

## **The Vale of Glamorgan Council**

**Cabinet 11th July 2016**

### **Report of Cabinet Member for Regeneration and Education**

#### **Annual Report - Section 106 Legal Agreements 2015-2016**

##### **Purpose of the Report**

1. The purpose of this report is to inform Cabinet about the progress on Section 106 (Planning Obligation) matters that have arisen in the last financial year (April 2015 - March 2016).

##### **Recommendations**

1. That Cabinet note the progress made on Section 106 matters between April 2015 and March 2016.
2. That this report be referred to Planning Committee, Scrutiny Committee (Environment and Regeneration) and Community Liaison Committee for information.

##### **Reasons for Recommendation**

1. To inform Cabinet of the progress made on Section 106 matters between April 2015 and March 2016.
2. To inform the Planning Committee, Scrutiny Committee (Environment and Regeneration) and Community Liaison Committee of the progress made on Section 106 matters between April 2015 and March 2016.

##### **Background**

1. Cabinet will be aware that the Council has the power to enter into legal agreements with developers under Section 106 of the Town and Country Planning Act 1990, to seek contributions from developers to mitigate negative development impacts and facilitate development which might otherwise not occur.

2. This report summarises the Council's progress on negotiating, monitoring and implementing planning obligations through Section 106 agreements, for the last financial year.

## **Relevant Issues and Options**

### **Planning Applications subject to s106 agreements in 2015/16**

1. In the 12 months between 1<sup>st</sup> April 2015 and 31<sup>st</sup> March 2016, a total of 21 planning permissions have been granted, which have been subject to Section 106 agreements. A list is attached at Appendix A.
2. The value of the financial contributions in these legal agreements totals £8,029,190 and they relate to a range of developments including major residential developments at:
  - Dochdwy Road, Llandough - 18 residential units;
  - Land to the north of the Railway Line (West), Rhoose – 350 residential units;
  - Ysgol Maes Dyfan, Barry – 81 residential units;
  - Land to the rear of St. David's Primary School, Colwinston – 64 residential units;
  - Land off St. Brides Road, Wick – 124 residential units;
  - Ardwyn, Dinas Powys – 19 residential units; and
  - Brynethin Care Home, Dinas Powys – 18 residential units.
3. The planning obligation requirements secured this year have also included 'in-kind' obligations such as provision of on-site affordable housing, on-site public open space and public art.
4. The financial contributions secured through these legal agreements will be used to provide or enhance facilities off site, such as sustainable transport services and infrastructure, highway improvements, public open space, community facilities, public art and educational facilities.
5. When such contributions are received consultation is undertaken with all relevant service areas, relevant Cabinet Members and Local Ward Members, to establish how the contributions can be best spent, in accordance with an established and agreed Section 106 protocol.

### **Implementation of Planning Obligations in 2015/16**

6. Between April 2015 and March 2016 the Council has received financial and 'in-kind obligations' in respect of a number of previously outstanding planning agreements, including interest payments where applicable.
7. At 31st March 2016, the Council had £5,612,480.27 within the Section 106 account. The majority of the contributions have been committed to schemes

within the Vale of Glamorgan, as agreed by Members and Service Areas, or are pending further consultation. In addition £212,681.71 was held for on-going maintenance costs.

8. The Council received financial contributions of £2,603,788.40 between April 2015 and March 2016, including open space, sustainable transport, community facilities and education contributions from the development at Badgers Brook, Ystradowen; sustainable transport and education contributions from Former ITV Studios, Culverhouse Cross; community facilities, sustainable transport, school transport and public art contributions from Former Garden Centre, Llangan; community facilities contribution from Land to the west of Port Road, Wenvoe and Trem Echni, Rhoose; sustainable transport contributions from Ogmore by Sea Caravan Park; Ogmore by Sea Residential Centre; Land at St. John's Well, St. Athan and Barry Waterfront; and public open space contributions from Llantwit Major Sorting Office; Dochdwy Road, Llandough and Leckwith Road, Llandough.
9. A summary of income and spend on each Section 106 agreement between April 2015 and March 2016 is attached at Appendix B, along with an update on progress since April 2016.
10. Approximately £1.1million has been spent on Section 106 schemes during 2015/16 on a number of schemes, with enhancements to public transport, walking and cycling, provision of public art, new school places, open space enhancements, children's play areas and opportunities for training and development. A summary list is provided below:

#### Education

- Expansion of Llanfair Primary School;
- Expansion of Ysgol Dewi Sant;
- Design and feasibility works underway for nursery unit at Gwenfo Primary School.

#### Sustainable Transport

- Improvements to Gileston Road and St. Athan Crossroads
- Pedestrian crossing at Buttrills Road/Holton Road
- New bus shelters in Barry and Llandough
- Pedestrian/cycleway along Port Road, Wenvoe
- Purchasing a new vehicle for Dinas Powys Voluntary Concern / Greenlinks
- Barry Island Causeway Project
- Merrier Harrier Cycle Strategy– feasibility work
- Greenlinks and supported services across the Vale of Glamorgan

#### Public Open Space

- Refurbishment of play area in George Street, Barry
- Replacement play equipment at Llys Steffan, Llantwit Major
- Enhancements to the Public Open Space at Trem Echni, Rhoose
- Play schemes in Barry, delivered by the Council's Play Development Team.

### Public Art

- Buddy bench scheme at Llangan Primary School
- Metalwork gates and railings, St. Athan Primary School

### Training and Development

- 32 people trained in interview skills in Barry
- 2 people in their Forklift truck licence
- 1 person received training for their CCTV operator licence

11. In addition, the Council used Section 106 contributions to provide direct support to third parties to assist with purchases and implement projects. For example, the Community Facilities contribution from the Former Garden Centre, Llangan, has assisted with the repairs to the roof at Llangan Village Hall (otherwise known as 'Heol Llidiard Community Hall') in order to ensure the hall is operational.

### **Changes to Section 106 legislation and procedures**

12. On 6th April 2015, Regulation 123 of the Community Infrastructure Levy (CIL) Regulations 2010 (As Amended) came into effect which restricts the way in which Local Planning Authorities can use section 106 agreements to pool financial contributions to deliver an infrastructure project. The restriction prevents pooling of contributions from 5 or more obligations entered into since 6th April 2010 (Regulation 123 refers). The Council keeps up-to-date detailed records of all section 106 agreements (which can be viewed on the Council's website) and each time negotiations are entered into with developers, Officers check that the pooling restriction would not be breached by a proposed development and associated obligations.

13. In most cases, Section 106 obligations are site-specific and relate to the immediate locality of the development site, where the pooling restriction is unlikely to take effect. However, a key area where this issue is relevant is education contributions given the catchment areas within the Vale of Glamorgan. There are already several different developments which feed into the same school. In particular, the catchment areas for secondary schools, Welsh medium schools and denominational schools are wide-ranging and therefore contributions to provide additional school places in these cases are very likely in the short to medium term to be restricted under CIL Reg 123. Until such time as education facilities can be delivered through CIL, the Council has to consider which development sites would contribute most towards meeting the Council's strategy for growth and are likely to resist those developments that would compromise the Council's ability to deliver the preferred sites in a way that allows their impacts to be mitigated. The Council is keeping this under continual review and will endeavour to minimise risk through careful consideration of new development proposals.

### **Community Infrastructure Levy (CIL) and Section 106**

14. On 21st February 2011 Cabinet resolved to commence work on preparing a Community Infrastructure Levy (CIL) for the Vale of Glamorgan. This has been done in tandem with the preparation of the Local Development Plan (LDP) which

was submitted to the Welsh Government in August 2015, with an anticipated adoption towards the end of 2016 / beginning of 2017. The Council now intends to take immediate steps to finalise the evidence necessary to establish a draft charging schedule for CIL for the Vale of Glamorgan, with a view to adopting it in 2017.

### **Resource Implications (Financial and Employment)**

15. The contributions paid by Developers under the planning obligations system have a positive impact on many of the Council's functions including education, community facilities, open spaces, highways and public transport. The CIL, when implemented, will have similar impacts and provide an alternative source of funding for infrastructure projects.
16. The report and appendices set out in detail the financial receipts and spends in respect of s106 agreements for 2015/16.

### **Sustainability and Climate Change Implications**

17. The planning obligations sought through Section 106 Legal Agreements are an important mechanism to mitigate the impacts of new developments. In terms of sustainability, contributions can assist in allowing for the needs of walking and cycling as well as enhancements to public transport all of which can contribute to a reduction in the carbon footprint.

### **Legal Implications (to Include Human Rights Implications)**

18. The planning obligations and CIL systems are covered by Section 106 of the Town and Country Planning Act 1990 (as amended), The Planning Act 2008 (as amended), The Community Infrastructure Levy Regulations 2010 (as amended) and the Localism Act 2011.

### **Crime and Disorder Implications**

19. None arising out of this report, although planning obligations can be related to crime and disorder matters given that such matters are material considerations in the planning process.

### **Equal Opportunities Implications (to include Welsh Language issues)**

20. None arising out of this report, although contributions to various community enhancements and public transport services do improve accessibility to such persons and other services for the benefit of those who otherwise do not have access to facilities.

### **Corporate/Service Objectives**

21. The contributions paid by Developers under the planning obligations system have a positive impact on many of the Council's functions including education,

community facilities, highways and public transport, and seek to mitigate the impact upon services created by new development. More specifically, Section 106 financial and in-kind obligations assist in meeting the Council's Corporate Plan Objectives:

- Objective 2: Providing decent homes and safe communities – increasing the number of sustainable, affordable homes delivered within the Vale of Glamorgan.
- Objective 3: Promoting regeneration, economic growth and employment – delivering sustainable transport improvement schemes; developing opportunities for employment and training through new developments; and Links between Penarth Haven and the Town Centre.
- Objective 4: Promoting sustainable development and protecting our environment - developing a Community Infrastructure Levy which uses developer contributions to improve community facilities.
- Objective 5: Raising overall standards of achievement – using Section 106 Education contributions to assist the education department to meet the Council's aims set out under this objective.
- Objective 7: Encouraging and promoting active and healthy lifestyles – using Section 106 Sustainable Transport contributions to deliver infrastructure which will encourage and promote active and healthy lifestyles; using Section 106 Public Open Space contributions to support play development.

### **Policy Framework and Budget**

22. This report is a matter for Executive decision.

### **Consultation (including Ward Member Consultation)**

23. No Ward Member consultation has been undertaken as the report has implications for the Vale of Glamorgan as a whole rather than specific wards. Consultation has been undertaken with the representatives of the relevant service areas.

### **Relevant Scrutiny Committee**

24. Environment and Regeneration.

### **Background Papers**

Town and Country Planning Act 1990

The Community Infrastructure Levy Regulations 2010

Planning Obligations SPG

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