

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**MUNICIPAL YEAR 2014-2015**

**COUNCIL**

**10<sup>TH</sup> DECEMBER, 2014**

**REPORT OF THE DIRECTOR OF  
REGENERATION AND PLANNING**

**Agenda Item No. 5**

**COMMUNITY INFRASTRUCTURE  
LEVY**

**Author: Simon Gale, Service Director Planning**

**COMMUNITY INFRASTRUCTURE LEVY ('CIL')**

**1.0 PURPOSE OF THE REPORT**

1.1 The purpose of this report is to seek Council approval to proceed with the implementation of the Community Infrastructure Levy.

**2.0 RECOMMENDATIONS**

It is recommended that Council:

2.1 Adopt the Charging Schedule in line with the recommendations of the independent examiner (Appendix A Examiner's report and Appendix B Charging Schedule) and for the Charging Schedule to take effect from 31 December 2014.

2.2 Agree the contents of: -

- The Instalments Policy (Appendix C)
- CIL Additional Information Form as from 31 December 2014 to become a validation requirement (Appendix E)
- The Exceptional Circumstances Statement (Appendix F).
- The statement at Appendix G that allows Discretionary Relief for Social Housing

- 2.3 Authorise the Director Regeneration and Planning, in consultation with the Cabinet Member for Planning, to make available Discretionary Relief in Exceptional Circumstances for other CIL liable developments should the need to offer such Discretionary Relief become apparent.
- 2.4 Authorise the Director Regeneration and Planning to make minor editorial changes to the supporting text of the Charging Schedule and other documents in particular to reflect any changes to Government Regulations.
- 2.5 Agree the procedures for administering CIL set out in Section 6 of this report and grant delegated authority to the Director of Regeneration & Planning in consultation with the Cabinet Member for Economic Development and Planning, to authorise the spending of CIL money on feasibility/design work subject to the work being related to projects contained within the Regulation 123 list and to a limit of £50,000 on each individual project
- 2.6 Adopt the revised Planning Obligations SPG at Appendix H.
- 2.7 Instruct the Director of Regeneration and Planning to keep under review the effectiveness of the Charging Schedule.
- 2.8 Agree the Regulation 123 List (Appendix D)

### **3.0 EXECUTIVE SUMMARY**

- 3.1 Cabinet resolved to start work on CIL in November 2012 and the Council's approach to charging CIL has undergone significant statutory consultation. At its meeting on 26<sup>th</sup> February 2014, Council resolved to submit our CIL documentation for Public Examination by an independent examiner in accordance with the Community Infrastructure Levy Regulations 2010 (as amended) ('CIL Regulations').
- 3.2 The Draft Charging Schedule that was submitted proposed 3 charging zones for residential development in Rhondda Cynon Taf. A 'high' viability area (Zone 3) in the South (£85 per square metre), a 'low' viability area (Zone 1) in the North (no charge at all) and a 'medium' viability area (Zone 2) across the 'middle' of RCT covering Tonyrefail and Pontypridd (£40 per square metre). The schedule also proposed flat charges across RCT for retail and healthcare development.
- 3.3 The Council's CIL was submitted for independent examination on 27<sup>th</sup> February 2014. Those who responded to the consultation process had the opportunity to appear at the examination or to rely on their written representations.

- 3.4 The Examination Hearing took place on 7<sup>th</sup> May 2014. The Examiners report was received on 4<sup>th</sup> June 2014 and concludes that, subject to three minor modifications, the Council's CIL (which comprises the Draft Charging Schedule and Statement of Modifications) provides an appropriate basis for the collection of the levy in the area.

The three modifications are:

1. The reduction of the CIL charge for 'Class A3 Development' from £25 per square metre (psm) to £0 psm.
  2. The reduction of the CIL charge for 'Primary Healthcare Development (D1)' from £10 psm to £0 psm.
  3. The addition of 'All Other Development Types' with a CIL rate of £0 psm to the Charging Schedule for clarity.
- 3.5 The next stage is to bring CIL into effect. Section 213 Planning Act 2008 requires that the CIL Charging Schedule is approved by a majority vote at a meeting of the authority.
- 3.6 Cabinet considered the implementation of CIL at its meeting of 30 October 2014 and agreed that the recommendations set out in section 2 (above) be made to Council.
- 3.7 Cabinet also resolved that the *"appropriate Scrutiny Committee be requested to include in its Work Programme the CIL paying particular regard to the Regulation 123 list and engagement with Town/Community Councils."*
- 3.8 The appropriate Committee in this case is the Corporate Services Scrutiny Committee and a special meeting of that Committee took place on 18 November 2014 to deal with the recommendation from Cabinet. At the meeting a working group was established with the remit of considering the following and then making appropriate recommendations to Cabinet
- how the Regulation 123 List is developed and maintained
  - to develop a strategy for engaging with Town and Community Councils on how the local element of CIL will be administered.
  - how the local element of CIL is spent in areas that do not have a Town or Community Council.
- 3.9 There are a number of accompanying documents to the Charging Schedule that need approval for CIL to operate. These include an 'Instalments Policy' and a 'Regulation 123' List along with changes to the Council's Planning Obligations Supplementary Planning Guidance ('SPG') and the planning application validation requirements.

- 3.10 The Payments Instalments Policy (Appendix C) allows the CIL charge (which is payable upon commencement of development) to be paid in regular, time based instalments. Without such a policy some developments could be made unviable due to the large payment that would otherwise have to be made at the start of the development.
- 3.11 It is recommended that the Council identifies and publishes an initial list of infrastructure projects that could be funded by CIL. This is known as the Regulation 123 List. The draft list was agreed by Cabinet at its meeting on 21 May 2013. Failure to publish such a list will have substantial implications on the use of planning obligations further details of which are set out below. The Council's proposed Regulation 123 List is attached at Appendix D and is a list of those projects that are considered necessary to support the growth identified in our LDP. The Regulation 123 List can be reviewed and projects can be added to the list or removed.
- 3.12 It is proposed that following consideration by the Corporate Services Scrutiny Committee Working Group the Regulation 123 List is reviewed and agreed by Cabinet on an annual basis, but Cabinet can amend the list should the need arise at anytime.
- 3.13 An officer working group will be established and this group in conjunction with the Corporate Services Scrutiny Committee Working Group will monitor the spend of the CIL money. When it is considered necessary to bring one of the projects on the Regulation 123 List forward then it is proposed that it should be fed into the Council's Capital programme. Further work on how this will operate in detail will be developed through the Committee Working Group
- 3.14 Once CIL comes into effect all decisions on planning applications made after that date must be considered under the CIL regime regardless of whether they were submitted before CIL came into effect.
- 3.15 The Regulations require that 15% of CIL income raised in a community or town council area, is passed to that organisation to be spent on community infrastructure projects. Amendments to the Regulations have made this subject to an annual maximum amount of £100 per existing dwelling. In those parts of the County Borough where there are no community or town councils the CIL income will be retained by the Council but the 15% has to be spent on community infrastructure projects in the area where the money was collected. The Regulations do not prescribe the detail of this process therefore, further guidance on this matter will be developed through the Corporate Services Scrutiny Committee Working Group. This will be presented to Cabinet as required.

- 3.16 As CIL is intended to provide infrastructure to support the development of an area the CIL Regulations place a number of restrictions on the use of section 106 planning obligations. When CIL is introduced a planning obligation should not provide for the funding of infrastructure contained within the Regulation 123 List. However, if no Regulation 123 List is published by the Council a planning obligation should not provide for the funding of any infrastructure.
- 3.17 When CIL is introduced the pooling of planning obligations to fund projects is limited by the CIL Regulations to up to five separate planning obligations for a specific item of infrastructure. However this restriction will be introduced nationally from April 2015 whether CIL is introduced or not.
- 3.18 As a result of implementing CIL and the limitations that the new regulations will place on section 106 obligations in April 2015 it is necessary to revise the Council's Supplementary Planning Guidance (SPG) in relation to Section 106 Planning Obligations. The revisions have been consulted on and the proposed SPG is attached at Appendix H

#### **4.0 BACKGROUND**

- 4.1 The Community Infrastructure Levy (CIL) is being introduced by the UK Government as a new way of collecting financial contributions from developments for the provision of infrastructure required to support growth.
- 4.2 CIL is a levy that local authorities charge on new developments in their area, subject to viability. As detailed above after 1<sup>st</sup> April 2015 the use of S106 agreements will be restricted and this will significantly reduce the contributions that the Council can achieve from developers towards infrastructure needs through S106 agreements.
- 4.3 The CIL Regulations prescribe the process by which CIL is introduced. A preliminary Draft Charging Schedule must be published for consultation, followed by a Draft Charging Schedule, which sets out for consideration at an Independent Public Examination the CIL charge/s that a charging authority is intending to apply to development in its area, expressed in £s per square metre.
- 4.4 Once the CIL documentation has been agreed by the Independent Examiner the CIL must then be formally adopted by the Council
- 4.5 Having progressed through the above stages to a point where our CIL has been through independent examination, the Council must now consider formally adopting and implementing CIL.

## **5.0 ADOPTING CIL AND THE ACCOMPANYING DOCUMENTS**

- 5.1 To ensure the **Charging Schedule** is adopted with appropriate authority, the proposed CIL Charging Schedule and accompanying documentation must be formally approved by Council. It is therefore **recommended that Council approve the Charging Schedule** attached at Appendix B and set the date for the Charging Schedule to take effect as 31 December 2014
- 5.2 A CIL **Payment Instalments Policy** (Appendix C) needs to be published alongside the Council's Charging Schedule, to provide developers with clarity about payment procedures and expectations. Whilst there is no legal requirement for the CIL Instalments Policy to be approved by Council in the way that Council must approve the CIL Charging Schedule, the Instalments Policy is integral to the operation of the Charging Schedule and therefore **it is recommended that Council agree this Policy** to sit alongside the CIL Charging Schedule.
- 5.3 CIL Charging Authorities should identify the infrastructure on which they intend to spend CIL receipts in what is known as a '**Regulation 123 List**'. This list must be published when the CIL Charging Schedule is adopted to ensure that developers are not also required to pay for the infrastructure identified on the list through the Section 106 mechanism. It is **recommended that Council agree the publication of the Regulation 123 List** attached at Appendix D. There is no requirement that the schemes on the Regulation 123 list are prioritised and projects can be added to the list or removed at the discretion of the Council subject to appropriate consultation.
- 5.4 To enable the Council to determine whether a proposed development is liable for CIL all full planning applications will be required to submit a **CIL Additional Information Form**. It is therefore **recommended that Council agree the CIL Additional Information Form to be a validation requirement upon submission of a relevant planning application**, that is, the application will not be processed until this form along with existing validation requirements is received and fully completed.
- 5.5 The Council has stated in its Draft Charging Schedule that it does not propose to offer **Discretionary Relief** (Statement to be authorised by Council at Appendix F). However, should an exceptional circumstance case arise, to enable the Council to respond to such a request in a timely manner it is **recommended that Council delegate authority to the Director of Regeneration and Planning, in consultation with the Cabinet Member for Economic Development and Planning, to make available Discretionary Relief in Exceptional Circumstances** should the need to offer such relief become apparent. For example, where a strategically important regeneration project's viability was compromised by CIL, there would be an option to consider offering discretionary relief if it was clear that exceptional circumstances

existed. This would be considered on a case by case basis and there are processes laid down in the CIL Regulations for how this would operate. It is important to note that the planning application for a development that was applying for discretionary relief would still need to be considered by the Council's Development Control Committee.

- 5.6 Whilst it is recommended that general Discretionary Relief is not offered when CIL is implemented there are opportunities for relief from the need to pay CIL for certain types of development. There is Mandatory (automatic) relief for charities, self build dwellings, extensions and certain forms of Affordable Housing.
- 5.7 However, the Mandatory relief for affordable housing does not cover all of the types of affordable housing that are covered by the Council's adopted Supplementary Planning Guidance on **Affordable Housing**. In particular, low cost home ownership dwellings do not benefit from automatic, Mandatory relief. The CIL regulations do give Councils the discretion to offer further relief to others forms of affordable housing (known as Discretionary Social Housing Relief) and **it is recommended that such 'discretionary' relief is offered to all forms of housing that are defined in our adopted SPG as being 'affordable'**.
- 5.8 Once the Council's CIL becomes operational, it will supersede the Council's current 'tariff' approach to Section 106 contributions. However, there will still be scope to seek developer contributions through the S106 mechanism in respect of affordable housing and direct site mitigation even in the north where there is proposed to be a £0 CIL rate. As a result amendments are needed to the **Council's Supplementary Planning Guidance on Planning Obligations**
- 5.9 As with the existing SPG, the revised document provides a framework for securing planning obligations in relation to affordable housing, education, transportation and public open space but this is now limited to dealing with the direct impact of the development on the surrounding area.
- 5.10 Key changes in the revised SPG include:
- The deletion of the transport tariff. Contributions for strategic transportation and highway projects throughout the County Borough will now be secured through the CIL regime;
  - Amendments to the way in which contributions for new education provision are secured. It is proposed that the new education projects in the south of the County Borough are funded through the CIL regime. In the north the S106 process will be used to mitigate the direct impact developments have on school capacity.

- 5.11 The revised SPG is attached as Appendix H. The SPG was consulted upon as part of the CIL consultation process and no adverse comments have been received. **It is therefore recommended that Council agree to adopt the revised Planning Obligations SPG**

## **6.0 PROCEDURAL MATTERS**

- 6.1 As explained in 5.3 CIL Charging Authorities should identify the infrastructure on which they intend to spend CIL receipts in what is known as a 'Regulation 123 List. It is proposed that the Regulation 123 List is reviewed and agreed by Cabinet on an annual basis, but Cabinet can amend the list should the need arise at anytime subject to appropriate consultation.
- 6.2 As the regulations also require that the Council produces a financial report on what CIL it has collected and spent for each financial year, it is proposed that the infrastructure review report is produced at the same time as the Regulation 123 List is reviewed.
- 6.3 It is proposed that an officer working group in conjunction with the Corporate Services Scrutiny Committee Working Group monitors the spending of the CIL money. When it is considered necessary to bring one of the projects on the 123 List forward it is proposed that it should be fed into the Council's Capital programme. This will ensure that Cabinet and Council have the ability to prioritise where and when CIL money is spent.
- 6.4 It may be necessary to use small amounts of CIL to carry out feasibility or design work on a project before a decision can be made to feed the project into the Council's Capital programme. In order that this process can remain efficient it is **recommended that delegated authority is granted to the Director of Regeneration & Planning, in consultation with the Cabinet Member for Economic Development and Planning, to authorise the spending of CIL money on feasibility/design work subject to the work being related to projects contained within the Regulation 123 list and to a limit of £50,000 on each individual project.**

## **7.0 LEGAL IMPLICATIONS**

- 7.1 Legislation relating to the introduction of CIL is set out in the Planning Act 2008 and the Community Infrastructure Levy Regulations (2010) as amended.
- 7.2 Section 213 of the Planning Act (2008) states the following:

*A charging authority must approve a charging schedule*  
*a) at a meeting of the authority, and*  
*b) by a majority of members present*

- 7.3 There is no statutory requirement for the Council to prepare or implement a CIL Charging Schedule. However, it should be noted that the implementation of CIL will change the way in which planning obligations are formulated and managed. If the Council chooses not to implement CIL, our ability to use Section 106 planning contributions to fund strategic infrastructure projects will be limited from April 2015 onwards.
- 7.4 The Council as charging authority may approve a Charging Schedule only if the examiner under s212 of the Planning Act 2008 has recommended approval and any modifications recommended by the examiner have been accepted by the charging authority.
- 7.5 Under s213 (2) the Council must approve the Charging Schedule at a meeting of the Council and by a majority of votes of the members present.
- 7.6 The Charging Schedule will not take effect until it has been published in accordance with the CIL Regulations.
- 7.7 All relevant consents granted after the CIL implementation date will be required to pay CIL at the approved rate as the CIL charge is a mandatory non-negotiable charge. Statutory exemptions exist for charitable development, social housing and self build properties, extensions and annexes.

## **8.0 FINANCIAL IMPLICATIONS**

- 8.1 There will be a considerable amount of additional administrative work involved in operating CIL, even though it does, in part, replace the S106 arrangements. The regulations allow for 5% of the CIL that is collected to be used to support the additional work.
- 8.2 Financial (capital) implications: The potential revenue from CIL is wholly dependent upon the nature and scale of development taking place in the County Borough. It is therefore difficult to predict future levels precisely but it is anticipated that CIL receipts may yield around £12.5 million in the LDP plan period (up to 2021).

## **9.0 EQUALITY IMPACT ASSESSMENT**

- 9.1 An equality impact assessment has been undertaken for the CIL process. No significant adverse impacts have been identified and therefore no further action is required.

## **10.0 CONCLUSIONS**

- 10.1 It is recommended that Council agree the contents of this report as the basis for approving the implementation in Rhondda Cynon Taf.





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**Report to Rhondda Cynon Taf County Borough Council  
Adroddiad i Gyngor Bwrdeistref Sirol Rhondda Cynon Taf**

**by Philip Staddon BSc, Dip, MBA, MRTPI  
gan Philip Staddon BSc, Dip, MBA, MRTPI  
an Examiner appointed by the Council**

**Date: 4 June 2014**

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PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

**REPORT ON THE EXAMINATION OF THE DRAFT RHONDDA CYNON  
TAF COUNTY BOROUGH COUNCIL COMMUNITY INFRASTRUCTURE  
LEVY CHARGING SCHEDULE**

Charging Schedule submitted for examination on 27 February 2014

Examination Hearings held on 7 May 2014

File Ref: PINS/LDF 1513

### **Non Technical Summary**

This report concludes that, subject to three modifications, the Rhondda Cynon Taf County Borough Council Draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area.

The three modification required are:

1. The reduction of the CIL charge for 'Class A3 Development' from £25 psm to £0 psm
2. The reduction of the CIL charge for 'Primary Healthcare Development (D1)' from £10 psm to £0 psm
3. The addition of 'All Other Development Types' with a CIL rate of £0 psm to the Charging Schedule for clarity.

Subject to these modifications, the Council is able to demonstrate that it has sufficient evidence to support the schedule and can show that the levy rates would be set at levels that will not put the overall development of the area, as set out in its Local Development Plan, at risk.

### **Introduction**

1. This report contains my assessment of the Rhondda Cynon Taf County Borough Council Community Infrastructure Levy (CIL) Charging Schedule in terms of Section 212 of the Planning Act 2008 (as amended). It considers whether the schedule is compliant in legal terms and whether it is economically viable as well as reasonable, realistic and consistent with national guidance (Community Infrastructure Levy Guidance – DCLG – February 2014).
2. To comply with the relevant legislation and guidance the local charging authority has to submit a charging schedule that should set an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across its area.
3. The basis for the examination, on which Hearing sessions were held on 7 May 2014, is the submitted Draft Charging Schedule (DCS), which was published for public consultation between 27 June 2013 and 7 August 2013 and the associated Statement of Modifications (SOM), which was published for public consultation between 28 February 2014 and 10 April 2014.

4. The Council's CIL proposals include charges for residential development and for specified types of commercial development.
5. The residential CIL proposals relate to three defined geographical charging zones within which different CIL rates would apply. Zone 1 is in the north and covers the Rhondda and Cynon valleys (but excludes the part of the borough in the Brecon Beacons National Park). Zone 1 extends to more than half of the borough area and includes the larger settlements of Abercynon, Mountain Ash, Aberdare, Porth, Tonypany and Treorchy, along with a network of smaller village settlements. The residential CIL charge in Zone 1 would be £0 per square metre (psm). In the originally published DCS, Zone 2 covered a limited area in the south east of the borough, focused on the town of Pontypridd and the villages surrounding it. However, under the SOM it is proposed to extend Zone 2 to the west to include the settlement of Tonyrefail and its hinterland (previously in Zone 3). The Residential CIL charge in Zone 2 would be £40 per square metre (psm). Zone 3 occupies the south of the borough closest to the M4 corridor. It includes the settlements of Church Village, Llantrisant and Pontyclun. Through the revisions proposed in the SOM, the residential CIL charge in Zone 3 would be £85psm (reduced from £100 psm in the DCS).
6. The commercial CIL charges are not zoned and would apply throughout the county borough. Three types of commercial development listed in the DCS would be subject to CIL charges. First, 'Retail (A1)' development would incur a CIL charge of £100 psm. Second, 'Retail (A3)' development would incur a CIL charge of £25 psm. Third, 'Primary Healthcare Development (D1)' would, through the revisions proposed in the SOM, incur a £10 psm charge (reduced from £60 in the original DCS).
7. This report is structured under the headings (in bold) of the main issues that I identified through the examination.

**Background evidence – local development plan, infrastructure and economic viability evidence.**

*Local Development Plan*

8. The Rhondda Cynon Taf Local Development Plan (LDP) was adopted in March 2011 and covers the period to 2021. The Wales Spatial Plan was updated in 2008. Together, these two documents set out the strategy for and the level of growth that will need to be supported by the provision of new or upgraded infrastructure. The LDP identifies and seeks to manage the challenges arising from a county borough that falls into two distinct parts. The Northern Strategy Area (NSA) comprises the central and northern valleys which has suffered from deprivation, depopulation and low levels of house building, all linked to a decline of traditional industries most notably through the colliery closures in the mid-1980s. By contrast, the Southern Strategy Area (SSA), which covers roughly the southern third of the county borough, has experienced growth pressures due to its accessibility and proximity to the M4 corridor and the

major south-east Wales urban centres.

9. The LDP's housing growth proposals amount to 14,385 over the plan period, of which 1770 would be affordable homes. The LDP proposes 98 hectares of new employment development and some 36,400 sq metres of new retail development. Critical to the delivery of the LDP's objectives are eight identified strategic sites, five of which are in the NSA, with the remaining three in the SSA. Collectively, the allocation of these eight sites is designed to boost house building rates in the borough. The eight sites are expected, in total, to yield up about a third of the plan's housing and approximately two thirds of the plan's employment development. One of the strategic sites is also expected to deliver the lion's share of the new retail floorspace (23,400 sq metres or 64% of the total).
10. The LDP is supported by a portfolio of supplementary planning guidance (SPG) which includes its 'Draft Planning Obligations' (May 2013) document which defines and clarifies the role of S.106 planning agreements under the proposed CIL regime.

#### *Infrastructure planning evidence*

11. The LDP's evidence base included a detailed assessment of infrastructure necessary to deliver the plan's allocations and objectives. This was refreshed and updated in March 2013 to produce an Infrastructure Assessment Background Paper (IABP). It itemises the specific strategic social and physical infrastructure projects necessary and includes details about estimated costs and funding sources.
12. The overall Council assessed funding gap is significant, at £243.1 million. Road network and education infrastructure have the largest funding gaps which the IABP puts at around £157 million and £77.5 million respectively.
13. The Council has assessed that CIL receipts from residential development may yield circa £12 million in the plan period. It has assessed the first five years' residential CIL receipts at just over £6 million. This will be supplemented to a degree by the commercial CIL charges from specified development types, which the Council assesses, may yield circa £0.5 million over the LDP period. It is clear that CIL receipts will only make a relatively small contribution to closing the substantial funding gap. Nonetheless, the evidence does demonstrate the need to introduce CIL to assist in delivering some of the infrastructure needed to support planned growth in the county borough. The Council made clear that CIL would be used as a lever to other funding sources including, potentially, from the European Union.
14. The Council's draft Regulation 123 List identifies four school projects and nine road projects, drawn from the IABP, that it considers are likely to be funded by the CIL receipts.

#### *Economic viability evidence*

15. The Council's economic viability evidence has, through the passage of time and multiple iterations, become somewhat complicated. The Council, along with its neighbouring authorities of Merthyr Tydfil CBC and Caerphilly CBC, commissioned District Valuer Services (DVS) to undertake an economic viability study (EVS) to inform and help define its CIL proposals. This was produced in 2012 and the Council has added to it with further testing, updates and clarifications. Essentially, all of the EVS modelling uses a residual valuation approach to test the viability of residential development schemes on a range of sites. In essence, this involves taking the end value of a development and deducting a range of costs (building, land, overheads, fees, profit etc.) to determine the surplus (or deficit) that may exist to support a CIL charge.
16. The robustness of the EVS and the degree to which its development appraisals justify, in terms of viability, the CIL rates and charging zones, are central to the examination. There were a number of challenges to the Council's modelling, particularly in terms of some of the assumptions used. Accordingly, I explore these matters in relation to the main issues and questions I have identified (in bold) below.

#### *Conclusions on the background evidence*

17. The LDP sets out a clear strategy for sustainable growth in the county borough. That growth requires substantial physical and social infrastructure provision as evidenced in the LDP itself and the more recent IABP. There is a substantial funding gap that justifies the imposition of a CIL regime. CIL receipts will only make a relatively modest, but nonetheless important, contribution to funding necessary infrastructure. The Council's CIL proposals are supported by detailed viability evidence, which is explored in greater detail below.

#### **Whether the residential development viability evidence is sound and justifies the proposed CIL charging zones and CIL charges?**

##### *EVS modelling*

18. The original 2012 EVS testing related to 10 schemes on actual housing development sites, albeit that they were anonymised to avoid prejudicing future developer negotiations. The sites selected by the Council included a good range, covering both brownfield and greenfield land, and relatively small sites (30 units on 0.9 hectare) up to very large sites (700 units on 20 hectares). Housing mix and density were tailored to the specific test sites and informed by local market intelligence. Affordable housing was modelled at full LDP policy target compliance (10% in the NSA and 20% in the SSA). Geographically, the sites were spread across the county borough and, in terms of the final charging zones that emerged (a matter I return to later), four were in Zone 1 and three each in Zone 2 and Zone 3.
19. Through the DCS consultation process, the house building industry challenged the 2012 EVS testing and submitted four notional appraisals using its

preferred assumptions, notably of higher costs and profit levels. In response, the Council undertook further viability testing in October 2013, which effectively hybridised these notional appraisals, using (if not entirely agreeing with) some but not all of the house builders' preferred assumptions, a matter I explore further below. The Council also extended the study at that point to examine larger strategic sites and sheltered housing developments.

20. A further updated viability testing document was produced in February 2014 and yet a further clarification note, seeking to explain and summarise the various pieces of evidence, was issued, at my request, in April 2014. The Council's final set of viability testing, using the most up to date sales rates and build costs, relating to the four 'notional' sites, was submitted shortly before the Hearing.
21. It is worth noting at this point that these different elements of modelling, from different points in time, using different approaches (actual sites and notional sites) and different assumption inputs, does create some issues. On a positive note, it presents a very significant evidence base and demonstrates the Council's efforts to engage with and respond to representations made. However, it does also create challenges in terms of comparability and consistency. One particular issue here is the mix of actual site modelling and notional site modelling; whilst modelling actual sites is arguably more reflective of the real world, it invariably throws up some anomalies (which tend to get ironed out in notional site modelling). Through the examination the Council made clear that the 2012 testing (of the ten schemes on actual sites) remained its primary evidence source and that the further testing of notional and strategic sites supplemented and supported it. Accordingly, my examination has sought to weigh and triangulate this complexity of evidence to reach a balanced view.

### *Assumptions*

22. All of the EVS modelling involves making a wide range of assumptions about appraisal inputs such as land costs, build costs, fees, densities, housing mix, affordable housing content, contingencies, sales values, profit levels etc. Although some of the inputs were uncontentious, or at least any differences of view were negligible, a theme running through the life of the Council's CIL proposals has been a degree of disagreement with the house building industry over assumed model inputs and values. This becomes clearer by reference to my analysis below of the substantive areas where there has been some disagreement.

### Land values

23. The EVS employs the use of 'benchmark land values' to set an assumed price at which a landowner will release the site for development. In the case of active sites (i.e. with an existing use) this included a premium, over the existing use value. DVS set these benchmarks using available transactional evidence and professional opinion and they are tailored to each of the tested sites. The benchmarks are expressed in money values per imperial acre and, in the original EVS, ranged from £100,000 / acre in the north of the county

borough up to £225,000 / acre in the south.

24. The house builders submitted transactional evidence on a limited number of sites which indicated higher values were being paid for land and it suggested that the benchmarks should be raised in Zones 2 and 3 to £225,000 and £250,000 respectively on green field sites. It applied these values in its submitted appraisal evidence, which modelled four notional sites.
25. In my view, this is not a particularly easy matter to arbitrate and there are a number of factors to consider. First, the land value 'backcloth' in the county borough is not particularly strong, especially in the north due, primarily, to the profound socio-economic forces of decline and depopulation that the LDP is seeking to manage. Second, whilst land values are generally low they are much stronger in the south. Third, 'benchmark' land values can only ever be broad brush and they are conceptual in nature, being based on assumed decisions of landowners in terms of the amount of 'uplift' required to trigger a land sale. Fourth, all of the benchmark land values used in the EVS represent a substantial uplift to a landowner (particularly on agricultural land). Fifth, CIL will inevitably filter through to affect underlying land values and that influence is clearly not yet apparent in the limited transactional data available.
26. On balance, I am persuaded that the benchmark land values employed by the Council in its 2012 study are reasonable for CIL viability testing purposes and remain so. However, the higher benchmark values suggested by the house builders are a useful sensitivity test, which the Council did adopt in its October 2013 testing.

#### Profit levels

27. The use of 17.5% of Gross Development Value (GDV) as the profit assumption on private market housing was challenged by the development industry as being too low. It argued for 20% profit on GDV, stating that this was more appropriate. In response, the Council felt that whilst 20% on GDV was appropriate immediately after the 2007 fall in the market, a lower 'base allowance' of 17.5% was more appropriate today, now that market stability had returned. In my view, in the areas of the county borough where viability is more challenging (i.e. the NSA), I do think that it is possible that banks and other funders may seek returns above 17.5% for lending purposes. However, CIL will not be charged in these areas, so the rate applied here is of limited relevance. On balance, I consider that the Council's 17.5% adopted profit rate in the initial EVS is not unreasonable for high level CIL modelling purposes, subject to it being considered 'in the round' in the context of other allowances and viability 'buffers'.

#### Housing sales values

28. The EVS derived its sales value evidence from real world transactions through DVS's access to Stamp Duty and Land Tax returns. Although such data sources are invariably skewed to the sale of existing (rather than new build) stock, they are an appropriate and available indicator of the local tone of the

residential sales market across the county borough. Helpfully, the house building industry's submissions included some specific data on recent new build sales, which assisted the Council in its later modelling, and contributed to the changes set out in its Statement of Modifications. Accordingly, I concluded that the sales value evidence used in the EVS modelling was reasonable and sound.

Build costs, external works and fire sprinklers.

29. Base build costs were drawn from Building Costs Information Service (BCIS) median average costs, adjusted to the locality. However, there was a clear difference of view over the allowances that ought be added to base building costs to reflect external works, abnormals and the Welsh Government's requirement for fire sprinklers in domestic properties from January 2016. The Council's approach involved the addition of a default 17.5% to baseline build costs to cover external works (15%) and sustainability features (2.5%). The development industry argued for the addition of a higher figure of 27% for external works, reflecting the challenges of sites in the area, which may include abnormal costs, plus a further £3,075 per plot for fire sprinklers.
30. These are not easy issues to untangle and, in my view, there are likely to be a wide spectrum of external works costs which may range from comfortably below the Council's assumption (for serviced sites) to levels more akin to those cited by the house builders (on more challenging sites). However, I must also give weight to the Council's transactional evidence and market intelligence that has underpinned the modelling, which will have reflected the 'norm' of development costs in the county borough.
31. With regard to the fire sprinkler requirement, this will not be an actual and incurred construction cost until January 2016, but I am mindful that house builders must consider those costs in their appraisals and land buying activities now, along with any CIL charges that may be adopted. These extra costs cannot, therefore, be ignored.
32. Having considered the evidence carefully I do not consider it necessary to define a 'right' percentage to be added to base build costs for externals, abnormals and fire sprinklers, because I do not think that is possible, given the variability of schemes. However, the examination of this evidence does underline the importance of setting CIL rates at levels that include sufficient headroom to allow for the spectrum of different development schemes.
33. A final point on build costs related to the effects of build price inflation. The Council confirmed that it had employed BCIS build costs that were contemporaneous with sales value data in its 2012 study. It further adopted the rounded costs used by the house builders in the later 'notional' testing. It was acknowledged that there had been some cost inflation (from the BCIS medians used in the modelling) but the Council submitted that this was more than offset by the growth in sales values (which had risen 5.5% in the last 12 months in the county borough) i.e. the viability buffer will have expanded.

S.106 Allowances

34. The EVS modelling made no specific allowance for residual S.106 obligations relating to site specific infrastructure. The house builders argued for the inclusion of a notional £1000 per plot, in line with a number of CIL studies elsewhere. There are merits to both arguments - the first that it is inordinately difficult to estimate such costs and, the second, that there will be such costs and applying a notional amount per unit recognises that.
35. However, the Council appears to have elected, for good reasons, to channel its future CIL revenues into two specific areas of infrastructure - schools and roads. The consequence of that is that other site specific infrastructure may need to be dealt with under S106 planning obligations, in line with the Council's LDP and supporting SPG. Examples of this include the categories of 'outdoor recreation' and 'environment landscape biodiversity' set out in the Council's SPG: Draft Planning Obligations (May 2013). The Council's own evidence of S.106 planning agreements in recent years does seem to suggest that the costs related to such provision are not uncommon. Indeed, a number of developments include recreation contributions of circa £1000 per dwelling.
36. Although I note the Council's reasons for not including such costs in the substantive modelling, I do think that the evidence suggests that it would have been prudent to include an allowance. However, I am satisfied that, for the reasons I outline above, and the reasonable viability buffers proposed (discussed below), that the council's failure to include S.106 allowances in the modelling does not in itself necessitate a change to the CIL rates.

*The basis for geographical differentiation into three charging zones*

37. The evidence does provide a convincing basis for geographically differentiated charging zones. Put simply, sales values and development viability are much stronger in the south of the county borough than in the north. The key issues for the examination were around the geographical definition of the middle ground of Zone 2 (essentially the 'Tonyrefail issue') and the proposed charges generally. I will explore these issues by reference to each zone.

*Zone 1 - £0 psm*

38. Zone 1 covers all of the NSA and a small area to the west of Tonyrefail. The EVS tested four schemes on actual sites (two brownfield and two greenfield) in this zone. The tested schemes ranged from 30 units up to 150 units. All of the sites generated negative viability results. When expressed as potential CIL rates the results varied from -£23 psm through to -£62 psm, demonstrating the challenging viability in this large part of the county borough. There were no challenges to the boundaries of Zone 1 or to the conclusion reached from the evidence that a £0 CIL rate was justified at the present time.

*Zone 2 - £40 psm and the Tonyrefail Issue*

39. Zone 2 includes the area around Pontypridd and, through the zone changes

set out in the SOM, the area around Tonyrefail. The 2012 EVS tested three sites in these locations. One scheme in the Pontypridd area (30 units on a greenfield site) generated a maximum residual CIL of £58. The other two sites were in the Tonyrefail area and generated residual maximum CIL rates of £39 psm (100 units on a brownfield site) and £68 psm (700 units on a greenfield site).

40. The later modelling in October 2013, adopting some, but not all, of the house builders preferred assumptions, tested notional 50 and 100 units in the Tonyrefail area, generating residual CIL of £82 psm and £76 psm respectively.
41. Through written submissions and through the Hearing, an elected Council member for the Tonyrefail area expressed concerns about the inclusion of the area in Zone 2. It was argued that Tonyrefail sales values were higher than those used in the modelling and that the area should have remained in the higher CIL charge Zone 3, which would secure greater revenues for infrastructure provision, including in the Tonyrefail area.
42. This debate at the Hearing does highlight some of the difficulties in setting charging zones and the Council did concede that there were many potential zoning variants. However, the Council wished to keep its approach simple and that objective accords with the CIL guidance, which advises against over complication. The Council indicated that it had been persuaded by the arguments and evidence that viability in the Tonyrefail area was not as strong as in the area further south. Whilst I acknowledge that there may be instances of higher sales values within the area, reflecting its attractive location, the evidence before me does confirm the Council's view.
43. Indeed, if I look at the results from the various model runs (both on actual sites and notional sites) none of them reach the higher CIL rate of £85 psm proposed in Zone 3. There are three sets of Zone 2 CIL results. First, the 2012 'actual' sites that generated maximum CIL rates of £58, £39 and £68 psm. Second, the 2013 'notional' sites testing that generated maximum CIL rates of £82 and £76. Third, the 2014 notional sites with inflated build costs that generated maximum CIL rates of £68 and £63. Whilst accepting the inconsistencies, in terms of method, time and assumptions that led to these results, the crude average of these seven values is about £65 psm, and that seems to be a reasonable indicator of the viability tone of the area based on the evidence before me.
44. The Council's proposal to set the Zone 2 CIL rate at £40 would allow a comfortable viability buffer. The rate would be about 61.5% of the crude average of the maximum CIL values. Only one of the seven results failed to achieve the CIL rate - this was a 30 unit brownfield 'actual' test site which achieved £39 psm CIL. This alone would not be critical in LDP terms and, in practice, it may be that the LDP policy flexibility around affordable housing on sites where viability is an issue, would come in to play.
45. Overall, I conclude that the Zone 2 boundaries and its associated £40 psm CIL charge are sound and informed by the evidence. However, I do think that

Representors' inputs on these matters have been positive and helpful and have alerted the Council to a need for close monitoring and future review of CIL rates.

### *Zone 3 - £85 psm*

46. Zone 3 in the south of the borough is, without doubt, the area with the strongest sales values and viability, due primarily to its proximity to the M4 and major urban centres. The key examination issues in this zone related, essentially, to the CIL charge rate, including whether that rate might prejudice strategic sites.
47. Again, my examination has wrestled with multiple sources of appraisal evidence. The initial 2012 modelling, with the full policy target 20% affordable housing, showed strong viability on the three tested actual sites with the maximum CIL results of £233, £147 and £116 psm, giving some credence to the Council's original £100 psm CIL charge set out in the DCS. The October 2013 'notional' site modelling, using some of the house builders' preferred assumptions, generated results of £125 and £117. It also included the testing of three strategic sites (in this zone) giving results of £164, £151 and £114 psm. The final set of results (May 2014), with build cost inflation added to the two notional sites, generated £105 and £98 psm.
48. Given the spread of results I do not intend averaging them (as I did with the Zone 2 results). However, a number of key conclusions can be drawn. First, the evidence shows strong viability throughout, with no scheme under or very close to the proposed £85 psm charge. Second, for most schemes viability is comfortably, even substantially, above the proposed CIL charge. Third, the presence of a few results around the £100 psm mark and one of the strategic sites at £114 does confirm to me that the originally proposed £100 psm charge may have been too high. The reduction to £85 psm through the SOM is sound and well founded and, based on the evidence, builds in a good viability buffer throughout.
49. Based on the evidence I conclude that Zone 3 £85 psm CIL charge is sound.

### *Other Residential CIL Matters*

50. I examined the case for treating agricultural workers dwellings differently for CIL purposes but I did not find that evidence supported a different approach for such developments which, in any event, appear to be rare in the borough. I also examined the case for treating developments involving specialist accommodation for elderly people in a different way. However, the additional modelling undertaken by the Council indicated quite strong development viability, able to comfortably sustain the residential CIL charges.

**Are the Commercial CIL charging rates informed by and consistent with the evidence?**

51. The EVS provided clear evidence that certain commercial development types were not currently viable and could not sustain CIL charges. These included all employment type developments (Use Classes B1, B2 and B8) along with developments of residential care and nursing homes, hotels and cinemas. For all of these uses the £0 psm charge listed in the DCS is justified. It was agreed at the Hearing that it would be helpful, for clarity, to list 'all other development' and an associated £0 psm CIL rate on the charging schedule. I have included in my recommendations a minor modification to that effect.

52. I turn now to the three development types where positive CIL charges are proposed.

*Class A1 Retail- £100 psm*

53. The EVS tested three sites, each involving relatively large format shops. The results varied markedly. The two largest stores generated potential maximum CIL rates of over £1000 psm. However, the smallest of the three schemes generated a negative result (-£76). On examination, I was persuaded that the two strongly positive results were the more representative of retail development that may happen in the LDP period, whereas the other was something of an anomaly due to its location and characteristics. In that context I am satisfied that the £100 psm CIL charge is reasonable and would leave significant headroom for the most retail development scenarios.

*Class A3 – Restaurants, Cafés and Drinking Establishments- £25 psm*

54. The Council does not envisage any significant Class A3 development in the plan period. However, its evidence to support a £25 psm CIL charge was unconvincing. It tested just one development – a small restaurant on a brown field site. This generated a maximum CIL of £16 psm, well below the rate actually proposed. At the Hearing, the Council sought to rely on evidence from adjoining authorities where modelling showed stronger results. The Council also explained that its tested site was not in a commercially attractive area.

55. Whilst I am mindful that there is a practical limit to the appraisal testing, particularly for developments that are not likely to be forthcoming in any great quantity, there is nonetheless a need for a prospective Charging Authority to demonstrate that its proposals are sound, informed by evidence and that they would serve a positive purpose. I can only reach conclusions based on the evidence presented and I am unable to speculate on what Class A3 viability may be in other parts of the county borough. I have considered whether the rate could be reduced to a smaller positive charge, but given the very low modelled CIL value and the limited evidence itself, I have concluded that the charge should be deleted i.e. reduced to £0 psm. The Council may choose to

gather evidence and revisit this matter in its first review.

*Class D1 – Primary Healthcare Development - £10 psm*

56. The Council's proposal to introduce a CIL charge on primary healthcare development has some history. The neighbouring authorities of Caerphilly CBC and Merthyr Tydfil CBC had included £60 CIL charges in their DCSs. I jointly examined those proposals in January 2014 and explored the contention and representations (from the health authorities). My conclusion there was that the evidence did not support such a level of charge. The key issue was not so much whether such development can be subject to CIL (as it clearly can) but whether the viability evidence supported the proposed charge.
57. A particular complexity is that the category of development defined under the term 'primary healthcare development' embraced a spectrum of development models. This ranges from the highly commercial (investors building facilities for NHS tenants) to less commercial models (doctors building new or extending existing surgeries).
58. The Council has clearly considered these matters further, along with the further representations submitted directly to it. It proposes, through its SOM, to reduce the charge to £10 psm. In terms of the available evidence before me the Council tested just one site and that generated a strong (£221 psm) CIL value. Whilst that does demonstrate that the charge would be a very small cost burden on the larger 'commercial' variants of development in this category, I have not been provided with any evidence to support the imposition of a charge on the less commercial variants. I am unable to speculate on whether or not a CIL charge, even a seemingly nominal £10 psm, is justified. I am also mindful of the health and deprivation profiles of parts of the borough, which are identified as key issues in the LDP. For all of these reasons, I conclude that the proposed CIL charge would not serve the positive economic effect on development as set out in the CIL Guidance 2014, and may possibly frustrate primary healthcare development in the county borough. I therefore recommend that the charge be reduced to £0 psm. I would add that, if the Council wishes to revisit CIL charges for primary healthcare development, perhaps at its first CIL review, it needs to consider how it can differentiate the types of development and provide suitably fine grain supporting economic viability evidence.

*Other Commercial CIL Matters*

59. Concerns were raised about transitional issues, particularly with regard to a major town centre scheme which was soon to hand over a significant highways contribution under the terms of a S.106 Planning Agreement. The particular concern was of 'double dipping' whereby, if a fresh future planning application was required, CIL may become liable (on top of the already paid S.106 payments). Whilst I do not feel that my examination role can extend to resolve that specific issue, the Hearing did prove to be a useful forum for the

Council and the developer, and the parties are working together to produce a memorandum of understanding on the matter to build confidence on both sides. I commend that process.

### Overall Conclusions

60. The evidence demonstrates that, subject to three recommended modifications, the overall development of the area, as set out in the LDP, will not be put at risk if the proposed CIL charges are applied. In setting the CIL charges the Council has used appropriate and available evidence which has informed assumptions about land and development values and likely costs. The CIL proposals will achieve a reasonable level of income to help address a well evidenced infrastructure funding gap.
61. I conclude that, subject to the modifications set out in Appendix A, the Rhondda Cynon Taf County Borough Council Draft Community Infrastructure Levy Charging Schedule, as modified by its Statement of Modifications, satisfies the requirements of Section 212 of the 2008 Act and meets the criteria for viability in the 2010 Regulations (as amended). I therefore recommend that, subject to my modifications, the Charging Schedule be approved.

<b>LEGAL REQUIREMENTS</b>	
National Policy/Guidance	The Charging Schedule complies with national policy/guidance.
2008 Planning Act and 2010 Regulations (as amended)	The Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, consistency with the adopted Rhondda Cynon Taf Local Development Plan and is supported by an adequate financial appraisal.

*P.J. Staddon*

Examiner

This report is accompanied by Appendix A (attached) – Modification that the Examiner specifies so that the Charging Schedule may be approved.

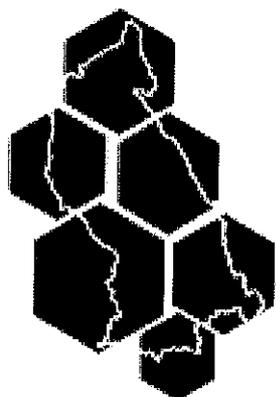
**Appendix A**

Modifications that the Examiner specifies so that the Draft Charging Schedule may be approved.

Note – the modifications are referenced against the Draft Charging Schedule Statement of Modifications dated 27 February 2014.

Modification No.	Modification
EM1	Table 1 Retail (A3) - delete "£25" and replace with "£0"
EM2	Table 1 D1 Primary Healthcare Development - delete "£10" and replace with "£0"
EM3	Table 1 Add "All Other Development Types" in column 1 and "£0" in column 2.





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**Community Infrastructure Levy**

**Charging Schedule**

**31<sup>st</sup> December 2014**  
**(Anticipated Implementation Date)**

**The Charging Schedule**

The Charging and Collecting Authority is Rhondda Cynon Taf County Borough Council

**Date of Approval**

This Charging Schedule was approved by full Council on xxxxxx

**Date on which the Charging Schedule has effect**

This Charging Schedule has effect from 31<sup>st</sup> December 2014 (Anticipated Implementation Date).

**Statutory Compliance**

This CIL Charging Schedule has been issued, approved and published in accordance with Part 11 of the Planning Act 2008 (as amended by Part 6 of the Localism Act 2011), and the Community Infrastructure Levy Regulations 2010 (as amended).

**Rhondda Cynon Taf County Borough Council CIL Rates**

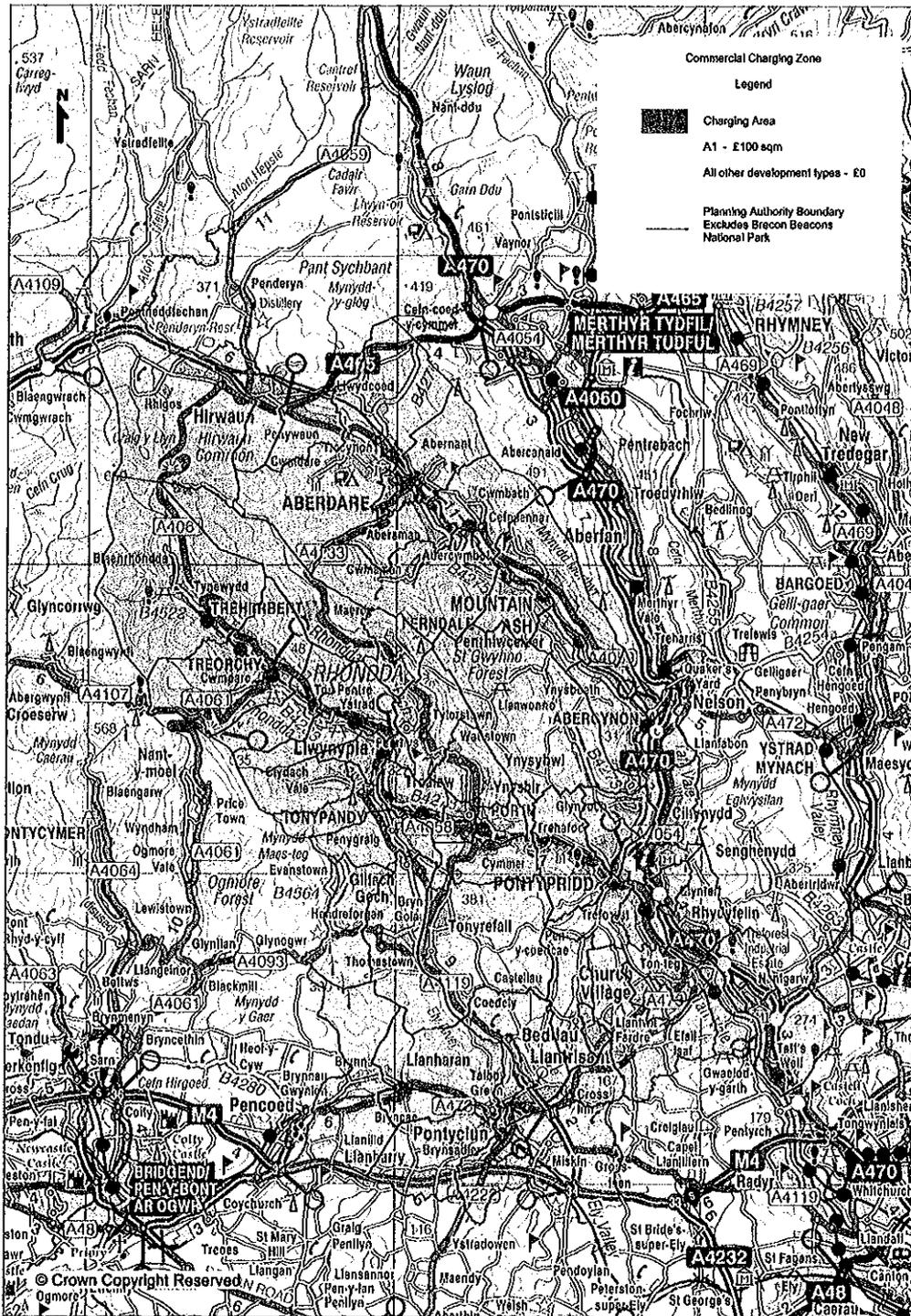
CIL will be charged in pounds sterling (£) at differential rates according to the type of development set out in the schedule below:

<b>Development Type</b>	<b>CIL rate £/sq m</b>
<b>Residential Development</b>	
Residential Zone 1	£0
Residential Zone 2	£40
Residential Zone 3	£85
<b>Commercial Development</b>	
Retail (A1)	£100
<b>All Other Development Types</b>	£0



The Residential Zones 1, 2 and 3 are shown on the Ordnance Survey map extract contained in the CIL Charging Schedule. With the exception of that part of Rhondda Cynon Taf that falls within the boundary of the Brecon Beacons National Park (the responsibility for setting and collecting CIL in this area will rest with the National Park Authority). All wards fall into either Zone 1, 2 or 3; to provide clarity the following table identifies the Zone in which each ward falls.

<b>Charging Zone</b>	<b>Wards Included</b>
Zone 1	Rhigos, Hirwaun, Pen-Y-Waun, Aberdare West/Llwydcoed, Aberdare East, Aberaman North, Aberaman South, Cwmbach, Mountain Ash East, Mountain Ash West, Penrhiwceiber, Abercynon, Ynysybwl, Treherbert, Treorchy, Pentre, Ystrad, Llwynypia, Clydach, Tonypandy, Trealaw, Ynyshir, Tylorstown, Ferndale, Maerdy, Penygraig, Cymmer, Porth, Gilfach Goch
Zone 2	Glyncoch, Cilfynydd, Rhondda, Pontypridd Town, Trallwng, Rhydfelen, Hawthorn, Treforest, Graig, Tonyrefail East, Tonyrefail West
Zone 3	Taffs Well, Pontyclun, Ton-Teg, Church Village, Llantwit Fardre, Tyn-Y-Nant, Beddau, Llantrisant Town, Talbot Green, Llanharry, Llanharan, Brynna



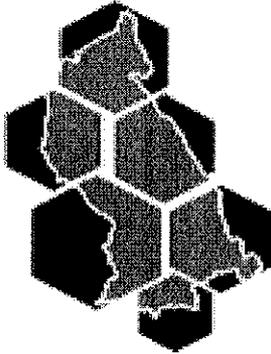
### Calculation of CIL Charge

The CIL charge to be paid by a development will be calculated in accordance with Regulation 40 of the Community Infrastructure Levy Regulations 2010 (as amended) and as may be amended by future regulations from time to time.

As set out in these regulations, CIL charges will be index linked to the Building Cost Information Service (BCIS) All-in Tender Price Index.

### **Further Information**

More detailed information on the application of CIL in Rhondda Cynon Taf is available on the Council's website.



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## **Community Infrastructure Levy**

### **Instalments Policy**

This policy takes effect on 31<sup>st</sup> December 2014

## Preface

Rhondda Cynon Taf County Borough Council formerly approved its Community Infrastructure Levy Charging Schedule (Charging Schedule) on xxxxxxxx.

The Charging Schedule will take effect on 31<sup>st</sup> December 2014 (anticipated implementation date). This means that any planning application that is determined on or after that date will be subject to the provisions of the Charging Schedule.

This document is supplementary to the CIL Charging Schedule and sets out the Instalment Policy that the Council will use in seeking payments of CIL.

### Instalments Policy

In accordance with Regulation 69B of the Community Infrastructure Levy Regulations 2010 (as amended), Rhondda Cynon Taf County Borough Council will allow the payment of CIL by Instalments as set out in the following table. The instalments permitted will be linked to the amount payable (the chargeable amount) as recorded on the Demand Notice.

<b>Amount of CIL Liability</b>	<b>No. of Instalments</b>	<b>Payment period</b>
Amounts up to £50,000	2	<ul style="list-style-type: none"> <li>• 50% within 90 day of the commencement date</li> <li>• 50% within 180 days of the commencement date</li> </ul>
Amounts between £50,001 and £100,000	3	<ul style="list-style-type: none"> <li>• 30% within 90 days of the commencement date</li> <li>• 30% within 180 days of the commencement date</li> <li>• 40% within 270 days of the commencement date</li> </ul>
Amounts between £100,001 and £200,000	4	<ul style="list-style-type: none"> <li>• 25% upon commencement date</li> <li>• 25% within 180 days of the commencement date</li> <li>• 25% within 270 days of the commencement date</li> <li>• 25% within 360 days of the commencement date</li> </ul>
Amounts between £200,001 and £1,000,000	5	<ul style="list-style-type: none"> <li>• 20% upon commencement date</li> <li>• 20% within 180 days of commencement date</li> <li>• 20% within 360 days of commencement date</li> <li>• 20% within 540 days of commencement date</li> <li>• 20% within 720 days of</li> </ul>

		commencement date
Any amount in excess of £1,000,000	5	<ul style="list-style-type: none"> <li>• 20% upon commencement date</li> <li>• 20% within 360 days of commencement date</li> <li>• 20% within 720 days of commencement date</li> <li>• 20% within 1080 days of commencement date</li> <li>• 20% within 1460 days commencement date</li> </ul>

**Notes:**

1. Where an outline planning permission permits development to be implemented in phases, each phase of the development is a separate chargeable development which may be collected in accordance with the instalments policy.
2. Nothing in this Instalments Policy prevents the person with the assumed liability to pay CIL, to pay the outstanding CIL (in whole or part) in advance of the Instalment period set out in this policy.

The Instalments Policy ONLY applies in cases where the person(s) liable for paying CIL have complied with ALL the relevant regulations and requirements.

**CIL Instalments Guidance Notes**

Regulation 70 of the Community Infrastructure Levy 2010 (as amended) sets out the requirements that must be complied with in order to benefit from the CIL Instalments Policy.

The CIL Instalments Policy will only apply in the following circumstances:

1. Where the Council has received a CIL Assumption of Liability form prior to commencement of the chargeable development (Regulation 70(1) (a)); and
2. Where the Council has received a CIL Commencement Notice prior to commencement of the chargeable development (Regulation 70(1) (b)).

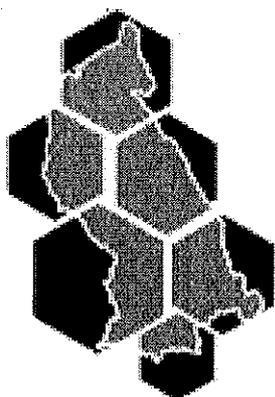
If either of the above requirements are not complied with, the total CIL liability will become payable within 60 days of the commencement of the chargeable development. In addition, surcharges may apply due to the CIL Assumption of Liability Form and/or the CIL Commencement Notice not being submitted to the Council prior to the commencement of the chargeable development.

Once the development has commenced, all CIL payments must be made in accordance with the CIL Instalment Policy. Where a payment is not received in full on or before the day on which it is due, the total CIL liability becomes payable in full immediately (Regulation 70(8)(a)).

#### In Summary

To benefit from the CIL Instalment Policy, the relevant forms must be submitted to the Council prior to commencement of the chargeable development, and all payments must be paid in accordance with the CIL Instalment Policy.





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### Regulation 123 List of Infrastructure

**Takes effect from 31<sup>st</sup> December 2014**  
**(Anticipated implementation date)**

In accordance with the requirement of Community Infrastructure Levy Regulations 2010 (as amended) the following table comprises the Rhondda Cynon Taf CBC Infrastructure List. The list includes the infrastructure the Council considers it is likely to apply Community Infrastructure Levy (CIL) revenue to:

#### **Education Projects including:**

- New Primary School provision to serve the Former Cwm Coking Works and Colliery, Ty Nant;
- New Primary School provision to serve the Land at Mwyndy / Talbot Green;
- New Primary School provision to serve Trane Farm, Tonyrefail, and
- Rebuild / remodel and extend Y Pant Comprehensive School

#### **Transportation Projects including:**

- Signalisation of the A473/Glamorgan Retail Park roundabout;
- A4119/A473 roundabout – further capacity improvements to the A4119 southbound entry to the roundabout;
- Partial signalisation of the A473 Cross Inn roundabout;
- A4119/B4595 signals – provision of direct link between the A4119(n) and the B4595(e), removal of corresponding left turn at the junction and optimisation of the signals;
- Provision of the A473/A4119 Talbot Green to Ynysmaerdy Relief Road;
- A4119/A4093 roundabout, Tonyrefail – partial signalisation, widening of northbound approach, entry and circulatory widths and widening of the A4093 entry;
- A470 Upper Boat junction – signalise the A470 off-slips and associated improvements to the circulatory carriageway and other entry arms.

- A4059/A4233 Tesco roundabout Aberdare – Dualling of A4059 from the Abernant Road roundabout and extension of widening for A4059 southbound approach.

**Please note:**

The Regulation 123 list is not prioritised and projects can be added to the list or removed at the discretion of the Council, subject to appropriate consultation.

The inclusion of a project or type of infrastructure on the list does not signify a commitment from the Council to fund (either in whole or part) the listed project or type of infrastructure. The order of the list does not imply any preference or priority.



## Community Infrastructure Levy (CIL) - Determining whether a Development may be CIL Liable Planning Application Additional Information Requirement form

Following the introduction of the Community Infrastructure Levy (CIL) all applicants for full planning permission, including householder applications and reserved matters following an outline planning permission, and applicants for lawful development certificates are required to provide the following information. **Please read the associated Guidance Notes before you complete the form. Notes on the questions are provided at [http://www.planningportal.gov.uk/uploads/1app/cil\\_guidance.pdf](http://www.planningportal.gov.uk/uploads/1app/cil_guidance.pdf)**

### 1. Application Details

Applicant or Agent Name:

Planning Portal Reference  
(if applicable):

Local authority planning application number  
(if allocated):

Site Address:

Description of development:

Does the application relate to minor material changes to an existing planning permission (is it a Section 73 application)?

Yes

Please enter the application number:

No

If yes, please go to **Question 3**. If no, please continue to **Question 2**.

## 2. Liability for CIL

Council Agenda - 10 December 2014

Does your development include:

a) New build floorspace (including extensions and replacement) of 100 sq ms or above?

Yes  No

b) Proposals for one or more new dwellings either through conversion or new build (except the conversion of a single dwelling house into two or more separate dwellings)?

Yes  No

c) None of the above

Yes  No

If you answered yes to either a), or b) please go to **Question 4**.

If you answered yes to c), please go to **8. Declaration** at the end of the form.

## 3. Applications for Minor Material Changes to an Existing Planning Permission

a) Does this application involve a change in the amount or use of new build floorspace, where the total floorspace, including that previously granted planning permission, is over 100 sq m?

Yes  No

b) Does this application involve a change in the amount of floorspace where one or more new dwellings are proposed, either through conversion or new build (except the conversion of a single dwelling house into two or more separate dwellings)?

Yes  No

If you answered yes to either a), or b) please go to **Question 4**.

If you answered no to both a) and b), please go to **8. Declaration** at the end of the form.

## 4. Exemption or Relief

a) Is the site owned by a charity where the development will be wholly or mainly for charitable purposes, and the development will be either occupied by or under the control of a charitable institution?

Yes  No

b) Does the proposed development include affordable housing which qualifies for mandatory or discretionary Social Housing relief?

Yes  No

If you answered yes to a) or b), please also complete CIL Form 2 – '**Claiming Exemption or Relief**' available from [www.planningportal.gov.uk/cil](http://www.planningportal.gov.uk/cil). You will also need to complete this form if you think you are eligible for discretionary charitable relief offered by the relevant local authority, please check their website for details.

c) Do you wish to claim a self build exemption for a whole new home?

Yes  No

If you have answered yes to c) please also complete a CIL Form SB1-1 - '**Self Build Exemption Claim Form: Part 1**' available from [www.planningportal.gov.uk/cil](http://www.planningportal.gov.uk/cil).

d) Do you wish to claim a self build exemption for a residential annex or extension?

Yes  No

If you have answered yes to d) please also complete CIL Form '**Self Build Annex or Extension Claim Form**' available from [www.planningportal.gov.uk/cil](http://www.planningportal.gov.uk/cil).

## 5. Reserved Matters Applications

Does this application relate to details or reserved matters pursuant to an application that was granted planning permission prior to the introduction of the CIL charge in the relevant local authority area?

Yes  Please enter the application number:

No

If you answered yes, please go to **8. Declaration** at the end of the form.

If you answered no, please continue to complete the form.

## 6. Proposed New Floorspace

Council Agenda - 10 December 2014

a) Does your application involve new **residential floorspace** (including new dwellings, extensions, conversions/changes of use, garages, basements or any other buildings ancillary to residential use)?

N.B. conversion of a single dwelling house into two or more separate dwellings (without extending them) is NOT liable for CIL. If this is the sole purpose of your development proposal, answer 'no' to Question 2b and go straight to the declaration at Question 8.

Yes  No

If yes, please complete the table in section 6c) below, providing the requested information, including the floorspace relating to new dwellings, extensions, conversions, garages or any other buildings ancillary to residential use.

b) Does your application involve new **non-residential floorspace**?

Yes  No

If yes, please complete the table in section 6c) below, using the information provided for Question 18 on your planning application form.

c) Proposed floorspace:

Development type	(i) Existing gross internal floorspace (square metres)	(ii) Gross internal floorspace to be lost by change of use or demolition (square metres)	(iii) Total gross internal floorspace proposed (including change of use, basements, and ancillary buildings) (square metres)	(iv) Net additional gross internal floorspace following development (square metres) (iv) = (iii) - (ii)
Market Housing (if known)				
Social Housing, including shared ownership housing (if known)				
Total residential floorspace				
Total non-residential floorspace				
Total floorspace				

## 7. Existing Buildings

a) How many existing buildings on the site will be retained, demolished or partially demolished as part of the development proposed?

Number of buildings:

b) Please state for each existing building/part of an existing building that is to be retained or demolished, the gross internal floorspace that is to be retained and/or demolished and whether all or part of each building has been in use for a continuous period of at least six months within the past thirty six months. Any existing buildings into which people do not usually go or only go into intermittently for the purposes of inspecting or maintaining plant or machinery, or which were granted temporary planning permission should not be included here, but should be included in the table in question 7c).

	Brief description of existing building/part of existing building to be retained or demolished.	Gross internal area (sq ms) to be retained.	Proposed use of retained floorspace.	Gross internal area (sq ms) to be demolished.	Was the building or part of the building occupied for its lawful use for 6 of the 36 previous months (excluding temporary permissions)?		When was the building last occupied for its lawful use? Please enter the date (dd/mm/yyyy) or tick still in use.
					Yes <input type="checkbox"/>	No <input type="checkbox"/>	
1					Yes <input type="checkbox"/>	No <input type="checkbox"/>	Date: <input type="text"/> or Still in use: <input type="checkbox"/>
2					Yes <input type="checkbox"/>	No <input type="checkbox"/>	Date: <input type="text"/> or Still in use: <input type="checkbox"/>
3					Yes <input type="checkbox"/>	No <input type="checkbox"/>	Date: <input type="text"/> or Still in use: <input type="checkbox"/>
4					Yes <input type="checkbox"/>	No <input type="checkbox"/>	Date: <input type="text"/> or Still in use: <input type="checkbox"/>
Total floorspace							

**7. Existing Buildings continued**

Council Agenda - 10 December 2014

c) Does your proposal include the retention, demolition or partial demolition of any whole buildings **into which people do not usually go or only go into intermittently for the purposes of inspecting or maintaining plant or machinery, or which were granted planning permission for a temporary period?** If yes, please complete the following table:

	Brief description of existing building (as per above description) to be retained or demolished.	Gross internal area (sq ms) to be retained	Proposed use of retained floorspace	Gross internal area (sq ms) to be demolished
1				
2				
3				
4				
Total floorspace into which people do not normally go, only go intermittently to inspect or maintain plant or machinery, or which was granted temporary planning permission				

d) If your development involves the conversion of an existing building, will you be creating a new mezzanine floor within the existing building?

Yes  No

e) If Yes, how much of the gross internal floorspace proposed will be created by the mezzanine floor (sq ms)?

Use	Mezzanine floorspace (sq ms)

**8. Declaration**

Council Agenda - 10 December 2014

I/we confirm that the details given are correct.

Name:

Date (DD/MM/YYYY). Date cannot be pre-application:

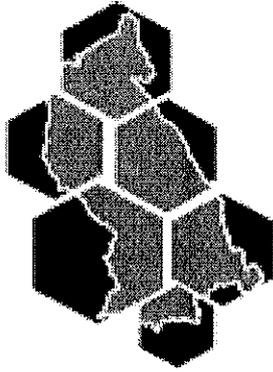
It is an offence for a person to knowingly or recklessly supply information which is false or misleading in a material respect to a collecting or charging authority in response to a requirement under the Community Infrastructure Levy Regulations (2010) as amended (regulation 110, SI 2010/948). A person guilty of an offence under this regulation may face unlimited fines, two years imprisonment, or both.

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For local authority use only

App. No:





rhondda cynon taf

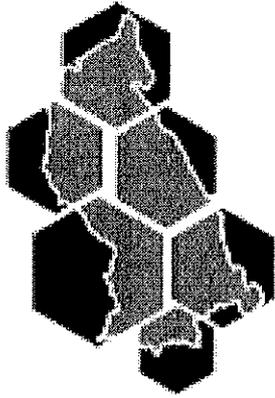
**community infrastructure levy**

*ardoll seilwaith cymunedol*

### **Guidance Note 6: Exceptional Circumstances Relief**

Rhondda Cynon Taf Council is not making available relief for exceptional circumstances; however, this may be subject to a future review





rhondda cynon taf  
**community infrastructure levy**  

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*ardoll seilwaith cymunedol*

**Discretionary Social Housing Relief Policy**

Coming into effect 31<sup>st</sup> December 2014 (anticipated date)

**This document is published in accordance with Regulation 49B of the Community Infrastructure Levy Regulations 2010 (as amended) and gives notification that Discretionary Social (affordable) Housing Relief is available in Rhondda Cynon Taf.**

Note: For the purposes of this policy document social and affordable housing are the same type of housing.

### Introduction

Rhondda Cynon Taf's planning policy on the provision of affordable housing is set out in Policies CS 5, NSA 11 and SSA 12 of the Rhondda Cynon Taf Local Development Plan (LDP) (Adopted March 2011). Supplementary Planning Guidance Affordable Housing (Adopted March 2011) sets out detailed guidance on how the Council will implement the affordable housing policies contained within the Council's LDP.

The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) allows for 100% relief for the development of social housing. The definition of social housing is set out in Regulation 49 (as amended). However, the mandatory relief for social housing as defined by Regulation 49 does not cover all of the types of affordable housing that are covered by the Council's adopted Supplementary Planning Guidance (SPG) on affordable housing, in particular, low cost home ownership dwellings.

The definition of affordable housing as set out in the Council's SPG is:

*Social Rented Housing – provided by local authorities and Registered Social Landlords where rent levels have regard to the Welsh Government's guideline rents and benchmark rents;*

*Intermediate Housing – where prices or rents are above those of social rented housing but below market house prices and rents. This includes low cost home ownership models such as shared equity or assisted purchase schemes.*

In addition, the dwelling must meet the criteria for a qualifying dwelling as defined by Regulation 49A which requires:

*The dwelling is sold for no more than 80% of its market value (where the market value at any time is the price which the dwelling might reasonably be expected to fetch if sold at that time on the open market);*

*The dwelling is sold in accordance with any policy published by the charging authority under regulation 49B (1) (a) (iii); and*

*The liability to pay CIL in relation to the dwelling remains with the person granted discretionary social housing relief.*

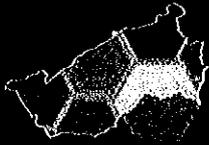
#### Discretionary Social Housing Relief Policy

This document gives notification that discretionary social housing relief is available in Rhondda Cynon Taf in line with the Council's definition of social housing and in accordance with a qualifying dwelling under Regulation 49A. The starting date for such relief will be the CIL implementation date, which is, 31<sup>st</sup> December 2014 (anticipated date).

In order to qualify for relief, the development will need to be subject to a section 106 agreement in line with the requirements of the Council's SPG on Affordable Housing and Planning Obligations. The section 106 agreement will ensure that any relief granted is in accordance with EU State Aid requirements under the EU Block Exemption for Services of a General Economic Interest.

**Please Note: The provision of off-site affordable houses and/or a financial contribution will not be subject to any mandatory or discretionary relief from CIL.**





rhondda cynon taf  
local development plan  
*cynllun datblygu lleol*

Supplementary Planning Guidance:

# Draft Planning Obligations

May 2013



STRONG HERITAGE | STRONG FUTURE  
**RHONDDA CYNON TAF**  
TREFADAETH GADARN | DYFODOL SICR



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## 1. Introduction

- 1.1 New development often impacts upon local services and facilities and can sometimes have a detrimental impact on the environment. Planning obligations are a way to secure measures to enhance the quality of a development and help limit the negative impact development may have on local facilities, services and the environment.
- 1.2 Planning obligations are legally binding agreements entered into between a local authority, a landowner and a developer. The developer is required to provide works, services or a financial contribution to help mitigate the impacts that may arise as a consequence of the development proposed.
- 1.3 The introduction of the Community Infrastructure Levy (CIL) has fundamentally changed the approach to securing planning obligations in England and Wales. Previously the majority of contributions for mitigation were secured through Section 106 planning obligations. Now a significant element of planning contributions for infrastructure will be collected via CIL and the role of Section 106 obligations has reduced.
- 1.4 The aim of this Supplementary Planning Guidance (SPG) is to clarify what types of obligations developers may be expected to enter into, their content and the trigger points at which different obligations will become 'active'. The SPG will form the basis of negotiations between all parties.

## 2. Policy Context

### National Policy

2.1 The legislative basis for planning obligations is set out in Section 106 of the Town and Country Planning Act 1990 (as amended). Policy guidance is provided by Planning Policy Wales and Circular 13/97 'Planning Obligations'.

### Circular 13/97

- 2.2 Circular 13/97 (Planning Obligations) sets out the following tests for the use of planning obligations:
- any obligation must be necessary to make the proposed development acceptable in planning terms;
  - the obligation must be relevant to planning;
  - the obligation must be directly related to the proposed development;
  - obligations must be fairly and reasonably related in scale and kind to the proposed development;
  - obligations must be reasonable in all other respects.

**Community Infrastructure Levy (CIL)**

2.3 The CIL Regulations came into force in April 2010. The regulations allow local authorities in England and Wales to raise funds for infrastructure from new development. The money raised from the levy must be used to fund infrastructure to support the development of the local authority's area. Infrastructure includes roads and transport projects, flood defences, schools, recreational provision and open spaces.

2.4 CIL applies to new residential and certain types of commercial development. Charges are based on the size and type of the new development. The Council's CIL Charging Schedule can be viewed online and sets out how CIL operates and the rates at which it is charged. Section 3 of this Supplementary Planning Guidance sets out in more detail the interaction between CIL and planning obligations.

2.5 Regulation 122 of the CIL Regulations (as amended) brings into law the tests to be applied to the use of planning obligations and states that planning obligations may only constitute a reason for granting planning permission where they are:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

**Planning Policy Wales**

2.6 Planning Policy Wales supports the use of planning obligations. It recognises that they are useful to help overcome obstacles which may otherwise prevent planning permission from being granted; may be used to offset the negative consequences of development; help meet local needs; and help secure benefits which will make development more sustainable.

**Local Development Plan 2006 - 2021**

2.7 The Local Development Plan is the framework against which development proposals are considered. It sets out where new development will be acceptable and how planning applications will be determined. Policy AW4 sets out the Council's position on securing community infrastructure and planning obligations.

**Policy AW 4 Community Infrastructure & Planning Obligations**

Planning obligations may be sought where development proposals require the provision of new, improved or rely on existing services, facilities, infrastructure and related works to make the proposal acceptable in land use planning terms. Contributions may be sought in respect of:

1. Affordable housing;
2. Physical infrastructure works;
3. Open space, sport / play space and access to natural green space;
4. Educational facilities;
5. Recreational and leisure facilities;
6. Management of Strategic Transport Corridors;
7. Public transport facilities and services;
8. Travel plan initiatives;
9. Highway infrastructure works;
10. Walking and cycling schemes;
11. Waste management and recycling;
12. Renewable energy and energy efficiency initiatives;
13. Environmental and landscape improvements;
14. Nature conservation;
15. Public Art;
16. Culture and community facilities; and
17. Any other contribution the Council considers appropriate to the development.

## 3. Planning Obligations: General Guidance

### Background

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

- Planning conditions
- Planning obligations e.g. Section 106 Agreements
- Community Infrastructure Levy

3.2 The need for planning obligations is assessed against the issues arising from each site and project, whereas CIL is collected through a fixed sum and is non-negotiable.

### Supplementary Planning Guidance

#### Section 106 Agreements & CIL

- 3.3 Planning obligations are a tried and tested mechanism to ensure developments mitigate against the demand on infrastructure they create.
- 3.4 Planning obligations can take a number of forms including one off or phased payments; payment in kind such as the provision of land; pooled contributions; and can be provided through a formal agreement with the Council or by a unilateral undertaking which is only signed by the parties giving the obligations.
- 3.5 Planning obligations run with the land in perpetuity and may be enforced against the original parties or anyone else that acquires an interest in the land, until such time as they are discharged or otherwise modified.
- 3.6 Infrastructure to be funded through CIL (identified on the Council's Infrastructure List) cannot be secured through planning obligations. The CIL Regulations state that no more than five separate planning obligations (secured since April 2010) can be used to fund one infrastructure project.
- 3.7 The provision of affordable housing lies outside of the remit of CIL and will continue to be secured through planning obligations. Planning obligations will also be used for local infrastructure requirements, such as site specific local provision of open space and landscaping, habitat protection, access arrangements and for securing education contributions in the Northern Strategy Area.

**Planning Obligations**

- 3.11 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.
- 3.12 Following the viability assessment, the Council will need to make a judgement as to whether a development would still be acceptable with a reduced level of contributions, or wait until development values improve, land values can be renegotiated or alternative funding sources are available.

**Section 106 Agreement Review Mechanism**

- 3.13 Where a planning obligations package is agreed below the requirements of this SPG and there is an expectation that a site will be delivered over several years or where development does not commence for a number of years, a review of the viability of the scheme will be incorporated into the Section 106 agreement. The review will be triggered by the reaching of phases of a scheme or to a specified timetable and will be the basis for re-negotiating planning obligation requirements for the remainder of the development.
- 3.14 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 re-negotiation of planning obligations could unlock a site whilst still delivering an acceptable form of development.

**Developer Viability Assessment**

- 3.8 Whilst the payment of the CIL charge is mandatory, planning obligations remain open to negotiation. 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. 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.
- 3.9 A comprehensive, open book viability 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 planning application. Appendix B sets out the information required to support a viability appraisal. 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.
- 3.10 The Council expects that the costs of both CIL and planning obligations should be reflected in the price paid for land. These costs will include affordable housing, site clearance and remediation, good quality design, landscaping and ecology, noise and other environmental attenuation measures and appropriate infrastructure provision.

### Outline Planning Permission

- 3.15 At outline planning application stage, it is possible that developers will not be able to provide exact details relating to the size and mix of the development. In negotiation with the developer, planning obligation requirements will be set using the predicted dwelling mix, floor space, etc for that particular site.

### Subdivision of Sites

- 3.16 Sites should not be subdivided or phased so that the requirements of this SPG cannot be met. Where the Council considers a site has been artificially limited or subdivided (whether intentionally or not) the relevant planning obligation requirements will be considered for the composite or naturally defined larger site. For example in the northern strategy area, where affordable housing contributions are sought on developments of 10 units or more, it would not be appropriate for a 1 hectare site capable of accommodating 30 units, to be developed in three parcels of 9 dwellings and avoid any contribution to affordable housing.

### Cumulative Impact of Development

- 3.17 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. In cases where obligations are pooled, a clear audit trail will be established between the contributions made and the infrastructure provided to ensure transparency of the process to the public and developers. Pooling of contributions will be undertaken fully in accordance the CIL Regulations.

### Administration, Monitoring and Legal Costs

- 3.18 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.

- 3.19 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. If a unilateral undertaking is provided the Council will not be bound by the terms of the undertaking but will be able to enforce the obligations against the parties to the undertaking.

### Maintenance Costs

- 3.20 Some infrastructure like green spaces, sports facilities and public art may require maintenance so that they retain their quality in the long term. Maintenance regimes will usually be secured through adoption agreements between the developer and a suitable organisation, for example roads with the highways authority, sewers with the utility provider; and amenity open space with the Council or a suitable private contractor.

Planning Obligations

3.21 Maintenance can be provided in two ways:

- By the Council (or Community Council): Developers are encouraged to discuss this at pre-application stage. Where agreed, the developer should undertake the maintenance for 12 months, to an agreed design and specification before the infrastructure can be transferred, in perpetuity, and at nil cost to the Council. The Council will then adopt the infrastructure and have responsibility for its maintenance, repair and replacement. The developer will be expected to provide a one-off payment for maintenance prior to completion of the transfer, equivalent to the cost of maintaining the new infrastructure for 30 years. For transport structures the period is 120 years.

- By a management company: Where the developer wishes to make alternative maintenance arrangements they must ensure that the infrastructure remains in the agreed use, with public access and in perpetuity. Developers are encouraged to consider the use of a management company for future maintenance. In such circumstances appropriate conditions or a Section 106 agreement will be used to ensure an area/facility remains in the agreed use and a management plan is drawn up and agreed with the Council to ensure the area/facility is suitably maintained. Management companies are not appropriate in all instances (e.g. highway infrastructure) and developers are advised to discuss this issue with the Council.

3.22 Developers may also be required to provide financial security so that the asset that is provided is still maintained should the developer default in any way or should a management company cease to operate. This could take the form of a formal bond entered into with an approved surety, or a cash deposit held by the Council.

3.23 Where obligations are not met the Council may pursue any legal means available to ensure that the obligations contained within the Section 106 agreement are delivered.

**Monitoring and Review**

3.24 All planning obligation payments will be index linked from the date of the agreement. Any increase in the national All-in Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors will result in an equivalent increase in the value of financial contributions and the figure for a given year is the figure for 1st November of the preceding year (as is the case with the Community Infrastructure Levy). In the event that the All-in Tender Price Index ceases to be published, the index to be used will be the construction prices index; and the figure for a given year is the figure for November of the preceding year.

## 4. Planning Obligations: Contributions Framework

### Introduction

4.1 As explained earlier, in addition to a CIL charge which will be levied against all new development identified in the Council's Charging Schedule, there will be cases where planning contributions will still be secured through Section 106 agreements. This chapter identifies the main service areas where planning obligations will be secured and how they will be secured.

### Summary

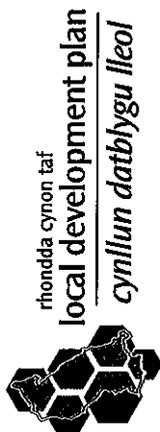
Affordable Housing	
CIL	S106
	Provision secured through S106 only
Education	
CIL	S106
New schools and expanded provision	New schools and expanded provision
Transport	
CIL	S106
Strategic Transport Improvements identified on Infrastructure List	On-site / directly related
Outdoor Recreation	
CIL	S106
	On-site provision / directly related
Environment Landscape Biodiversity	
CIL	S106
	On-site provision / directly related

Planning Obligations

**AFFORDABLE HOUSING**

- 4.2 The definition of 'affordable housing' for the purpose of the land use planning system is housing where there are secure mechanisms in place to ensure that it is accessible to those who cannot afford market housing, both on first occupation and for subsequent occupiers. Detailed Guidance on the Council's Affordable Housing framework is set out in the Affordable Housing SPG.
- 4.3 In the Northern Strategy Area the provision of at least 10% affordable housing will be sought on sites of 10 units or more. In the Southern Strategy Area the provision of 20% affordable housing will be sought on sites of 5 units or more.
- 4.4 The provision of affordable housing through planning obligations may involve either the provision of units on-site or contributions to be spent off-site.
- 4.5 Off-site contributions can be used for the following:
  - Delivery of "Homebuy" loans via the Council's low cost home ownership scheme, "Homestep" through a partner housing association;
  - Delivery of Mortgage Rescue;
  - To enable the purchase and refurbishment of long term empty properties by a Registered Social Landlord (RSL) for affordable housing;
  - To top up any existing Social Housing Grant Scheme or match fund any other scheme to maximise their delivery;
  - Development of supported or adapted housing;

- Purchase of land for affordable housing;
  - Any other method identified strategically that will increase the supply of affordable housing in the County Borough.
- 4.6 Where a financial contribution in lieu of on-site provision is appropriate, the contribution should be calculated according to the formula set out below. This is based on two assumptions. Firstly, that the developer's contribution for Social Rented properties should be equivalent to the Social Housing Grant that would be required to develop an RSL new-build scheme of the same proportions, quality standards and type that would have otherwise been expected on-site. Secondly, that the developer's contribution for Low Cost Home Ownership or Intermediate Rented properties should be equivalent to a percentage of the Open Market Value considered affordable by the Council in the local area.



Supplementary Planning Guidance

**(ACG or OMOV £ per unit) x (% SHG or %OMV) x N = £Financial Contribution**

**ACG** – Acceptable Cost Guidance per dwelling of Social Housing, related to dwelling type and occupancy (e.g. 3-bed 5-person house) for different cost bands in Wales, being the current ACG guidelines published by the Welsh Government.

**OMV** – Open Market Value per dwelling relating to the dwelling type and size in the local area and otherwise equivalent to the same quality standards and type that would have otherwise been expected on-site

**% SHG** – Social Housing Grant rate for social rented properties. This is normally expressed as the total proportion of the actual scheme costs that will be funded by WG and is determined in accordance with the grant procedures as published and updated by WG's Housing Directorate (currently 58% for social rent).

**% OMOV** – Discounted Open Market Value rate for Low Cost Home Ownership or Intermediate Rented properties, set at a level considered affordable by the Council in the local area

**N** – Number of units required were provision to be on site

4.7 The following types of residential units are exempt from affordable housing contributions:

- Sheltered housing;
- Care homes, rest homes and nursing homes;
- Hostels;
- Houses in Multiple Occupation (HMOs);
- Student accommodation (including residential schools, colleges or training centres).

4.8 Detailed Guidance on the type, tenure and provision of affordable housing can be found in the Affordable Housing SPG.

**Affordable Housing and CIL**

4.9 Affordable housing is excluded from CIL and will be secured through Section 106 agreements only. Should this position change, the Council will review this guidance.

**EDUCATIONAL FACILITIES**

4.10 Education infrastructure is an integral component of balanced, sustainable communities. It is essential that where new development creates a requirement for additional school places and there is insufficient capacity in local schools to accommodate this additional demand, new provision is provided through:-

- building of new schools;
- extending existing schools; and/or
- improving and refurbishing existing schools.

Planning Obligations

- 4.11 The Council will use money secured through both CIL and Section 106 obligations to provide new educational provision. On large scale sites it may be necessary to provide schools directly on site to meet the needs of the development.
- 4.12 Education obligations will apply to residential developments only and will be required from all developments containing or reasonably expected to generate 10 or more eligible units. Obligations will only be required where the development will result in the generation of additional pupil numbers in excess of that which the local school can accommodate.
- 4.13 This must be calculated separately for each type of educational provision as follows:

**Primary (Nursery - Year 6, Ages 3 – 11)**

**Secondary (Years 7–13, Ages 11 – 18)**

- 4.14 School capacities are calculated by the Council in accordance with the Welsh Government Guidance, Measuring the Capacity of Schools in Wales.

- 4.15 The following types of residential units are exempt from education obligations:

- One bedroom dwellings and studio flats;
- Sheltered / elderly person housing;
- Care homes, rest homes and nursing homes;
- Hostels;
- Student accommodation (including residential schools, colleges and training centres).

**Education Contributions and the CIL Charging Zones**

- 4.16 The Council's approach to funding educational provision is different in the part of the County Borough covered by the Zone 1 Residential CIL Charging Zone and Zones 2 and 3.
- 4.17 In the Northern Strategy Area / CIL Residential Zone 1 where a development creates the need for educational capacity, contributions towards additional capacity to meet this demand will be sought through Section 106 obligations.
- 4.18 In the Southern Strategy Area / CIL Residential Zones 2 and 3 educational projects necessary to support growth will be funded through CIL and the Council will not seek financial contributions towards education capacity improvements via Section 106 agreements.

**Calculating the Section 106 Contribution**

- 4.19 Pupil yield is the number of pupil spaces that are generated from a development. There is no recognised National Policy, or legislation governing how pupil yield from a housing development is generated.

- 4.20 In Rhondda Cynon Taf, for Primary schools a calculation of 3.94 pupils per year group per 100 houses built is used (there are 8 year groups in the Primary school, nursery to year 6). This gives a yield of 32 children per 100 eligible dwellings (or 0.32 per house), which would normally be equivalent to one classroom. The Secondary school yield figure is 3.84 pupils per year group. There are 7-year groups in Secondary Education. Pupil yield equates to 27 pupils per 100 eligible houses or 0.27 per house. The standards used to assess education provision requirements are therefore as follows:-

<b>Primary education</b>	<b>32 spaces per 100 eligible dwellings</b>
<b>Secondary education</b>	<b>27 spaces per 100 eligible dwellings</b>

**Primary Education** £12,257 per place  
**Secondary Education** £18,469 per place

4.26 These costs exclude ICT equipment, furniture, site abnormalities, site acquisition costs, external works, surveys, fees and VAT.

**Example**

Development Proposal: 50 dwellings (comprising 20 No. three bedroom, 20 No. two bedroom and 10 No. one bedroom units). Consequently, there are 40 eligible units.

The requirement would therefore be as follows:

Primary Education:  $(40/100) \times 32 = 12.8 = 13$  spaces  
 Secondary Education:  $(40/100) \times 27 = 10.8 = 11$  spaces

Assessment by the Local Education Authority shows that there are sufficient spaces in local primary schools, but only 5 spaces in local secondary schools. The contribution would therefore be calculated as follows, using current costs:

Primary Education = £0  
 Secondary Education  $(11 - 5) \times £18,469 = £110,814$

The total education facilities contribution would therefore be:

**£110,814**

(Note: This contribution will be subject to index linking. For the avoidance of doubt, where pupil yield is calculated to a decimal place, yields from 0.1 to 0.49 will be rounded down and yields 0.50 and above will be rounded up e.g. forecasted pupil yield 15.3 = 15 pupils; forecasted pupil yield 22.7 = 23 pupils).



4.21 Both these yields are derived from the Audit Commission document 'Trading Places' (1997). Work undertaken by the Council's Education and Lifelong Learning Department demonstrates that the actual yield arising on completed developments in recent years, has exceeded the forecasted pupil yield.

**New School Provision**

- 4.22 New schools will be required on:-
- a. the allocated sites in the LDP which identify the requirement to provide a new school; and
  - b. where the pupil yield from a development would exceed:-
    - a. Primary School – 240 children
    - b. Secondary School – 720 children

4.23 The cost of the provision is dependent on individual circumstances and will vary in each case. The Council's Education and Lifelong Learning Department will advise on the relevant costs.

**School Capacity Extensions**

4.24 Where a development generates a pupil yield and there is insufficient capacity in the local school to accommodate the number of pupils arising, the Council will identify and cost the capacity extension requirements and seek contributions from developers to meet this cost.

4.25 To help establish the cost of providing additional educational facilities, the Council will use data originally published by the Department for Children, Schools and Families (now replaced by The Department for Education). These are the most up to date figures available. The Council recognises that in order to ensure accuracy, these figures will need to be kept under review and subject to regular update. The most recently published costs are shown for illustrative purposes:

**Welsh Medium Provision**

4.27 In calculating the level of contribution required from developers, the Council will assess the capacity of both English and Welsh schools. The average split in Rhondda Cynon Taf in recent years has been 80% of new entrants into school being English medium and 20% into Welsh. There are however deviations from this figure and in some areas the percentage splits are higher and in others lower. The Council can evidence these variations on request and each case is dealt with on a case-by-case basis.

**TRANSPORT**

4.28 Obligations in respect of transport infrastructure will be required where there is a need to improve existing, or construct new highway infrastructure in order to access development in a safe and appropriate manner. Planning obligations for new transportation infrastructure may potentially be applied to any form of development irrespective of its scale.

4.29 Most developments generate travel movements and they should provide any necessary transport improvements to cope with these movements or mitigate impacts. Any necessary alterations to the transport network within or in the vicinity of new development will be expected to be incorporated within the proposal. Permission will be refused if an appropriate solution cannot be found.

4.30 New developments (which include redevelopment, conversion and new build) also have wider impacts and may increase the demands on the transport network that at certain times already operates above capacity. Traffic problems include congestion, road safety and the impact of additional traffic on other (especially vulnerable) highway users. New development also increases the need to improve transport alternatives such as walking, cycling and public transport and further investment may be

required to make these modes more attractive. Specific transport related infrastructure may be secured through Section 106 agreements to address localised impacts. This will be particularly relevant to developments that are larger in scale or are associated with intensive patterns of traffic and parking demand.

4.31 Examples may include junction improvements, a new bus service or traffic signal improvements. Agreement with the highway authority on the timescales for providing such infrastructure will also be sought. Appendix A provides information on fulfilling highway obligations.

**CIL, Section 106 and Conditions**

4.32 The Infrastructure List identifies the strategic transport projects that will be funded through CIL. In addition to funding the direct provision of infrastructure, an element of CIL may be used to undertake modelling to facilitate and prioritise spending. It is important to note that CIL is not intended to directly mitigate the impact of individual developments. CIL will be used to fund strategic projects. Localised impact will be addressed via Section 106 contributions, obligations or conditions.

4.33 Transport assessments are required to assess the impact of any additional traffic on the highway network as a direct result of the proposed development. Section 106 contributions, obligations or conditions can still be used to mitigate the impact of new development (including redevelopment and change of use) on the highway network. It should be noted that in addition to mitigating the direct impact of new development on the highway network, developers will still be required to make payment under the CIL regime where it is applicable.

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4.34 Through the pre-application and application process, the Council will work with developers to ensure the Council's standards and requirements are incorporated into the design of schemes. In order to allow a speedier decision making process, the Council will look to secure the provision of infrastructure through conditions, including negatively worded conditions whenever it is appropriate to do so.

**Transport Assessments**

4.35 In order to understand the impact of larger development proposals on the highway network, key access points, public transport, and cycling and walking infrastructure, the Council will require a transport assessment to be undertaken.

88 4.36 A Transport Assessment (TA) will be the tool for assessing the impact and understanding what mitigation will be required to make the development acceptable in transport terms.

4.37 Transport Assessments will be required in the following cases:

	Land Use
Food retail	>1,000m <sup>2</sup> gross floor area
Non-food retail	>1,000m <sup>2</sup> gross floor area
Cinemas and conference facilities	>1,000m <sup>2</sup> gross floor area
Community / leisure facilities	>1,000m <sup>2</sup> gross floor area
Business	>2,500m <sup>2</sup> gross floor area
Industry	>5,000m <sup>2</sup> gross floor area
Distribution and warehousing	>10,000m <sup>2</sup> gross floor area
Hospitals	>2,500m <sup>2</sup> gross floor area
Higher and further education	>2,500m <sup>2</sup> gross floor area
Schools	All new schools
Stadia	>1,500 seats
Housing	>100 dwellings
Hotels	>1,000m <sup>2</sup> gross floor area

4.38 In certain circumstances the Council will require, a review of TA assumptions (e.g. trip generation and traffic distribution) to be undertaken 1 year after substantial occupation (completion of 75% of the units/development) through a planning obligation. The obligation may also require a financial bond, should subsequent transport related improvements be necessary as an outcome. The review would be based on forecast traffic generation versus observed traffic generation.

Planning Obligations

- 4.39 The extent of the Transport Assessments will be considered on a site by site basis and subject to agreement with the Council. Planning obligations may be required in respect of:
- Highway improvements;
  - Integrated transport measures; and
  - Travel plan initiatives.
- 4.40 Where it is considered that the impact of a development may extend to the trunk road (including motorway) network, early discussions with the Welsh Government are strongly advised. The Welsh Government may require obligations in addition to those of the Council.
- 4.41 Highway measures are site specific and will be assessed on a case-by-case basis. Examples include:
- Junction upgrades / signalisation of junctions;
  - Highway / transport infrastructure;
  - Dedication of land for future infrastructure & public realm improvements;
  - Minor works including modifications to waiting / parking restrictions;
  - Traffic management schemes.
- 4.42 If it is agreed with the Council that highway measures require the introduction of new, or the amendment of existing, Traffic Regulation Orders a fee will be required to cover the Council's costs. The level of this cost is regularly updated by the Council. In most instances, the requirement will be for the developer to implement the agreed highway works, which will then be adopted by the Council once they are in adoptable condition. The arrangements for this are summarised in Appendix A.
- 4.43 Integrated transport measures are likely to be packaged with highway and travel plan initiatives to create an overall solution for addressing travel and movement issues. The identification of a requirement for an integrated transport obligation may reduce road traffic levels and consequently highway improvements may occur. Examples of integrated transport solutions include:
- Funding of improved public transport facilities where a development generating significant levels of trips is proposed on or near a bus route / railway station. The improvements could include improvements to the bus stop / railway station or the street environment within which the bus stop / railway station is located;
  - Funding of additional or improved bus services linking the development with local facilities;
  - Funding the provision and / or continued promotion of public transport information and ticketing availability;
  - Funding of pedestrian and cycle routes that go near to the site and make it easier to access the site (including secure cycle parking and enhancement of statutory Rights of Way);
  - Funding of mitigation measures (including the provision of off-site car parks) where this complements local strategies;
  - Funding towards the cost of a car club, where a residential development that proposes little or no off-street parking is located in an area where there is limited on-street availability;
  - Funding towards the cost of long stay coach parking from developments that are expected to generate significant levels of coach borne visitors.



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4.44 The requirements for Travel Plans and travel plan initiatives are set out in the Council's Access, Circulation and Parking Requirements SPG and their implementation will be required through conditions or planning obligations, depending on the circumstances.

4.45 The continued implementation and adherence to the Travel Plan is a key tool in encouraging modal shift and reducing single occupancy journeys. A financial penalty (which would be specified in a planning obligation) may be imposed where the modal split targets of the Travel Plan are not achieved. This is most likely to be imposed in cases where reductions in traffic generation from a proposed development have been assumed in a transport assessment, based upon the estimated success of a travel plan. A sliding scale of penalty payments will be applied in accordance with the table below:-

Deviation from modal split targets for single occupancy vehicles	Penalty payment
0 to +3%	£0
3% +	£376 x Trip (single occupancy vehicle trip)

4.46 Any financial income received from Travel Plan penalties would be used to improve the effectiveness of the Travel Plan, public transport, walking and cycling facilities and/or be allocated to the CIL pot. The figures relate to current costs and will be subject to an annual review based on the Road Construction Price Index.

4.47 Where all reasonable steps have been taken to ensure the successful implementation of the agreed Travel Plan initiatives and the anticipated road traffic reduction has not been achieved (and where the original targets are considered to have been realistic), the Council will consider reducing or waiving the penalty. The Council will consider the reasons for the failure to achieve the anticipated targets, particularly where it is demonstrated that the reasons for the failure were beyond the reasonable control of the developer.

**OUTDOOR RECREATIONAL FACILITIES**

4.48 Planning obligations in respect of recreation facilities will apply to residential developments and will be required on all developments containing, or expected to generate, 10 or more eligible units.

4.49 The following types of residential units are exempt from recreational obligations:

- Care homes, rest homes and nursing homes;
- Hostels

**Planning Obligations**

**On-Site Facilities**

4.52 Using the Fields in Trust (FIT) benchmark standards' which are set out in Annex C of Technical Advice Note (TAN) 16, the required amount of open, play and outdoor space is as follows:

4.50 The Council will secure the provision of on-site facilities via design/conditions and Section 106 agreements.

4.51 The outdoor play requirements for a development will be calculated by working out the potential population of a development using the table below:

Occupancy Levels	
Household Type	Average Occupancy
1 bed flat	1.5 persons
2 bed flat	2 persons
3 bed flat	2.5 persons
1 bed house	1.5 persons
2 bed house	2 persons
3 bed house	3 persons
4+ bed house	4 persons

Designated playing spaces, including equipped playing space		2500m <sup>2</sup> per 1000 people	2.5m <sup>2</sup> per person
Plus			
Informal playing space	5500m <sup>2</sup> per 1000 people		5.5m <sup>2</sup> per person
Equals			
Total children's playing space	8000m <sup>2</sup> per 1000 people		8m <sup>2</sup> per person
Sports pitches		12000m <sup>2</sup> per 1000 people	12m <sup>2</sup> per person
Plus			
Other outdoor sport	4000m <sup>2</sup> per 1000 people		4m <sup>2</sup> per person
Equals			
Total outdoor sport	16000m <sup>2</sup> per 1000 people		16m <sup>2</sup> per person

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4.53 The estimated development population can then be assessed against the FIT benchmark standards to calculate the amount of outdoor play space relevant to the development.

**Example**

A development of 100 houses (50 x 2-bed and 50 x 3-bed) would lead to an estimated development population of 250 people ( $50 \times 2 = 100 + 50 \times 3 = 150$ ). The total amount of outdoor play space required would be 2000m<sup>2</sup> (0.2ha) and would be split between the 2 types of outdoor play space as follows:

Equipped area	625m <sup>2</sup> (250 X 2.5m <sup>2</sup> )
Informal play area	1375m <sup>2</sup> (250 X 5.5m <sup>2</sup> )
<b>Total</b>	<b>2000m<sup>2</sup></b>

In addition 4,000m<sup>2</sup> (0.4ha) of outdoor sport space would be required:

Outdoor sport	4000m <sup>2</sup> (250 X 16m <sup>2</sup> )
<b>Total</b>	<b>4000m<sup>2</sup></b>

This would give a total of 6,000m<sup>2</sup> for play and sport.

- 4.54 The type of equipped provision will be considered on a site by site basis. The Council will use best practice regarding the type, size, location and design of play space including the guidance published by the Fields in Trust, when considering provision.
- 4.55 When on-site provision is agreed, an additional maintenance payment covering a period of 30 years, payable upon adoption, will be required. The level of maintenance payments are regularly updated by the Council in accordance with current Council contracts. The Council can provide details of the latest rates. Developers also have the option of retaining ownership of the land and ensuring the future maintenance of the land via a private land management body rather than through the Council. In accordance with paragraph 3.22 of this SPG, in some circumstances the Council may also require the provision of a financial security.

**Off-Site Facilities**

- 4.56 In some circumstances, it may be acceptable for outdoor recreational facilities to be provided wholly or in part off-site. The Council would need to be satisfied that residents of the new development would not be disadvantaged by the provision of facilities off-site and that there was a direct relationship between the development site and the land where the facilities were to be provided. In considering appropriate off-site provision, the same standards for on-site provision and maintenance will apply.
- 4.57 If facilities exist in the locality and these can be extended and/or upgraded to meet the needs arising from new development, the Council will consider this option with a developer and agree an appropriate contribution.
- 4.58 Where appropriate the Council will consider pooling up to five Section 106 contributions to provide facilities that can serve more than one development site.

Planning Obligations

**ENVIRONMENT, LANDSCAPE, BIODIVERSITY AND PUBLIC HEALTH**

- 4.59 Any type of development, irrespective of size, has the potential to impact upon the landscape, environment or biodiversity and consequently there is no size of proposal below which an obligation will not be required.
- 4.60 In principle, it is preferable for all impacts to be avoided or mitigated (see the Nature Conservation SPG). However, where this is not possible, effects should be compensated by the enhancement and / or creation of features of a comparable scale and nature to that which is being lost or is having its integrity compromised. Such assessment can only be considered on a case by case basis and as such, the requirement for each development will be considered individually.
- 4.61 In general, obligations will be employed where mitigation, enhancement or compensation require a long term or complex commitment or where a financial contribution and / or transfer of land is required. In addition, obligations will be used to secure long term management and monitoring of schemes.
- 4.62 Examples of how planning obligations can be used include:
- Restrict development in sensitive areas so as not to harm existing features;
  - Secure the works necessary to enhance existing features;
  - Ensure the necessary works to create new features are carried out;
  - Secure contribution to landscape or conservation assets nearby and /or access thereto;
  - Secure maintenance and monitoring to ensure that environmental gain is delivered.

- 4.63 The Council will consider adopting land offered to it where at least one of the following criteria is met:
- Sites of Importance for Nature Conservation or supporting features of particular local biodiversity significance;
  - Sites supporting Tree Preservation Orders (in particular Woodland) or strategically important woodland;
  - Sites of strategic visual and amenity value to the community;
  - Sites supporting features of particular historical or archaeological interest.
  - Regionally Important Geological Site (RIGS)
- 4.64 Where the Council decides that the adoption of land is appropriate, this will not negate the need for maintenance and monitoring contributions. In accordance with paragraph 3.22 of this SPG, in some circumstances the Council may also require the provision of a financial security.
- 4.65 In respect of public health considerations, obligations may be required where appropriate to mitigate impacts. Specific examples are as follows, although this list is not exhaustive:
- Secure maintenance and monitoring to ensure that public health gain is delivered;
  - Secure improvements to the existing highway network to alleviate air quality impacts of the development;
  - Secure improvements in public transport with the aim to reduce traffic emissions to offset any impact on air quality from the development;
  - Secure improvements to mitigate the impact of noise of existing infrastructure on neighbouring developments;
  - Monitoring equipment which would improve the Council's understanding of the impact of air quality on the community.

### Other planning obligations

- 4.66 Other infrastructure and services such as libraries, environmental enhancements, public art, waste management and archaeology that will need direct mitigation and/or contribute to sustainable communities will be assessed and negotiated on a case by case basis.
- 4.67 Obligations may be secured to ensure provision is made directly or an appropriate off-site contribution may be secured.

## 5. Further Information

### Regeneration and Planning Development Control

Sardis House, Sardis Road,  
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Tel: 01443 494700

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Email: [Planningservices@rctcbc.gov.uk](mailto:Planningservices@rctcbc.gov.uk)

For advice on planning policy and planning obligations please contact the Council's Spatial Development Team:

### Regeneration and Planning Spatial Development Team

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# Appendix

## Appendix A

### Arrangements for Fulfilling Highways Obligations

A1 In summary, the arrangements for fulfilling highway obligations are:

- Highway works should not commence until:
  - The developer has entered into a Highway Agreement with an approved surety for an amount specified by the Council, to cover the full cost of the highway works to ensure the Council's position is protected should the developer default in any way with regard to the Highway Infrastructure Works; and indemnifies the local authority from any claims that may arise.
  - The Highway Agreement will require a fee calculated as a percentage of the surety to cover the vetting and approval of the design, legal input to complete the Agreement and the inspection of the works including materials testing through to adoption.
  - The developer has submitted and received written approval of detailed engineering drawings setting out the Highway Infrastructure Works. A fee will be payable to cover the Council's costs incurred in approving the engineering drawings.
- The developer is not to occupy the development until the Highway Infrastructure Works are implemented by the Developer and completed to the point that the Engineer can issue the Certificate of Substantial Completion.

A2 The Highway Infrastructure Works will be maintained by the Developer, at their

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expense, for a minimum period of 12 months following the issue of the Certificate of Substantial Completion. Following this period, and subject to any defects being remedied satisfactorily, the Engineer will then issue the Letter of Acceptance and the Council will adopt the highway works and become responsible for its maintenance. A fee is included in the Highway Agreement and includes vetting and approval of design as well as inspections. Commuted sums for extraordinary maintenance will be sought.

A3 Some access works may be carried out within land owned by the developer, in which case a Section 38 Agreement would be sought under the Highways Act, however, this is not a legal obligation. Again works should not commence until the engineering design has been approved and the development not occupied until access has been completed to at least binder level and has operational lighting.

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**Appendix B – Viability Information**

**Information required for Development Appraisal Toolkit**

A4 Where a developer believes the required Section 106 contributions (including affordable housing) make a scheme unviable, the Council will require a fully evidenced viability appraisal to be provided explaining why the policy requirements cannot be met and what level of planning obligations the developer believes is viable.

A5 The Council will undertake an appraisal of the developer's evidence either in-house or via an external party. The following information should be provided in a viability appraisal. This should not be treated as an exhaustive list or checklist of minimum requirements but rather a prompt to ensure the necessary information is provided. Some proposals will require more detailed submissions than others.

<b>Proposal</b>	Number of market units proposed including a breakdown of bedroom numbers, type (detached, semi etc) and floor area. For flats the number of storeys and the type of parking (surface, basement or other). Full plans and sectional drawings of the proposed development.
<b>Sale Price</b>	Proposed sale price with evidence justifying the price level (such as an independent chartered surveyor report of expected selling prices, setting out comparable schemes).
<b>Affordable Housing</b>	Estimates of affordable housing values for each of the affordable tenures required and/or sale price agreed with an RSL or management company.
<b>Revenue</b>	Any other potential revenues to the scheme, including grant, ground rents and gross contributions from any commercial element.
<b>Build Costs</b>	Build cost per square metre (with either reference to industry standard BCIS or recent local comparable evidence based on actual contracts and the allowance for code for sustainable homes standards if included) and a breakdown of the elements included in the figure.

<p><b>Abnormal Costs</b></p>	<p>Abnormal costs attached to the development e.g. sewerage works, specialist foundation design, flood prevention works, decontamination. To be relevant these must be works that are essential for the development to occur. The cost will be the extra cost that arises from these works. For example, if raft foundations are required, the cost of ordinary strip foundations will need to be deducted from the cost of the raft foundations to arrive at the extra cost to be incurred. If details of abnormal costs are submitted, these must be substantiated by a specialist's report.</p>	<p><b>Acquisition Cost</b></p> <p>Details of the date of acquisition or date of an option to acquire the site and the price paid.</p>
<p><b>Build Rate</b></p>	<p>The anticipated build period.</p>	<p>The Planning Obligations SPG provides information on contributions. It should be noted that exact amounts may not be apparent until detailed assessment during the formal planning application process.</p>
<p><b>Fees (in total &amp; expressed as a percentage of build costs)</b></p>	<p>Professional fees.                  Finance costs.                  Marketing and legal fees.                  Any other cost the developer believes is relevant.</p>	
<p><b>Developers Profit</b></p>	<p>The profit margin on market value or build cost.</p>	
<p><b>Existing Value</b></p>	<p>Existing (and where appropriate alternative use) values evidenced via an independent valuation from a property consultant.</p>	



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