

Report Title:	Annual Report: Section 106 Agreements 2021/22
Purpose of Report:	To inform Elected Members and the Public about the progress on Section 106 (Planning Obligation) matters that have arisen in the last financial year (April 2021 - March 2022).
Responsible Officer:	<p>Ian Robinson, Operational Manager for Planning and Building Control Telephone number: 01446 704111</p> <p>Charlotte Raine, Major Project Manager Telephone number: 01446 704662 Email: <a href="mailto:planning@valeofglamorgan.gov.uk">planning@valeofglamorgan.gov.uk</a></p>
<p>Executive Summary:</p> <ul style="list-style-type: none"> <li>• This report seeks to update Elected Members, Town and Community Councils and the public, on the Section 106 matters in the Vale of Glamorgan.</li> <li>• In the 12 months between 1st April 2021 and 31st March 2022, a total of 19 legal agreements have been signed associated with planning permissions. The value of the financial contributions in these legal agreements totals £1,109,088.62.</li> <li>• As of 31st March 2022, the Council had £18,738,499.06 in the main account. The majority of these contributions have been committed to schemes within the Vale of Glamorgan, as agreed with Elected Members and Service Areas, or are pending further consultation. In addition, £700,321.04 was held for on-going maintenance costs.</li> <li>• The Council received financial contributions equalling £2,276,023.95 between April 2021 and March 2022.</li> <li>• £5,576,157.37 was spent on schemes during 2021/22, with Section 106 contributions supporting enhancements to public transport, walking, and cycling networks, new school places, public open space and public art enhancements.</li> </ul>	

## **1. Background**

- 1.1** The Council has the power to enter into legal agreements with developers under Section 106 of the Town and Country Planning Act 1990, to require developers to provide works, services or financial contributions to mitigate the impacts that arise as a consequence of the new development.
- 1.2** The Council's policies on affordable housing and planning obligations are set out in the Vale of Glamorgan's adopted Local Development Plan (LDP) (2011-2026) and the adopted Affordable Housing and Planning Obligations Supplementary Planning Guidance documents (SPGs).
- 1.3** LDP Policy MD4 sets out the over-arching policy for requesting community infrastructure and planning obligations, where appropriate and having regard to development viability. The Planning Obligations SPG provides further 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.
- 1.4** To ensure LDPs are kept up to date, local planning authorities are required to review their Plan at least every 4 years from the date of adoption. The Council is preparing a new Local Development Plan to replace the existing adopted LDP. The new Plan will be called the Replacement Local Development Plan (RLDP) and will cover the period 2021 – 2036.
- 1.5** A Review Report has been prepared and considers the effectiveness of the adopted LDP and confirms the revision procedure to be followed in preparing the Replacement LDP. The report confirms that the LDP policies in respect of affordable housing and infrastructure are working effectively and securing appropriate mitigation. The report concludes that the LDP review shall provide the opportunity for the Council to undertake a review of development viability to ensure the most appropriate policy approach is taken by the Council to maximise affordable housing delivery, in addition to community infrastructure and facilities, and to consider any potential new policies in respect of green infrastructure and climate change.
- 1.6** This report summarises the Council's progress on negotiating, monitoring and implementing planning obligations through Section 106 agreements, for the last financial year.

## **2. Key Issues for Consideration**

### **Planning applications subject to Section 106 Agreements in 2021/22**

- 2.1** In the 12 months between 1st April 2021 and 31st March 2022, a total of 19 legal agreements have been signed associated with planning permissions. The value of the financial contributions in these legal agreements totals £1,109,088.62.
- 2.2** It is noted that the Section 106 agreement, dated 29/07/2021, associated with the land at Model Farm, Port Road, Rhoose, has been void, as planning permission (ref: 2019/00871/OUT) has been quashed. When deducting this, the total equates to £577,588.62.

- 2.3 Like last year, a number of the agreements signed have been Deeds of Variation to existing Section 106 Agreements. These Deeds of Variations have enabled Registered Social Landlords to amend the "chargee" provisions in the affordable housing schedule, to allow them to seek more generous terms on their re-financing.

**Implementation of Planning Obligations in 2021/22 – Financial Obligations**

- 2.4 At 31st March 2021, the Council had £18,738,499.06 in the main account. The majority of these contributions have been committed to schemes within the Vale of Glamorgan, as agreed with Elected Members and Service Areas, or are pending further consultation. In addition, £700,321.04 was held for on-going maintenance costs. The total in the overall Section 106 account was £19,438,820.10.
- 2.5 The Council received financial contributions of £2,276,023.95 between April 2021 and March 2022. Large instalments were received from developments including: Land off Cowbridge Road, St. Athan, Land south of Cog Road, Sully and Land at Hayes Wood, The Bendricks, Sully.
- 2.6 A summary of income and spend on each planning obligation between April 2021 and March 2022 is attached at Appendix B.
- 2.7 £5,576,157.37 was spent on schemes during 2021/22, with Section 106 contributions fully (or partially) supporting enhancements to public transport, walking and cycling networks, new school places, public art and open space enhancements.
- 2.8 A summary list is provided below and a selection of photographs of schemes can be found in Appendix C:

**Public Open Space:**

- Central Park – upgrade to play area and multi-use games area completed.
- Belle Vue play area, Penarth – upgrade to play area and repair works to art sculpture completed.
- Clos Tyniad/Clos Peiriant Play Area, Barry - upgrade to play area and associated landscaping completed.
- Pencoedtre Park – tree planting, wildflower planting and improvements to the environment completed.
- The Knap Gardens – biodiversity and environmental enhancements, including tree planting, completed.

Preliminary work has been undertaken in 2021/22, with completion anticipated in 2022/23 for the following:

- Windmill Lane Play Area, Llantwit Major – works due to commence on site in July 2022;
- St. Cyres Park / St. David’s Crescent play area, Penarth – works due to commence on site in September 2022;
- Murchfield Sports Facilities, Dinas Powys – surveys undertaken. Consultation to be undertaken in summer 2022.

**Sustainable Transport:**

- 20mph scheme in Aberthin – installation completed.
- New footpath in Colwinston, between St. David’s Primary and the play area/community centre - installation completed.
- New footpath in Wick - installation completed.
- New footpath within the park at The Grange, Wenvoe – completed.
- Work has commenced on site at Caerleon Road for a new footpath.
- New cycle stand at Rivermouth Car Park in Ogmere by Sea installation completed; and
- Funding for Greenlinks and Community Transport.

Feasibility and design work has also been undertaken in areas including Rhoose and Cowbridge, with further consultation and installation anticipated in future financial years.

**Educational Facilities:**

S106 has contributed towards several 21st Century Band B (renamed Sustainable Communities for Learning – Band B) projects in 2021/22. An update is provided below:

- Whitmore High School – Redevelopment project. New School building completed with 1,100 pupil capacity. External landscaping works ongoing, only grass laying outstanding.
- Pencoedre High School – Redevelopment project. New School building completed and operational with 1,100 pupil capacity. Demolition works completed on old school building and site clearance underway. External landscaping outstanding.
- Ysgol Bro Morgannwg – Refurbishment and extension project to provide 1,660 pupil capacity. Works completed. Snagging period ongoing.
- St David’s C/W Primary – Redevelopment project. School completed with 210 pupil capacity and 48 nursery part-time places. Minor external works ongoing.
- South Point Primary School – New school development. School building complete and operational with 210 pupil capacity and 48 nursery part-time places. First net zero carbon in operation school in Wales. Snagging period for project ongoing.
- Barry Waterfront (primary school being delivered by development consortium) – New school development for Welsh Medium provision for 420 pupil places and 96 part-time nursery places. Construction started in January 2022. Work progressing.
- Cowbridge Primary – New school development for 210 pupil capacity and 48 part-time nursery places. Site preparation underway.
- St. Nicholas C/W Primary – Redevelopment project for 126 pupil capacity and 24 part-time nursery places. Planning permission granted. Predicted start date on site in September / October 2022.
- Ysgol Y Deri – New school development project for 150 places. Outline planning application under consideration.

- Centre for Learning and Wellbeing – New school development for ALN provision for 60 places. Site preparation underway.

### **Community Facilities**

- Construction is due to commence on site in June 2022, to replace Belle Vue Pavilion.
- A new outdoor facility is nearing completion at Barry Leisure Centre.

### **Public Art**

- Artist, David Mackie, has completed the installation of public art at Arcot Street Triangle, in consultation with residents living in proximity.
- A new multi-functional “Creatorspace” has been completed in Penarth Library, to enable artwork to be created using technology such as 3D printing, laser cutting, sublimation printing and visual and sound design.
- A multi-disciplinary consultancy, Aberrant Architecture, has been appointed, and consultation, feasibility and design work has commenced for the replacement of the historic shelter, Cliff Hill, Penarth. Due to be installed in 2022.
- Artist, David Mackie, has been appointed, and consultation, feasibility and design work has been undertaken, for public art within the Dingle Park. The scheme is currently being fabricated and due to be installed in Summer 2022.
- The Friends of Seel Park, Dinas Powys, have chosen a bespoke play area installation with integrated art, to be installed at Seel Park, in August 2022.

### **Implementation of Planning Obligations in 2021/22 – ‘In Kind’ Obligations**

- 2.9** In addition to financial contributions, the Council has also worked with developers to deliver ‘in kind’ obligations on development sites. For example, 189 affordable housing units were completed/handed over during this financial year, the majority were secured via Section 106 agreements.

### **Section 106 Grant funding - Update**

- 2.10** Several Section 106 grants have been issued to Community Groups, the Voluntary Sector, and Town and Community Councils, who are providing invaluable community facilities and services.
- 2.11** In 2021/22, Section 106 contributions to support numerous applications have progressed, including:
- Wenvoe Community Library - a new library building has been completed, open and paid for, using Section 106 and the Council’s Strong Communities Grant Fund.
  - St Peter's Church, Rhose - a new community hub in the village completed in the village, using a mixture of funds.
  - Rhose Library – a grant has been issued for a new extension to the library to enable additional meeting space. Work has commenced and it is due to be opened in summer 2022.
  - St Paul's Community Facility, Penarth – A new lease agreement for the new community centre at St Paul’s Church, in partnership with GVS, has been

signed. a grant has been issued towards the construction of the community facility element of this scheme.

- Llantwit Major Tennis Club – a contribution towards flood lighting.
- Caerleon Road Play Area – the Council has agreed to fund a new play area at Caerleon Road, Dinas Powys. Dinas Powys Community Council to take on responsibility of future maintenance.

### **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

- 3.1** Long Term - Section 106 contributions seek to ensure that sustainable communities are developed within the Vale of Glamorgan, providing equal opportunities for living, learning, working and socialising for all.
- 3.2** Prevention - The use of contributions to increase the number of sustainable, affordable homes delivered within the Vale of Glamorgan will prevent homelessness, and provide decent homes and safe communities.
- 3.3** Integration - The delivery of planning obligations seeks to ensure that new communities integrate with
- 3.4** Collaboration - The Council works collaboratively with Elected Members, internal departments and external organisations such as Registered Social Landlords to deliver schemes using Section 106 contributions.
- 3.5** Involvement - Multiple internal departments and external organisations work together to deliver schemes using Section 106 contributions in a holistic way.

### **4. Climate Change and Nature Implications**

- 4.1** The adopted Local Development Plan (LDP) and supporting SPGs provide the local planning policy framework for delivering sustainable development.
- 4.2** Planning obligations are used to mitigate and secure enhancements as a result of new developments. Section 106 agreements can secure investment in environmental and sustainable transport measures.
- 4.3** In 2021/22, the Council has used Section 106 contributions to enhance the biodiversity within public open spaces, (e.g. Pencoedre Park and the Knap Gardens in Barry), by planting new wild-flower, bulbs and trees.
- 4.4** Section 106 contributions have also financially supported the delivery of Wales' first net-zero carbon primary school (in operation) – South Point Primary School.
- 4.5** The RLDP will enable the Council to consider any potential new policies in respect of planning obligations, such as green infrastructure and climate change.

### **5. Resources and Legal Considerations**

#### **Financial**

- 5.1** Financial contributions are secured via Section 106 Agreements. A Section 106 agreement is a legally binding agreement between a land owner, developer and the Council. Financial contributions have a positive impact on many of the Council's functions including education, community facilities, open spaces, highways and public transport. Financial contributions can also be used as match-funding to lever in additional funds, such as the Council's 21st Century Schools Programme.

### **Employment**

- 5.2** There are no staffing issues.

### **Legal (Including Equalities)**

- 5.3** Section 106 of the Town and Country Planning Act 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. The Council has acted in accordance with this legislation when securing these contributions.
- 5.4** The Well-being of Future Generations Act has put in place that we must work towards achieving a more equal Wales of cohesive communities. The delivery of affordable housing and planning obligations will ensure that the Council is responding to this duty.

## **6. Background Papers**

Town and Country Planning Act 1990

The Community Infrastructure Levy Regulations 2010

The Vale of Glamorgan adopted Local Development Plan (2011-2026)

Vale of Glamorgan Council's Local Development Plan - Review Report (May 2022)

Supplementary Planning Guidance 'Affordable Housing'

Supplementary Planning Guidance 'Planning Obligations'