



RHONDDA CYNON TAF

RECORD OF DELEGATED OFFICER DECISION

SUBJECT: Draft Revised Planning Obligations Supplementary Planning Guidance

PURPOSE OF ATTACHED REPORT: The purpose of the report is to outline contents of the revised Supplementary Planning Guidance (SPG) in relation to Planning Obligations and seek agreement to undertake a public consultation exercise in respect of the document.

DELEGATED DECISION (Date): The contents of the Draft Revised Planning Obligations SPG are agreed and the Director of Regeneration and Planning authorised to undertake a public consultation exercise in respect of the document.


Chief Officer Signature

KEAT GRIFFITHS
Print Name

20.05.13
Date

The decision is taken in accordance with Section 15 of the Local Government Act, 2000 (Executive Functions) and in the terms set out in Section 5 of Part 3 of the Council's Constitution

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2013 - 2014 REPORT TO ACCOMPANY DECISION OF CHIEF EXECUTIVE

Part 1 (Non Confidential)
Rhondda Cynon Taf Local Development Plan: Draft Planning Obligations Supplementary Planning Guidance

1.0 PURPOSE OF THE REPORT

- 1.1 The purpose of the report is to outline contents of the revised Supplementary Planning Guidance (SPG) in relation to Planning Obligations and seek agreement to undertake a public consultation exercise in respect of the document.

2.0 RECOMMENDATIONS

- 2.1 It is recommended that:

(a).The contents of the Draft Revised Planning Obligations SPG are agreed and the Director of Regeneration and Planning authorised to undertake a public consultation exercise in respect of the document.

3.0 BACKGROUND

- 3.1 The current Planning Obligations SPG was approved by Cabinet in February 2011 and remains operational. However, changes introduced by the Town & County Planning (Community Infrastructure Levy) Regulations and the decision of Cabinet to progress the Community Infrastructure Levy (CIL) means that it is necessary to revise the SPG to reflect the new approach to securing planning obligations under CIL.

4.0 CONTENTS OF REVISED PLANNING OBLIGATIONS SPG

- 4.1 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. However, as indicated earlier, as a result of changes introduced by the CIL at both national and local level it is necessary to amend some aspects of the existing SPG to reflect the new approach.

APPENDIX A

Draft Planning Obligations Supplementary Planning Guidance

MAY 2013

Explanatory Note: The substantive text from the existing approved Planning Obligations SPG is highlighted in **yellow**.

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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.

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**.

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.

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.

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.

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

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.

$((ACG \text{ or } OMV \text{ } \pounds \text{ per unit}) \times (\% \text{ SHG or } \%OMV)) \times N = \pounds \text{Financial Contribution}$

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).

% OMV – 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.

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

Pupil Yield

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:-

Primary education	32 spaces per 100 eligible dwellings
Secondary education	27 spaces per 100 eligible dwellings

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:

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).

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.

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.

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

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.

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

On-Site Facilities

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

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:

Designated playing spaces, including equipped playing space	2500m ² per 1000 people	2.5m ² per person
<i>Plus</i>		
Informal playing space	5500m ² per 1000 people	5.5m ² per person

<i>Equals</i>		
Total children's playing space	8000m ² per 1000 people	8m ² per person

Sports pitches	12,000m ² per 1000 people	12m ² per person
<i>Plus</i>		
Other outdoor sport	4000m ² per 1000 people	4m ² per person
<i>Equals</i>		
Total outdoor sport	16,000m ² per 1000 people	16m ² per person

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 X 2 = 100 + 50 X 3 = 150). The total amount of outdoor play space required would be 2000m² (0.2ha) and would be split between the 2 types of outdoor play space as follows:

Equipped area	625m ² (250 X 2.5m ²)
Informal play area	1375m ² (250 X 5.5m ²)

Total	2000m²

In addition 4,000m² (0.4ha) of outdoor sport space would be required:

Outdoor sport	4000m ² (250 X 16m ²)

Total	4000m²

This would give a total of 6,000m² 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.

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

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Development Control**

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For advice on planning policy and planning obligations please contact the Council's
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 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.

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.

Proposal	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.
Sale Price	Proposed sale price with evidence justifying the price level (such as an independent chartered surveyor report of expected selling prices, setting out comparable schemes).
Affordable Housing	Number of affordable units required including a breakdown of bedroom numbers, type (detached, semi etc) and floor area for social rent and low cost homeownership.
	Estimates of affordable housing values for each of the affordable tenures required and/or sale price agreed with an RSL or management company.
Revenue	Any other potential revenues to the scheme, including grant, ground rents and cross contributions from any commercial element.
Build Costs	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.
Abnormal Costs	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.
Build Rate	The anticipated build period.
Fees (in total & expressed as a percentage of build costs)	Professional fees.
	Finance costs.
	Marketing and legal fees.
	Any other cost the developer believes is relevant.
Developers Profit	The profit margin on market value or build cost.
Existing Value	Existing (and where appropriate alternative use) values evidenced via an independent valuation from a property consultant.
Acquisition Cost	Details of the date of acquisition or date of an option to acquire the site and the price paid.
Planning Obligations	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.