footpaths, cycleways and highways and other forms of circulation space are not counted as part of onsite public open space provision. Likewise, incidental areas of landscaping or drainage basins are not considered to be usable areas of public open space, which contribute to satisfying the requirement for play space.																															
Payment types and amounts	<p>On site open space provision is either triggered by planning conditions or S106 agreement (including provision for maintenance).</p> <p>Where it is impractical to provide open space and / or recreational facilities on site or where existing open space provision is deficient in quality in the immediate locality, the Council may be willing to accept alternative provision i.e. off site contribution payments. This will be the exception rather than the norm, and is only likely to apply on smaller sites (i.e. 15 or less units) or particularly constrained sites,</p>																															

	<p>which satisfy other priorities in the LDP such as re-use of brownfield land or delivery of affordable housing.</p> <p>Off site contribution payments will be calculated on the basis of £1100 per person of those not catered for through on site provision (at a ratio of 24m² per person and an average 2.32 persons per dwelling), i.e. £2552 per dwelling. The sums received will be used to provide or enhance off-site public open space and / or recreational facilities in the vicinity of the development site to meet the need not catered for on-site. This figure has been calculated on the basis of the average cost per person to provide recreational facilities on site in accordance with the requirements outlined above.</p> <p>At the time of the application, the Council will identify local parks or open spaces in the vicinity of the development site, which could be enhanced to meet the additional demand created by the development and these will be named in the section 106 agreement. The Council will ensure that where such contributions are sought they do not breach the restriction on pooling set out in CIL Regulation 123.</p>
Implementation	Refer to section 7.5 for general advice.
Maintenance and Management	<p>Where the Council is agreeable, developers may transfer areas of public open space required to serve the new development to the Council for adoption and future maintenance. Where this is to be the case, the land will be transferred to the Council free of charge and a commuted sum will be calculated to ensure the adequate maintenance of the land, to the specifications of the Council, for a 20 year period. In such cases, developers should enter early discussions with the Council.</p> <p>In some cases, open space areas may include Sustainable Drainage Systems (SUDS) which may require commuted sums for a longer period of time (i.e. 50 or 100 years) to ensure the adequate maintenance of the SUDS to prevent flooding on or off-site. Developers should enter into early discussions with the Council's drainage section to discuss such proposals.</p> <p>If developers do not intend to offer open space areas for adoption, the Council will need to be satisfied that alternative arrangements have been made for their long term maintenance by, for example, the establishment of a sufficiently resourced management company responsible for their upkeep.</p>
Current Guidance / Legislation	<ul style="list-style-type: none"> ● Planning Policy Wales (Edition 7, 2014, paragraphs 5.4.5, 9.2.11, 9.2.24, 11.1.3, 11.1.10, 11.2.6, 11.3.2) ● TAN 16: Sport, Recreation and Open Space (2009) [paragraphs 3.9, 3.15, 4.15] ● Vale of Glamorgan LDP [In particular Policies MG25, MD2 & MD4] ● Open Space LDP Background Paper (2013) Public Art Supplementary Planning Guidance

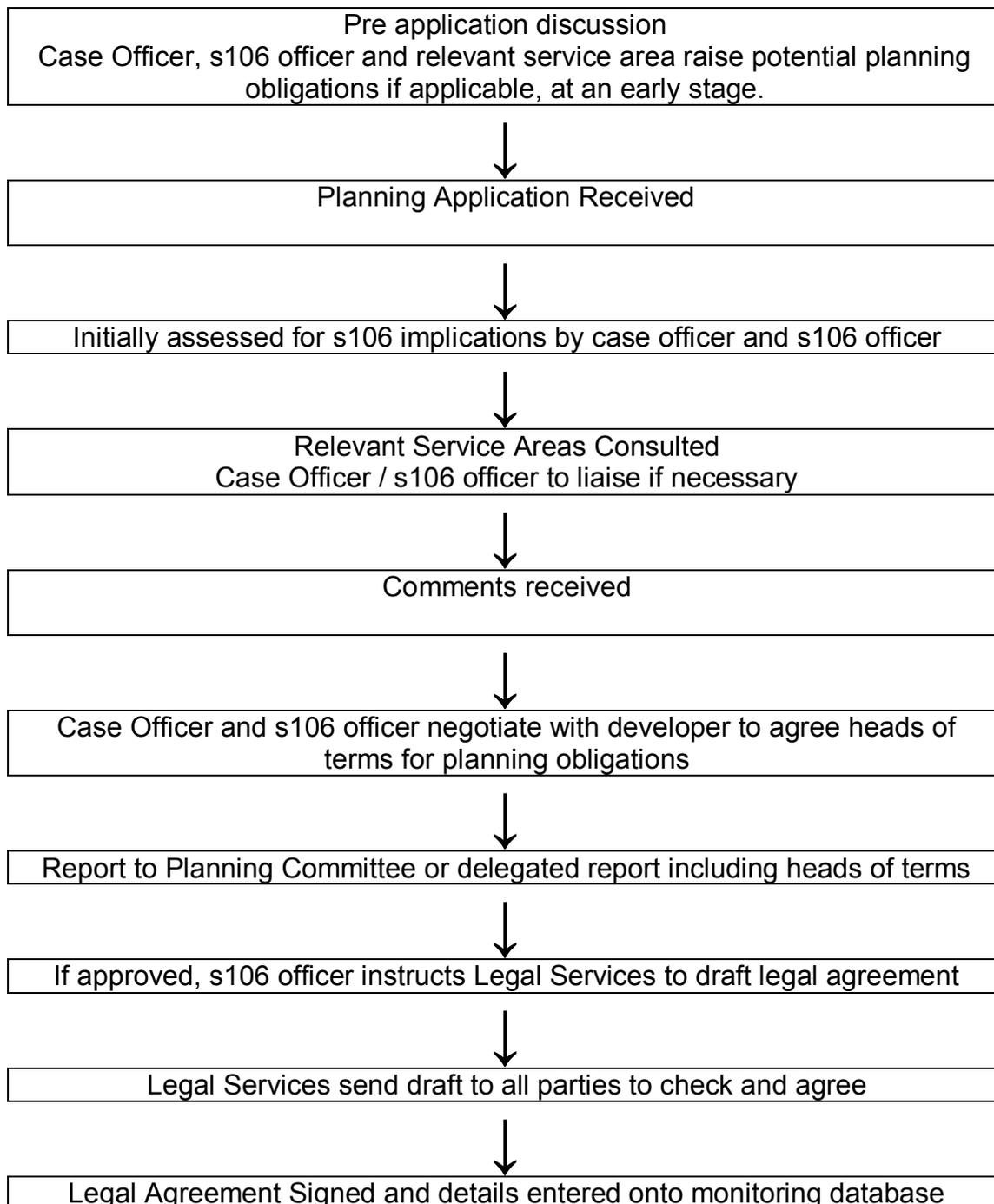
Planning Obligations : Community Facilities	
Justification	<p>Community facilities are important for meeting a range of social needs and must be provided locally to serve the needs of the local community and reduce the need to travel. All new residential developments place pressure on existing facilities.</p> <p>The LDP defines community facilities as facilities used by local communities for social, leisure, recreational and cultural purposes. They include such amenities as community centres and meeting places, community halls, places of worship, libraries, life centres, leisure centres, and allotments and burial land. Community Facilities include non-commercial and not for profit facilities, however a local 'pub' could be regarded as a community facility especially where it is the only communal building in a settlement.</p>
Nature of Contribution	<ul style="list-style-type: none"> • Provision or refurbishment of community buildings • Provision or refurbishment of libraries • Provision or refurbishment of swimming pools • Provision or refurbishment of sports halls • Provision or refurbishment of indoor bowls • Any dual use facilities providing one or more of the above.
Threshold for obligation	<ul style="list-style-type: none"> • Community facilities provision is triggered on residential developments of 25 dwellings or more.
Requirement	<p>0.74m² of community floorspace per dwelling* £1208 per dwelling **</p> <p>* Total of floorspace requirements for community buildings, libraries, swimming pools, sports halls, indoor bowls as set out in the Community Facilities Background Paper 2013</p> <p>** Build costs for Community Facility floor space - £1,632 per m² (based on Building Cost Information Service classification CI/SfB 532 – July 2015)</p>
Exceptions / additional requirements	<p>Developments of 500 dwellings or more, there will be a requirement to provide a community facility on site with appropriate parking and landscaping. The type of facility will be subject to negotiation with the Council depending upon consideration of local needs and site specific requirements.</p>
Payment types	<ul style="list-style-type: none"> • Capital costs of providing new or refurbished specified community facilities. • Commuted sums for maintenance and running costs of community facilities provided on site.
Implementation - Additional guidance Refer to section 7.5 for general advice	<p>If a new community facility is provided on site, the Council will need to be satisfied that the facility is suitably managed and maintained. Where the Council is agreeable, developers may transfer community facilities to the Council or another appropriate body for its future operation. Early discussion with the Council is recommended to discuss feasibility of such arrangements.</p>
Current Guidance / Legislation	<ul style="list-style-type: none"> • Planning Policy Wales (July 2014, 7th Edition) • LDP Policy MD7 Provision of Community Facilities • Community Facilities Assessment LDP Background Paper 2013

Planning Obligations : Public Art	
Justification	<p>Public art can bring distinctiveness and material and craft quality to developments, enable local people to participate in the process of change and foster a sense of ownership. It is therefore an important part of achieving design quality.</p> <p>The provision of public art as an integral part of the design of major developments or, in appropriate circumstances related to the wider public realm, a building or place of community significance.</p>
Nature of Contribution	Provision of permanent or temporary works in a location that is visible and/or used by the public, which are high quality and durable, undertaken by public art artists, craftspeople or other creative arts professionals.
Threshold for obligation	<p>The Public Art SPG states that the trigger for public art is on all major developments ie.</p> <ul style="list-style-type: none"> • 10 or more dwellings or site area of 0.5 hectares or more; or • 1000m² of floor space or site area of 1 hectare or more.
Requirement	<p>Minimum of 1% of the build costs for public art.</p> <p>To calculate the % for art, the developer will need to prove a detailed written estimate of the build costs of their proposal.</p>
Payment types	<ul style="list-style-type: none"> • Developer to provide integrated public art on site • Commuted sums for 15 years maintenance of the artwork.
Implementation - Additional guidance Refer to section 7.5 for general advice	<ul style="list-style-type: none"> • The Council may place a Condition requiring the provision of integrated public art by the developer. Where public art is conditioned there may be certain circumstances where that Condition may be fulfilled, in negotiation with the developer, through an S.106 Planning Obligation. • To enable the delivery of public art on site, the Council recommend that professional arts consultants and artists should be secured well in advance of submitting a planning application to ensure public art is in the conceptualisation of the development's function and design. The appointment of an artist should have begun before outline planning application submission. • Applicants should seek pre- application advice from the Council's Arts Development Officer regarding the appropriateness of public art, the engagement of a suitable, approved, professional consultant or commissioning agency to manage the selection and appointment of artists and the development and implementation of the project to completion. • Further information is available in the Public Art Supplementary Planning Guidance
Current Guidance / Legislation	<ul style="list-style-type: none"> • TAN 12 Design (2014) Paragraph 5.1.5 • LDP Policy MD2 Placemaking • Public Art Supplementary Planning Guidance (2005) • Strategy for the Integration of Artworks in the Public Realm, Vale of Glamorgan Council, 2005 and Technical Appendix.

Planning Obligations : Biodiversity	
Justification	<p>The Council has a duty to ensure that the Vale's biodiversity assets (including Special Areas of Conservation, RAMSAR sites, Sites of Special Scientific Interest, Sites of Important for Nature Conservation, European Protected Species and Ancient and Semi Natural Woodlands) are protected and enhanced.</p> <p>Developers should seek to avoid developing on biodiversity assets, however if this is not possible appropriate mitigation and enhancements should be undertaken.</p>
Nature of Contribution	<ul style="list-style-type: none"> • Mitigation measures • Habitat protection, enhancement , restoration and creation (off and on site) • Landscaping • Site management • Site interpretation
Trigger for obligation	<ul style="list-style-type: none"> • All development which may have an impact on ecological, geological or landscape sensitive features. • Specific locations will need to be assessed individually. • An Ecological Mitigation and Management Plan (EMMP) is required for all appropriate developments.
Requirement	<ul style="list-style-type: none"> • There is no specific formula for contributions. Financial contributions will be calculated based on the recommendations in the EMMP.
Payment types	<ul style="list-style-type: none"> • All capital costs of implementation, mitigation or compensation measures; and • Maintenance costs for a period to be agreed (for example, up to 10 years).
Implementation - Additional guidance Refer to section 7.5 for general advice	<ul style="list-style-type: none"> • Developer to implement appropriate mitigation, enhancement, restoration or creation on site where agreed and delivery specified in the S106 agreement. • If the developer makes financial contributions, they are likely to be required either prior to the commencement of the development or before the practical completion of buildings on site, depending on both the nature of the development and type of contribution required. • If the developer makes financial contributions for off- site enhancements, restorations or creations, the appropriate trigger point for payment of contributions to be negotiated with the developer as part of the S106 agreement. The Council will be responsible for the delivery of the specified work within the agreed timescale.
Current Guidance / Legislation	<ul style="list-style-type: none"> • Section 42 of the Natural Environment and Rural Communities (NERC) Act 2006, • Planning Policy Wales (July 2014, 7th Edition) Chapter 5 • TAN 5 Nature Conservation (2009) • LDP Policies: Policy SP10 Built and Natural Environment, Policy MG19 Site of Importance for Nature Conservation, Policy MD10 Promoting Biodiversity • Biodiversity and Development SPG

Appendix 3: Planning Obligation Process

Planning Obligation Process – Negotiation



Section 106 Protocol for Implementation (2015)

1. Monies received – Managing Director (Rob Thomas), Head of Regeneration and Planning (Marcus Goldsworthy) Operational Manager for Development Management (Victoria Robinson), Leader of the Council (Cllr N. Moore), relevant Cabinet Members, and relevant service areas are notified in writing and consulted in order to highlight any potential opportunities for implementation, allowing for a **21day** consultation period.
- ↓
2. Local Ward Members (including adjoining wards within 100m of application site) and the relevant Cabinet Members notified in writing of any proposed scheme(s) and allowing a **14day** consultation period for comments.

Note 1:

Where monies have already been specifically accounted for within the terms of the signed legal agreement this will be noted i.e. no scope for consultation on where the monies are spent.

- ↓
3. Local ward Members to comment on proposals for spends of money having regard to the broad term of the legal agreement during the **14 day** consultation period, unless further time is agreed.
- ↓
4. After 14 day period, the service area is notified of any representations made, which must be considered for feasibility and if dismissed valid reasons provided.
- ↓
5. Service area, in consultation with relevant Cabinet Members, recommends where the money is best spent.
- ↓
6. Final decision is made by Head of Regeneration and Planning (Marcus Goldsworthy) in conjunction with the relevant Head(s) of Service(s) subject to 'call in procedure'.
- ↓
7. Relevant Cabinet Members and Local member(s) notified. If aggrieved, any member has 14 days to request the decision is called in by Cabinet to determine.

Note 2:

Where monies are going to fund a capital scheme, prior approval will be required from Cabinet, for the inclusion of the monies into the capital programme. Cabinet approval must be obtained before the scheme commences

- ↓
8. Service area notified and given authorisation to spend the Section 106 amount.
- ↓
9. Project Implemented.
- ↓
10. Annual Monitoring Report notes project implementation and contribution spent.