

Section 106 in the Vale of Glamorgan

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What is Section 106?

- New development can have an impact on existing community infrastructure.
- Section 106 agreements are legally binding agreements entered into between a local authority, a landowner and a developer to secure planning obligations.
- Planning obligations require developers to provide **works, services or financial contributions** to enhance the quality of their development, and to help mitigate the impacts that arise as a consequence it.
- The Vale of Glamorgan has amongst the highest house prices in Wales, which generates significant land values from which section 106 contributions can be sought by the Council.



What is Section 106?

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.



Limitations to Section 106

- 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.
 - Regulation 122, Community Infrastructure Levy Regulations (2010) (as amended)
- S106 Agreements usually stipulate that the Contribution has to be spent within **5 years**, following receipt (10years for affordable housing).
- S106 financial contributions can only be used to mitigate the impacts of a new development; to create provision for future occupiers of the new development. Therefore, s106 contributions can only be spent in the area where the development has occurred. The only exception to this would be affordable housing (a number of contributions pooled together to support a strategic scheme), and for educational facilities, where the catchment area for a school may be borough wide. OR where there is an impact upon specific junctions of the highway network as a result of the new development.

Types of Planning Obligations

- Affordable housing
- Education
- Community facilities
- Sustainable transport
- Off-site highway works
- Public open space
- Public art
- Training and development



Planning Policy Context

Relevant Legislation

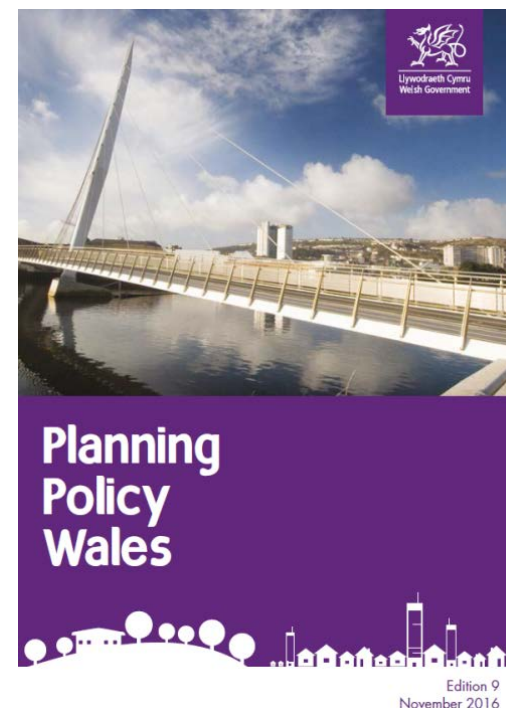
- Section 106 of the Town and Country Planning Act 1990 as amended by Section 12 of the Planning and Compensation Act (1991)
- Community Infrastructure Levy Regulations 2010 (as amended)

National Planning Policy

- Planning Policy Wales (November 2016)
- Technical Advice Notes

Local Planning Policy

- The Vale of Glamorgan Adopted Local Development Plan (2011-2026)
- Planning Obligations Supplementary Planning Guidance (2017)
- Affordable Housing Supplementary Planning Guidance (2017)



Type of Obligation	Residential development threshold	Commercial Development Threshold	Formula
*Affordable Housing in Barry	Net gain of 5 dwellings	-	30% on site
*Affordable Housing in Llanwit Major, Rhoose and St Athan	Net gain of 5 dwellings	-	35% on site
*Affordable Housing in the rest of the Vale of Glamorgan	Net gain of 1 dwelling**	-	40% on site unless otherwise agreed
Sustainable Transport	10	1000sqm floor space / 1ha site	£2300/dwelling or £2300/100sqm floor space
Education	10	-	Contributions per dwelling (depending on available capacity in local schools) Nursery = £1,8255 Primary = £5,073 Secondary = £5,720 Post 16 = £1,193 Total = £13,811
Training and Development	-	1000sqm floor space / 1ha site	one trainee (£1255) per 500sqm of new floor space
Community Facilities	25	-	0.74sqm of community floor space per dwelling = a financial contribution of £1260 per dwelling
Public Open Space	5	1000sqm floor space / 1ha site	2.4 ha per 1000 population = 55.68m ² per dwelling or £1150 per person = £2,668 per dwelling
Public Art	10	1000sqm floor space / 1ha site	1% of Build Costs

**Applications for the conversion of an existing building, will only be triggered upon the development of 2 or more residential units.

Section 106 Protocol for Implementation

1. Monies received – Managing Director, Head of Regeneration and Planning Operational Manager for Development Management Leader of the Council 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 **21 day** 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 **14 day** 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.

At this stage, it may be recommended that further consultation is undertaken with the community, particularly for Public Open Space and Community Facilities contributions.

Section 106 Protocol for Implementation

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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'.

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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.

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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

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8. Service area notified and given authorisation to spend the Section 106 amount.

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9. Project Implemented.

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10. Annual Monitoring Report notes project implementation and contribution spent.

Section 106 in 2016/17

- 23 planning permissions were granted, which are subject to Section 106 agreements.
- The value of the financial contributions in these legal agreements totals £9,794,952.16, mainly from major residential developments.



Section 106 in 2016/17

- At 31st March 2017, the Council had £10,989,004.65 within the Section 106 account, having received £6,723,344.97 from developers between April 2016 and March 2017.
- The majority of these contributions have been formally committed to schemes within the Vale of Glamorgan, as agreed in consultation with Members and Service Areas, or are pending further consultation.
- £1,437,773.02 was spent on Section 106 schemes during 2016/17 across the Vale of Glamorgan, such as:
 - Port Road Footway/Cycle Scheme; Penlan Road Cycle/Footway;
 - Plassey Square Play Area;
 - Nursery provision at Gwenfo Primary School
 - Purchases to enhance facilities at The Murchfield Community Centre, Dinas Powys and Heol Llidiard Community Hall, Llangan.



Selection of Projects completed / underway in 2017/18

Education

- St. Brides Major Primary School -build a nursery, nursery play area, a link corridor, and remodel year 5 and 6 classrooms - Ogmore by Sea - near completion.

Sustainable Transport:

- Wenvoe footpath improvements scheme - ITV Culverhouse Cross - near completion.
- Harbour Road Car Park Cycle Path, Barry Island - Barry Waterfront - completed.
- High Street/Broad Street, Barry - Barry Waterfront - completed.
- Complete the footway/cycle link along Fford Y Millennium to the train station - Barry Waterfront - completed
- Cycle stands Llandough - completed
- Treharne Road, Barry pedestrian improvements - Maes Dyfan - partially completed

Public Open Space

- Wordsworth Park, Penarth - completed
- Badgers Brook Play Area - Badgers Brook - On site
- Gladstone Gardens Improvements - Theatre Royal/Barry Magistrates - near completion
- Trebeferad play area, Llantwit Major - completed

Community Engagement

- Involving the community, where appropriate, to assist the Council to deliver community infrastructure.
- Types of consultation: online surveys, leaflet drop and posters, promotion via social media, drop in sessions.
- Working with a range of partners:
 - Wenvoe Community Council;
 - Ogmore Village Hall Association;
 - SAINTS in St. Athan
 - Ystradowen Community Sports Association
 - Colwinston Community Council and Village Hall Association
 - Barry/Penarth Youth Action
 - Lots of schools across the Vale e.g Oakfield / Ysgol Gwaun Y Nant Primary Schools

Strong Communities Grant Fund

- Traditional delivery of community services is constantly changing
- Strong Communities Grant Fund = A formal framework to consider applications for Section 106.
- Members can choose to include S106 money (Community Facilities & Public Open Space) within this grant.
- To date the following allocations have been made:
 - Rhoose Community Cinema via Rhoose Community Facilities S106 monies.
- The following will be advertised in the next round:
 - £10k in Rhoose for Community Facilities
 - £15k in Dinas Powys for Public Open Space

Any Questions?