Section 106:

Appendices

Appendices

1. Extracts of topic-based SPGs
2. Example of Planning Obligations Service Standards
3. Example of Standard Heads of Terms
4. Example Process Map detailing protocol for member influence
5. Example of a fully integrated database to manage and monitor planning obligations.

5. APPROPRIATE CONTRIBUTIONS

Percent for Art

5.1 The Council will encourage developers to apply the principle of 'Percent for Art' when considering public art as part of a development proposal. 'Percent for Art' is a method whereby a proportion of the capital cost of a new development or renovation project (usually 1%) is allocated to the integrated provision of public art. The concept is flexible in that the level of financial support can be negotiated within the basic principle and should be considered as a guide when assessing a scale of contribution.

5.2 The overriding principle of 'Percent for Art' is that the sum established should be set aside at the start of a development process in order that provision can be made for public art that is integral to the development proposal.

The Amount of Public Art to be provided

5.3 Public art need not necessarily be expensive and the cost of each artwork will vary according to its relationship to a site.

5.4 When assessing a contribution, developers will be expected to demonstrate how public art will be incorporated into their scheme that reasonably relates to the scale, location and use of the site.

5.5 Public art should form part of an overall design vision, with concepts being an integral part of a building or its setting. Where a site is expected to be delivered in phases, the developer will be expected to present a public art plan for the whole site.

5.6 Artists, where appropriate, should work in consultation with the local community i.e. those people who will be affected by the site and the installation.

5.7 In all negotiations, the specific circumstances of the proposed development will be considered, including the capacity of the site / development to yield contributions and the extent and scale of contributions that may be sought for other purposes.

Appendix 1b - EXTRACTED FROM COMMUNITY FACILITIES SPG

Introduction

1.1 This guidance supplements Policy H6 of the adopted South Glamorgan (Cardiff Area) Replacement Structure Plan (1991 – 2011) (April 1997). Its purpose is to provide advice to developers on the circumstances in which the Council may seek contributions towards the provision of community facilities for new residential developments.

1.2 The guidance has been the subject of consultation as outlined in Appendix C and Appendix D, identifies that main changes and other responses to the comments received. It was approved by Council on 22nd March 2007.

1.3 It will enable developers to be aware, at an early stage in the development process, what community facilities are needed and what financial contribution may be sought towards their provision.

1.4 Community facilities are important for meeting a wide range of social needs. Providing these facilities at a local level, in convenient locations, increases their accessibility for users and reduces the need to travel.

1.5 The demand for housing in the city is increasing, and a large number of homes are being constructed to serve this demand. As a result, there is a need to ensure there are adequate local facilities to serve local communities to meet current and future demands.

1.6 Cardiff's Community Strategy aims to enhance the economic, social and environmental well-being of local communities. The planning system should operate in the public interest and should ensure that provision is made for community facilities to ensure the wellbeing of local communities.

1.7 If development occurs without consideration being given to the adequacy of existing local community facilities, then strain can be placed on the existing facilities, to the detriment of the local community.

2.0 Policy Context

National Guidance

2.1 The Welsh Assembly Government supports the use of Supplementary Planning Guidance (SPG) to set out detailed guidance on the way in which development plan policies will be applied in particular circumstances or areas. SPG must be consistent with development plan polices and national planning policy guidance. It may be taken into account as a material planning consideration in planning decisions.

2.2 The legislative framework for planning obligations is set out in Section 106 of the Town and Country Planning Act 1990 as substituted by the Planning and Compensation Act 1991. It permits local authorities and developers to make agreements over the use of land, including those which require sums to be paid to the local authority.

2.3 Current Government policy is set out in Welsh Office Circular 13/97. This requires fair, open and reasonable negotiation of planning obligations, so that the obligations enhance the quality of development and enable proposals to go ahead which might otherwise be refused.

2.4 The Circular states that planning obligations should be sought only where they meet the following tests (known as the Necessity Test):

(i) necessary;
(ii) relevant to planning
(iii) directly related to the proposed development
(iv) fairly and reasonably related in scale and kind to the proposed development
(v) reasonable in all other aspects

2.5 Advice in Planning Policy Wales (2002), issued by the Welsh Assembly Government, supports the negotiation of planning obligations and states "Contributions from developers may be used to offset negative consequences of development, to help meet local needs, or to secure benefits which will make development more sustainable". However, obligations should only be sought where they are necessary to make a proposal acceptable in land use terms and should not be used to legitimise unacceptable proposals. Applications should not be refused on the basis that such benefits are not offered and similarly, planning obligations should not be used as a tool for obtaining planning permission.

Local Planning Policy

2.6 Policy H6 (Community Facilities) of the adopted South Glamorgan Structure Plan (1991 – 2011) (April 1997) relates directly to the provision of community facilities as part of new residential developments.. This is listed fully in Appendix A.

2.7 In addition the supporting text in Policy 21 (paragraph 6.2.8) of the City of Cardiff Local Plan (adopted January 1996) supports the provision of new community facilities as part of new residential developments.

2.8 It should be noted that the South Glamorgan Structure Plan does not apply in Creigiau, Pentyrch and Gwaelod-y-Garth. The Mid Glamorgan County Structure Plan – Approved Plan Incorporating Proposals for Alteration No.1 covers those areas but it does not contain a relevant policy.

2.9 Whilst new housing is likely to be restricted in this area, planning decisions on any suitable sites that do come forward may take into account, as a material

consideration, the need for, and willingness of developers to provide, contributions for community facilities.

2.10 The Council placed the Cardiff Unitary Development Plan (UDP) on deposit in October 2003. However, following introduction of the European SEA (Strategic Environmental Assessment) Directive, in May 2005 the Council resolved wit the agreement of the Welsh Assembly Government to cease preparation of the Cardiff UDP and commence preparation of a Local Development Plan (LDP). The relevance of the UDP to this guidance is addressed in Appendix B.

3.0 Definition of Community Facilities

3.1 For the purpose of this guidance community facilities are defined as facilities used by local communities for leisure and social purposes, including community centres and meeting places, community halls, community learning, adventure play centres and leisure centres.

3.2 The improvement of local and neighbourhood shopping centres is also included in the definition of community facilities, as they provide locally-based shops, services and facilities.

3.3 Community facilities include facilities that are non commercial and not for profit. Facilities run by voluntary organisations or Cardiff County Council are included, however privately run facilities and members only clubs are excluded.

3.4 For the purpose of this guidance, community facilities do not generally include schools, religious buildings, police stations and children's play areas. The provision of the latter is included within the Supplementary Planning Guidance Open Space (Approved in February 1999 and amended June 2000).

3.5 While faith buildings are not included in the definition, facilities attached to the faith buildings which are used by the wider community are included.

3.6 The Community Focused Schools agenda seeks to ensure that the community has greater access to and shared use of facilities on school sites. The improvement of facilities for community use on school sites is included in the definition of community facilities for the purpose of this supplementary planning guidance.

3.7 The provision of health facilities, such as GP surgeries will not normally be included, however in exceptional circumstances where there is for example a need for a new health centre, this may be considered acceptable.

3.8 Cardiff benefits from a range of local community facilities, incorporating leisure facilities, community centres and halls. Community facility audits have been undertaken by Cardiff Council on a ward by ward basis to provide a comprehensive picture of existing facilities in Cardiff. These will be used as a basis to identify gaps in provision and facilities requiring new investment. These will be subject to regular review.

4.0 Developer Contributions

Circumstances in which contributions will be sought

4.1 The Council will seek a financial contribution for improvements to existing community facilities or the provision of additional community facilities on all significant developments because the increased population will result in increased demand for local community facilities.

4.2 Contributions will be sought from proposed residential developments containing 25 or more new dwellings. It is considered that a development of this size would increase the demand on local community facilities beyond their existing for planned capacity and / or where existing facilities are of an unsatisfactory standard and would require further investment to make suitable for use.

4.3 Additionally contributions will be sought from conversions, mixed use developments and student accommodation over 25 bedrooms where there is no onsite community facility.

How contributions will be calculated

4.4 A development contribution may be in the form of:

- a financial contribution towards the development of new community facilities or improvements to existing community facilities
- a community facility site on the development site

4.5 The level of financial contributions sought will have regard to the following factors:

- existing community facility provision (refer to paragraph 3.8)
- the size of the residential development (refer to paragraph 4.2)
- current average build costs (refer to paragraph 4.6)
- the provision of floor space per dwelling (refer to paragraph 4.7)
- The projected population of the proposed (refer to paragraph 4.13).

4.6 The current average build costs of community facilities of £1318 per sq.m. of floor space as specified by the BCIS classification CI/SfB 532. This figure will be regularly reviewed to reflect changes in capital costs of providing community buildings in line with the BCIS classification CI/SfB 532. A copy of the up to date figures can be obtained from Strategic Planning and Environment Service Area of the Council.

4.7 The provision standard for community buildings is based on a provision of 0.75sq.m. floor space per dwelling. This is in line with recommended standards for the provision of community facilities applied by other local authorities.

4.8 The calculation for community facility contributions per dwelling is based on the following formula:

Build costs per sq.m of floor space x standard community floor space provision per dwelling = **£1318x .0.75 = £988.5 per dwelling**

4.9 The 2001 Census indicates that the average number of persons per household was 2.41 persons. It is therefore possible to calculate the financial contribution per person as:

£988.5 / 2.41 = £410.17 per person

4.10 The calculation for financial contributions towards community facilities should be based on £988.5 per dwelling or £410 per person where the housing mix is known (RPI linked).

4.11 The projected occupancy rate (persons per dwelling) is calculated on the number of rooms within a dwelling as set out in the 2001 Census data.

4.12 The formula for calculating contributions for different types of developments based on projected occupancy rates is:

Persons per dwelling x contributions per person

Eg. if a proposed dwelling has 3 rooms the formula to be applied would be: 1.43 x £410 = £586.

4.13 The following occupancy rates and contributions apply:

Rooms per dwelling	Persons per dwelling	Contribution
1	1.45	£595
2	1.43	£586
3	1.43	£586
4	1.81	£742
5	2.48	£1017
6	2.61	£1071
7	2.98	£1222
8+	3.04	£1246

Note: The number of rooms per dwelling excludes bathrooms, toilets, halls, landings and rooms that can only be used for storage.

Student Accommodation of over 25 bedrooms

4.14 If there are no onsite communal facilities provided in the proposed student accommodation, an off site contribution of £410 per person would be required.

Developments of 200 or more dwellings

4.15 For larger residential developments in particular those of 200 dwellings or more, there may be a requirement to allocate a site for a community facility in

addition to providing financial contributions. This would be subject to negotiation with the developer.

Use of developer contributions

4.16 Any payments will be subject to legal agreements whereby money will be spent locally on improvements to meet the needs of the development from which the payments were sought (Welsh Office Circular 13/97).

4.17 Financial contributions from developments will generally be ring fenced within the electoral district of that development. If the development lies within 200m of an electoral district boundary, allocation of financial contributions will depend on the needs of the surrounding community (radius of 1km from the development) with the agreement of the developer.

Appendix 1c – EXTRACTED FROM CONTRIBUTIONS FOR SCHOOL FACILITIES SPG

1. INTRODUCTION

1.1 This guidance supplements Policy H6 of the adopted South Glamorgan (Cardiff Area) Replacement Structure Plan 1991-2011 (April 1997) which enables the Council to seek contributions from developers towards improvements in school facilities necessitated by their proposed development. Guidance is provided on:

- the circumstances in which the Council will seek contributions from developers towards the provision of school facilities;
- how contributions will be calculated, negotiated and used.

1.2 This first draft guidance was revised following consultation outlined in Appendix A and Appendix B identifies the main changes made in response to the comments received. The second consultation draft has also been revised following consultation outlined in Appendix C and Appendix D identifies the main changes and other responses to the comments received. It was approved by the Council on (22nd March 2007).

1.3 The Welsh Assembly Government supports the use of supplementary planning guidance (SPG) to set out detailed guidance on the way in which development plan policies will be applied in particular circumstances or areas[1]. SPG must be consistent with development plan policies and national planning policy guidance and may be taken into account as a material planning consideration in planning decisions.

1.4 The Council placed the Cardiff Unitary Development Plan on deposit in October 2003. However, in May 2005, the Council resolved, with the agreement of Welsh Assembly Government, to cease preparation of the Cardiff UDP and commence preparation of a Local Development Plan (LDP). The relevance of the UDP to this guidance is addressed in Appendix E.

[1] *Most recently in 'Local Development Plans Wales' (WAG, December 2005)*

2. POLICY IMPLEMENTATION

Circumstances in which contributions will be sought

2.1 The Council will seek financial contributions towards the cost of providing additional or improved primary and/or secondary school facilities from developers proposing housing developments that would generate a requirement for school places that cannot reasonably be met by existing schools because:

(a). the capacity at the school(s) in whose catchment area(s) the new housing development is proposed would, as a result of the development, be exceeded by demand; and /or

(b). there is surplus capacity in such schools to accommodate some or all of the projected number of pupils generated from the proposed development, but this requires investment to make it suitable.

In both cases (a) and (b) the contribution requested will relate to the number of pupils expected to be generated by the proposed development.

2.2 The Cardiff Single Education Plan (SEP) 2006-08 identifies over-capacity in schools within Cardiff and a long-term requirement to remove capacity in both primary and secondary schools. However, there are wide variations across the county with falling rolls in some areas and high demand caused by new housing in others. The SEP advocates the principle of local schools for local communities and access to good local schools is an integral element of sustainable communities. School journeys also represent one of the main generators of peak traffic congestion and it is important that schools are as accessible as possible to children, particularly by walking and cycling.

2.3 Elsewhere, existing surplus capacity that could otherwise be made available for children expected from the proposed development may be in temporary accommodation or, for other reasons, no longer capable of providing a suitable standard of accommodation without further investment. It is important to ensure, not only that there is sufficient school capacity accessible locally, but that accommodation provides a school environment that is attractive to children and their parents from the proposed development.

2.4 Information on relevant Council policies and practice relating to schools – including the SEP, school catchment areas, the calculation of school capacities and the factors that affect the capacity of local authority schools to accommodate additional pupils - is provided in Section 4.

2.5 In general, contributions will be sought from proposed developments (including mixed-use developments) containing the equivalent of 25 or more new houses that have the potential to increase demand on local schools beyond their existing or planned capacity and/or where existing surplus capacity is of unsatisfactory standard and would require investment to make it suitable for children generated from the proposed development. Note that for calculation purposes, 4.42 flats would count as 1 house, thus 110 (2 or more bed) flats would be equivalent to 25 houses (see paras 2.7 & 2.8). The threshold would be expected to generate 7-8

children of primary school age and 5 of secondary school age and some classes may already be full (30 pupils) leading to the possible need for new or improved facilities. In areas where there is particular pressure on local schools, contributions may be sought from developments containing a smaller number of dwellings.

2.6 The only forms of dwellings excepted in principle will be:

- bed-sits and 1 bedroom dwellings - which are unlikely to be occupied by households with children of school age;
- sheltered/elderly person housing and student housing - which is incapable of occupation for general purpose housing by virtue of its internal layout, ownership or management or which has occupancy restricted by planning condition or legal agreement.

However it should be noted, as mentioned in paragraph 2.5, that other flats and apartments will attract a reduced level of contribution (see paras. 2.7 and 2.8).

How contributions will be calculated

2.7 Contributions towards additional or improved school facilities will be based on the following factors:

(a). the number of relevant dwelling units in the development (see paragraph 2.5);
(b). the number of school age children likely to be generated by each residential unit (the 2001 Population Census indicates that flats/ apartments generate only 22.6% of dependent children aged under 18 years of age compared to other types of dwellings and this will be taken into account in calculations);
(c). Dept. for Education and Skills cost guidelines
(d). any necessary land costs;
(e). capacity of the site/development to yield contributions and the extent and scale of contributions that may be sought for other purposes.

Appendix F gives an example of how a contribution for additional school places will be calculated

2.8 An initial assessment of the number of children likely to be generated by a proposed housing development is made on the basis of pupil yield factors of:

- **0.31 primary school places** per relevant residential unit; and
- **0.22 secondary school places** per relevant residential unit.
- **0.04 post 16 places** per relevant residential unit.
- **for flats and apartments the pupil yield factors are 0.07 primary school places, 0.05 secondary school places and 0.01 post 16 places** per relevant unit

These estimated pupil yield factors are derived from 2001 Census data, local surveys and Number on School Rolls data for Cardiff.

2.9 The precise number of children generated by a residential development will vary depending on the type and size of dwellings it comprises. However, the basis for the calculations will normally be the yield factors quoted above. An assessment will also be undertaken to establish the distribution of that yield based on parental preferences such as those for Welsh medium and Voluntary aided schools. The timing of any additional demand would be subject to the development and completion timescale of the residential site as determined by the developer.

2.10 There are likely to be 3 possible scenarios in which a contribution may be required:

1. No surplus places available to accommodate pupils from the proposed development thus a full contribution would be required for the provision of additional places for all pupils from the proposed development.

2. Sufficient but unsuitable places available to accommodate some pupils from the proposed development thus a contribution would be required to refurbish these places together with a contribution for the provision of additional places for the net additional pupils for whom there are no places available.

3. Sufficient but unsuitable places available to accommodate all pupils from the proposed development thus a contribution would be required to refurbish places for all these pupils.

2.11 The above three scenarios relate to the requirement for contributions covering two types of need:

1. Additional places
   The cost of providing these is calculated by reference to DfES Educational Project Cost and Performance Data.

2. Refurbishment of existing places
   The cost of refurbishing existing places is based on 65% of the cost of providing additional places (as at 1 above) based onDfES data (Funding Guidance for Building Schools for the Future Projects (2005) Appendix A1, Capital Cost Assumptions for Mainstream schools).

2.12 The calculation of the number of places to be provided additionally or refurbished is based on two factors:

1. The number of pupils generated from the proposed development as at 2.8.

2. Pupil capacity in the catchment area schools:
   This will be calculated by application of the National Assembly for Wales Circular 09/2006. Accommodation (usually of a demountable nature) regarded, in planning terms, as being an unsuitable form of permanent development, will be excluded from these capacities.

2.13 In the absence of specific guidance from the Assembly, the average cost of providing a school place will be based on:

- Department for Education and Skills (DfES) Building Bulletins 98 and 99 data – to calculate the amount of space required per pupil;

- DfES Educational Project Cost and Performance Data[2] - to calculate the cost of providing the required space.

2.14 The Council will seek contributions towards necessary additional improved school facilities on the basis of the following formula:

Number of dwelling units x
Number of school age children likely to be generated by each dwelling x
DFES Costings
+ any necessary land costs

= cost of providing school places or improving school facilities

2.15 If a new school or a significant extension to an existing school is required, the Council will have regard to local site circumstances, i.e. the site and location must be suitable. If a residential development is sufficiently large to create the need for a new school this should be located within the site. In some cases, there may also be a need to fund necessary land acquisition.

2.16 On the basis outlined above, the contribution sought from a developer may meet the cost of the necessary improvements in full or in part. In all negotiations, the specific circumstances of the proposed development will be considered.

How contributions will be negotiated and spent

2.17 Upon receipt of a planning application falling within the scope of this guidance, the Council's Development Control Service will consult the Schools and Lifelong Learning Service for advice on whether a contribution towards school facilities is necessary. Where a proposed development could fall within the scope of this guidance, applicants are encouraged to enter into early discussion with the Schools and Lifelong Learning Service prior to the submission of a planning application.

2.18 Where the Council considers that a developer contribution for school facilities is necessary – and subject to the application being acceptable in all other respects - it will negotiate with the developer with a view to planning permission being granted subject to completion of a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended). The determination of planning applications and, therefore, of the need for a S106 agreement is a matter for the Council's Planning Committee.

2.19 When considering outline planning applications, where no details of the number of dwellings are committed, a Section 106 agreement will indicate that a payment towards the provision of school facilities may be required and the amount will be assessed on the basis of the subsequent details (Reserved Matters). When

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2 http://www.teachernet.gov.uk/management/resourcesfinanceandbuilding/schoolbuildings/designguidance/costinformation/

considering Reserved Matters applications, where the associated outline planning permission has no such S106 agreement, a contribution cannot be required.

2.20 For applications seeking to renew planning permission, an assessment will be made whether there has been a material change of circumstances that might necessitate a contribution towards school facilities.

2.21 If a developer does not agree to make an appropriate contribution for school facilities, planning permission may be refused or, if appropriate, granted subject to conditions seeking to delay development, or part of the development, until such time as the developer makes the necessary provision.

2.22 Contributions may be used for:

- The provision of new classrooms;
- Replacement of and/or improvements to existing surplus places/ area(s) and/or facilities to bring them to an appropriate standard to meet the educational needs of the additional children expected froim the proposed development;
- Purchase of land for new classrooms, where necessary;
- Providing additional facilities necessitated by the additional demand.

2.23 Negotiations with developers on planning agreements will include:

- the project(s) to which their contributions may be put in order to address demand created by their development.
- the timing of the payment of agreed contributions. On large sites payment of contribution may be phased by agreement with the authority.
- when contributions will be spent. This will normally be within 5 years of receipt.

If the contribution is not used for the project(s) agreed or within the agreed time period, it will be returned to the developer.

2.24 The Council will use a standard legal agreement to improve certainty, consistency and speed. Where a school contribution is required the following standard clause will be used within this agreement.

On or prior to implementation of the development, the developer will agree, to pay the Council a financial contribution for education. The level of contribution will be determined by formula (see para. 2.14). The contribution required will then be index linked to the implementation of the development.

3. LEGISLATION, GUIDANCE AND THE DEVELOPMENT PLAN

Legislation and Assembly Guidance

3.1 Cardiff Council has a statutory duty, as local education authority, to ensure that sufficient number and variety of school places at primary and secondary level are available to meet the needs of the population of the county. In certain circumstances it might also have to make some provision for demand from outside the County.

3.2 Traditionally, the primary role of development plans in securing provision for schools, has been through the allocation and safeguarding of land for such purposes. Thereafter, the Council, as local education authority, would fund purchase of the land and construction of necessary facilities.

3.3 However, Section 106 of the ***Town and Country Planning Act 1990 (as amended)*** enables local planning authorities to seek to negotiate planning obligations with developers, including (full) contributions towards the cost of meeting the infrastructure necessary to support their development. As local education authority, the Council has access to limited funding to improve local school provision and has many demands on these resources. Section 106 agreements can assist in meeting the educational costs associated with new housing development. Failure to make necessary provision to address the implications of development, including the cost of necessary improvements in infrastructure, may be a valid reason to refuse planning permission.

3.4 Further guidance on the use of such planning obligations, is outlined in ***Planning Policy Wales (2002)***, issued by the National Assembly for Wales, and ***Welsh Office Circular 13/97: Planning Obligations***. Circular 13/97 requires planning obligations to be necessary, relevant to planning, directly related to the proposed development, fairly and reasonably related in scale and kind to the development, and reasonable in all other aspects.

Development Plan Policy

3.5 Policy H6 (Community Facilities) of the ***South Glamorgan (Cardiff Area) Replacement Structure Plan 1991-2011*** *(adopted April 1997)* states:

Sufficient land will be protected within, or adjacent to, residential areas and in other appropriate locations for the development of education, health and other community facilities and open space areas. Contributions will be sought from developers towards any new improvements arising as a result of the proposed development. Where housing developments are of sufficient scale permission will be withheld until provision of necessary facilities including open space has been secured.

3.6 Paragraph 6.2.8 of the ***City of Cardiff Local Plan*** *(adopted January 1996) which gives further guidance regarding Policy 21 (Land for Housing)* states:

… All new housing developments, including those identified in (the Plan) and others which may come forward within the plan period, will be required to provide … appropriate community facilities, including the requirements of the local education authority.

3.7 The above plans do not cover the Pentyrch/Creigiau area of Cardiff, which formed part of the County of Mid Glamorgan and District of Taff Ely prior to 1996 and there are no policies in existing development plans for that area relating to developer contributions for school facilities. However, the principles contained in this SPG will be applied across the County of Cardiff.

4. RELEVANT COUNCIL POLICY AND PRACTICE RELATING TO SCHOOLS

Single Education Plan

4.1 Cardiff Council is required, as a local education authority, to publish a ***Single Education Plan*** (SEP). The SEP includes an assessment of the sufficiency of school provision throughout the county and outlines measures aimed at improving the match between existing provision and present and future needs.

4.2 The 2006-08 Cardiff SEP[3] identifies over-capacity in schools within Cardiff and a long-term requirement to remove capacity in both primary and secondary schools. However, there are wide variations across the county. In some areas school rolls are falling as a result of ageing population profiles. Elsewhere, some schools are oversubscribed and others are experiencing increasing pressure on their facilities as a result of new housing.

4.3 A fundamental principle of the Council's SEP is *'local schools for local children'*. The availability of accessible schools is an integral element of sustainable communities and local communities should be served by local schools in suitable good quality premises. Also, school journeys represent one of the main generators of travel and traffic. It is important, therefore, that schools are as accessible as possible to children, particularly by walking and cycling.

School Catchment Areas

4.4 All primary and secondary schools have geographical catchment areas that are used to administer admission arrangements. These catchment areas are identified in map form or via postcode search on the Council's website.

4.5 The Council publishes a parent information booklet ***Admission to Schools - Information for Parents***, which is distributed via schools and libraries. This provides details on admission arrangements including the criteria in priority order for approving admissions to schools where requests for admission exceed available places. The first priority for primary and secondary schools is residence within the school's catchment area, in accordance with the Council's commitment to *'local schools for local children'*.

School Capacity

4.6 In preparing the SEP, the Council has calculated the capacities of all schools in Cardiff, using a formula set down in regulations.[4] The formula provides the notional capacity of a school, based on the number, sizes and types of teaching spaces. Currently, there is also an adjustment made to allow additional space for pupils with special educational needs. The capacity of local authority schools to accommodate additional pupils may also be affected by:

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[1] *May be viewed on Council's website (www.cardiff.gov.uk) or obtained from its Schools Service*
[4] *Education (School Organisation Proposals) (Wales) Regulations 1999*

- Government guidance on the maximum size of classes;
- the operation of parental preference for choice of school;
- changing provision in the private sector, Welsh medium and Voluntary Aided sectors or in neighbouring local education authorities where there are cross border flows of pupils; and/or
- increased housing within the catchment area.

4.7 School capacities are monitored annually and are published, along with the number of pupils on roll, within the SEP.

4.8 The current capacity of a school, together with details of the existing pupil roll and pupil number forecasts, indicates whether the school is full or likely to be full in the future. This analysis is used as the basis for determining whether a financial contribution will be negotiated. The capacity of a school, its admission arrangements, the local population and the popularity of a school may change over time.

3. Where Affordable Housing Policy will be Applied

3.1 The following factors will be taken into account in assessing whether the provision of affordable housing is appropriate.

Evidence of Housing Need

3.2 The starting point for negotiation with developers is "*evidence of housing need in the locality which is capable of being met on the site"* (para 6.3.5 of the Local Plan). The Council will provide evidence of housing need based upon the *Housing Needs Survey*, supplemented by the current Council and Registered Social Landlord [RSL] Waiting Lists, and other relevant information.

3.3 The results of the *Cardiff Housing Needs Survey 2002* show large numbers of households remain in need. The level of need for rented housing and for other forms of affordable housing has increased since the 1995 survey as the overall stock of social rented housing has decreased due to Right to Buy sales

Suitability of Site

3.4 Most sites in Cardiff will be suitable for affordable housing. The supporting text to Policy 25 (para 6.3.9) favours affordable housing provision on small sites in the built up areas where there is access to facilities, employment and public transport. In such cases, compatibility with adjoining land uses, particularly business and industry, will also be taken into account. Other suitable locations include those where the provision of affordable housing would help create mixed and inclusive communities. The mixing of different types of housing and tenures is encouraged. There may be exceptional circumstances where sites will not be suitable for on-site affordable housing, for example sites with poor access to public transport or other services and facilities. However, as Cardiff is mainly a developed urban area, there are likely to be few such sites.

Size of Site

3.5 All developments are considered to fall within the remit of this SPG if they propose more than 50 dwellings. Proposed developments include mixed use, residential, new build, conversions and changes of use. Nevertheless the Council will also encourage provision of affordable housing in all developments containing 25 or more new dwellings or with a site area exceeding 1 hectare.

3.6 Additionally on the disposal of Council owned sites for housing or mixed use developments capable of accommodating 25 or more new dwellings or being more than 1 hectare, the Council will generally require the provision of affordable housing in accordance with this SPG.

3.7 The Council will seek to ensure that the spirit and purpose of this policy is not circumvented by the artificial sub-division of sites or unreasonably low densities designed to avoid the more than 50 dwelling threshold. Affordable housing will be sought on smaller sites that form part of a larger (more than 50 dwellings) site and on sites where development at appropriate densities could reasonably be expected to yield more than 50 dwellings.

Economics of Provision

3.8 Where affordable housing is to be provided, the Council will normally expect provision on site. A developer must take into account any costs associated with the provision of affordable housing before purchasing the land. Developers should not rely on the provision of Social Housing Grant (SHG) as this may not be available. Developers should also be aware of the need to design affordable housing to the standards set out in *Development Quality Requirements for New Dwellings* (WAG – July 2005 or as amended from time to time) TAN(W)12 on Design or more recent WAG guidance issued since the publication of this SPG. .When affordable housing is to be delivered in partnership with a RSL, developers should ensure that the costs of developing affordable housing are in accordance with WAG guidelines. Costs in excess of these guidelines cannot be supported by public subsidy and will have to be met from the developer's own resources.

3.9 However in exceptional cases excessive development costs may undermine the viability of a proposal. In such cases the Council will be prepared to take account of some unforeseen abnormal costs where robust evidence is provided of their existence. The evidence provided should contain costings and valuations that will need to be verified by the Council's nominated independent quantity surveyor (cost of employing an independent surveyor for this role to be borne by the developer). Where evidence is provided and agreed, consideration could be given to varying the level of on site provision and/or identifying other forms of appropriate provision (see section 4.4 to 4.6).

Other Planning Requirements

3.10 In certain cases, a site may be assessed as appropriate for the provision of affordable housing, but there may be other planning requirements which the Council is pursuing which make provision on the site inappropriate. In such circumstances, other forms of provision would be appropriate (see paras. 4.4 to 4.6).

3.11 Whilst the provision of affordable housing will be balanced against other planning requirements, the need to provide affordable housing remains a primary objective of policy. This approach is supported by both Policy 24 of the Local Plan and by PPW. Where other planning obligations are offered or are sought by the Council, affordable housing requirements will normally still apply in full, though the Council may be prepared to negotiate to ensure total sought planning obligations are reasonable in scale.

Applicability to Special Needs Housing

3.12 *The Council has a duty to have regard to the housing needs of people with a disability and chronically sick people. Many of these people are best housed in the community in special needs accommodation. This is defined as "*housing provided for people who require support as a result of medical, physical or social problems.*" Where affordable Special Needs (SNH) Housing is proposed, this may be as part or all of the affordable housing requirement, subject to agreement on need. Where market SNH is proposed to meet an identified need this may still give rise to an affordable housing requirement but any extra cost in providing SNH may be taken account of in negotiations in both cases. If an on-site aoordable housing element is not considered appropriate following negotiations, then a financial contribution for off-site provision may be considered as an alternative. For the avoidance of doubt, special needs housing means accommodation for people needing support, it does not include housing for students. Sites specifically and exclusively for students would normally be treated as '*Sui Generis' *type uses and not as Class C3 'Dwelling houses' and would thus not be expected to contribute an affordable housing element.*

Applicability to Outline Applications and Renewals

3.13 Outline applications for housing sites where affordable housing is required will be approved subject to conditions or an agreement under Section 106 of the Town & Country Planning Act 1990 [a Section 106 Agreement] to ensure that the final development includes adequate arrangements for affordable housing provision. Any increases in dwelling numbers in subsequent applications, whether amendments or reserved matters may necessitate a change in affordable housing contributions.

3.14 In addition, where planning permissions are renewed or new permissions are granted, current planning policy and guidance must be applied. As a result, some re-submitted proposals may not meet current requirements for affordable housing, and may risk refusal unless revised. Hence the affordable housing element will need to be re-negotiated in such cases.

4. How Affordable Housing Policy will be Applied

The Amount of Affordable Housing to be Provided

4.1 The exact amount of affordable housing to be provided on sites will depend on the merits and circumstances of each proposal, but negotiations will take into account the factors highlighted in section 3. However given the significant level of need identified in the *Housing Needs Survey 2002*, the Council will normally expect that 30% of all dwellings will be affordable housing.

Where Affordable Housing is to be Provided

4.2 The Council's normal expectation is that affordable housing should be provided on-site. This is consistent with creating mixed and inclusive communities. In order to assist with this, the Council will expect that the affordable housing should be located throughout the site and not concentrated in one part of the development. For larger developments in particular, the affordable housing should be located in clusters throughout the site.

4.3 Developers will normally be required to transfer units to an approved organisation, usually an RSL. In practice, the cost to the developer will be determined by WAG guidelines.

Provision Off-Site

4.4 The Council will expect the affordable housing element of schemes to be built on site. Provision off site will only be accepted in exceptional circumstances where the following criteria are met:

(i) The Council and the developer agree there are exceptional justifications for provision off-site.
(ii) The Council and the developer agree on the quantity and type of affordable housing that would have been provided on-site.
(iii) The alternative form of provision would be equivalent in all respects to the affordable housing that would have been provided on-site.
(iv) The developer has demonstrated that the affordable housing will be secured on a mutually agreed site, that will accommodate the requirement, within a reasonable period of time (up to 5 years).
(v) where an off- site provision is agreed but its delivery is uncertain, a commuted sum will be considered as an alternative

4.5 It is essential that the alternative site is suitable for affordable housing and near enough to the development site to meet the identified need. In practice this may be on an agreed site anywhere within the local authority boundary. The alternative site need not be subject to the more than 50 dwelling threshold in order to be considered. The developer will need to establish a clear, deliverable and guaranteed means of achieving the criteria outlined above before planning permission can be granted. This will mean first obtaining planning permission for the alternative development. It will need to include satisfactory phasing arrangements, and to take account of any additional affordable housing provision that would normally be expected to be provided on the alternative site. Such arrangements will usually be secured by a Section 106 Agreement.

Commuted Payments in Lieu of Provision

4.6 **In exceptional cases** a financial contribution in lieu of on-site affordable housing provision may be acceptable where it has been agreed with the Council that the affordable housing should not be provided on-site and where the developer does not own or control an alternative site. The developer would have to provide to the Council a financial sum in line with the formula (see Appendix C). Financial contributions will be used to provide new affordable housing on other sites within Cardiff.

Provision of Special Needs Housing

4.7 Where special needs housing is to be provided its characteristics will be taken into account when judging whether it is suitable to be developed on the same site as general market housing. The objective of achieving mixed and balanced communities will also be taken into consideration.

Providers of Affordable Housing

4.8 The most suitable suppliers of affordable housing are RSLs, usually Housing Associations. This is because:-

(i) RSLs have a duty to allocate tenancies in a fair, consistent and transparent manner, based on housing need;
(ii) they ensure control over future occupancy and future levels of rents or ownership;
(iii) they are subject to regular monitoring to ensure standards of service are maintained;
(iv) the Council and RSLs have nomination agreements to ensure local people in need occupy the affordable housing; and
(v) RSLs are established contact points for people in housing need.

4.9 The Council will be able to advise developers of a suitable RSL for the development of affordable housing. Any alternative supplier of affordable housing must be agreed by the Council, and must demonstrate that their objectives and controls are similar to RSLs.

Occupancy Control

4.10 TAN2 states that development plans should cover arrangements for controlling occupancy, including clear and unambiguous eligibility criteria (para. 10). Occupancy controls are not explicitly set out in the Local Plan although the affordable housing definition (para. 6.3.3) specifies households *"whose incomes generally deny them the opportunity to purchase houses on the open market."* Occupancy controls aim to ensure affordable homes are allocated to households who meet appropriate eligibility criteria. As RSLs already have their own established occupancy criteria, additional controls will not be necessary where they are providing the affordable homes. Where an RSL is not involved, the Council will require full nomination rights and specific occupation criteria will need to be agreed between the parties.

4.11 The Council will also require that developers and their partners ensure the dwellings are offered at reduced rents or prices for as long as the need arises for genuine occupants. These arrangements ensure the benefits of affordability are passed beyond the first occupier to any subsequent occupier. The Council will require developers to enter legal agreements and will impose conditions to ensure affordability is maintained, subject to the provisions of "Right to Acquire" legislation. Changes to, or removal of, such occupancy and 'perpetuity'

arrangements over the long term will only be permitted where it is agreed with the Council that the affordable housing need no longer exists.

Tenure Arrangements

4.12 The WAG National Housing Strategy calls for tenure-neutral schemes and sites where occupants can move between social rented, shared equity and outright purchase and back again. RSLs are able to manage these changes of tenure and as such are the natural vehicle to manage these schemes. Social rented accommodation is usually provided directly from the RSL to nominated tenants. Low cost home ownership is usually provided through assisted home-ownership schemes though other schemes are used throughout the UK. Where low cost home ownership is provided, it will have to be shown by either the RSL or other provider that the units are genuinely affordable for people in housing need. .

4.13 Low Cost Home Ownership will only be acceptable where the sale price is low enough for purchase by those in genuine housing need.. As future sales must also be at the same percentage discount and must be to those in genuine housing need, it may be appropriate for an RSL or the Council to act as an agent to ensure arrangements are adhered to and that this form of affordable provision is retained for as long as the need exists.

Phasing

4.14 Whether the affordable housing is to be provided on or off-site, the completion of the affordable housing will normally be linked to the completion of a specified percentage of the general market housing to ensure the scheme is developed as a whole. Where a large development is proposed in phases, the number of affordable houses should also be phased, to further integrate general market and affordable housing. Such phasing should provide the necessary infrastructure for the affordable housing to be occupied prior to commencing a new phase. This is in keeping with the aim of inclusive and mixed communities. In those exceptional cases where commuted payments are involved (see para. 4.6), agreement will need to be reached on staged payments.

Design Considerations

4.15 The Council expects the affordable housing to be provided to the same high standard as would be expected of an RSL, as set out in the design guidance *Development Quality Requirements for New Dwellings* (WAG, July 2005 or as amended from time to time), TAN(W)12 on Design or more recent Welsh Assembly Government guidance issued since the publication of this SPG. In terms of layout, affordable housing should be integrated within a site in order to ensure social integration and the development of mixed, balanced and sustainable communities. For larger developments in particular, the affordable housing should be located throughout the site in clusters and not concentrated in one part of the development. As with all forms of housing, the Council will negotiate with developers to ensure affordable and special needs housing is fully accessible for disabled people, regardless of who is providing the accommodation. Developers should discuss and agree design specification issues at the earliest stage possible.

Other Planning Matters

4.16 The arrangements for delivering affordable housing or securing any off-site provision or financial contributions will need to be finalised and agreed before planning permission can be granted. Appropriate conditions / obligations will be attached to any permission to ensure the agreed arrangements are put in place. In most cases a Section 106 Agreement will be required (e.g. to secure the affordable housing for as long as the need arises), and planning permission will be dependent on the signing of any such legal agreement. If a site is suitable for affordable housing and a need exists, permission will normally be refused if such arrangements are not in place.

4.17 A Section 106 Agreement is likely to cover, where applicable:-

(i) the amount and type of affordable housing to be provided;
(ii) the location of the affordable housing;
(iii) occupancy criteria and nomination rights for the affordable housing;
(iv) arrangements to ensure the provision is affordable for as long as the need arises;
(v) transfer of land or dwellings from the developer to an RSL;
(vi) the timescale, or phasing, for building the affordable housing, in relation to the occupancy of the remainder of the development;
(vii) contingency arrangements, if the RSL does not implement the affordable housing by a certain date;
(viii) the level of any financial contribution, its timing, and any related arrangements about fees, etc.

4.18 This list is not intended to be exhaustive, and the merits and circumstances of each case will be taken into account in constructing a Section 106 Agreement. Any unilateral undertaking offered in lieu of an agreement would be expected to address the same issues.

1.0 Introduction

1.1 New development can create detrimental effects upon local amenity and infrastructure unless additional, or improved, services and facilities are provided through planning obligations. This Supplementary Planning Guidance (SPG) will identify what, and when, the Local Planning Authority will expect contributions from developers in terms of planning obligations in order to assist the Council in creating sustainable communities that provide social, economic, and environmental benefits to the whole of Newport.

1.2 The aim of the SPG is to provide clarity to developers, development control officers, statutory consultees, service area employees, and local residents regarding the framework from which planning obligations will be sought in respect to applications for new development.

1.3 A planning obligation is a legally binding agreement, which usually runs with the title of the land rather than with the person entering into the agreement. It usually requires the developer to either carry out certain works (known as a contribution in kind), or to contribute financially towards the provision of measures that will mitigate the detrimental impacts of their development.

1.4 Part One of this guidance sets out the overall approach to planning obligations in terms of policy context, types of obligations, monitoring/administration fees and the Section 106 Toolkit; and Part Two details the policy justification, threshold (and if relevant any formula), used to calculate what feasible contribution a development will be expected to provide where obligations are sought by the Council. Part Two also identifies a number of other Supplementary Planning Guidance documents, which provide in depth detail in relation to some of the obligation areas; particularly affordable housing, and public open space.

2.0 National and Local Policy Context

National Planning Policy

2.1 Section 106 of the Town and Country Planning Act (TCPA) 1990, as amended by Section 12 of the Planning and Compensation Act (1991), is the legislative framework for planning obligations. Further guidance on the provisions of Section 106 of the TCPA is currently to be found in Welsh Office Circular 13/97 (Planning Obligations).

2.2 Circular 13/97 contains five tests that must be fulfilled for planning obligations to be legitimately required:

1) Any obligation must be necessary to make the proposed development acceptable in planning terms.
2) The obligation must be relevant to planning.
3) The obligation must be directly related to the proposed development.
4) Obligations must be fairly and reasonably related in scale and kind to the proposed development.

5) Obligations must be reasonable in all other respects.

2.3 Welsh Assembly Government published Planning Policy Wales (PPW) in March 2002. Section 4.7 (Negotiating Planning Obligations) identifies that:

 Planning obligations are useful arrangements to overcome obstacles that could otherwise prevent planning permission from being granted.

 Contributions may be used to offset negative consequences, help meet local needs, or to secure benefits that will make development more sustainable.

 Arrangements should be fair to both the developer and the community.

 The process should be as transparent as possible.

 Parties should work for an early agreement to avoid unnecessary delays in the planning process.

 Unacceptable development should never be allowed because of unrelated benefits.

 Acceptable development should never be refused simply because an applicant is unwilling to offer such benefits.

2.4 The Planning and Compulsory Purchase Act 2004 has provided the option to modify Section 106 of the TCPA through secondary legislation.

Local Planning Policy

2.5 The Council adopted the Unitary Development Plan (1996 – 2011) in May 2006. Whilst new development proposals should have regard to all relevant policies of the plan the following policy is particularly pertinent in relation to planning obligations and new developments.

2.6 Policy SP11 (Planning Obligations) states:

"Where it is relevant, necessary, and directly related in scale and kind to a development proposal, benefits for the community will be sought. Such benefits could include educational, community, and leisure facilities; land for employment and/or retail purposes; affordable housing; public transport investment; highway investment; other infrastructure provision; additional landscaping; layout and/or design measures to offset the impact of development on the environment; open space provision and habitat creation.

2.7 A Community Strategy for Newport – Building our Future Together (2005 – 2015) was published in July 2005. The community strategy identifies the following visions and priorities for the future. Planning obligations have an integral role in achieving:

 An Accessible City

1) Introduce sustainable patterns of transportation and development.

2) Develop a safe and convenient environment for walking, cycling and disabled people.

 An Attractive City

1) Improving educational, arts and cultural facilities.

2) Making sure neighbourhoods and public spaces are clean, well designed and liveable.

3) Regenerate the riverside, industrial areas and brownfield sites.

 An Enterprising City

1) To ensure the availability of high quality business premises and infrastructure in key locations across the city.

2) To promote existing and new sports facilities.

 A Greener City

1) To conserve green spaces and architectural heritage.
2) To maintain and enhance existing parks and develop new open spaces, particularly along the riverfront.
3) To promote sustainable design and construction and reduce energy use in buildings within the city.
4) Encourage the use of public transport and alternatives to the car.

 A Healthy City

1) Development of primary care resource centres within communities.
2) The development of a local general hospital and the reprovision of a specialist critical care facility.

 An Inclusive City

1) Support area regeneration and build stronger communities
2) To provide quality housing at a reasonable price and improve energy efficiency.
3) Tackle social exclusion.

 A Learning City

1) To secure continuing and measurable improvements in education and skills attainment.
2) Enhanced access to educational opportunities for all residents.

2.8 The purpose of planning obligations is to overcome the negative impacts that new development can place upon the local community.
Therefore planning obligations have a key role in ensuring positive planning so that new development supports and enhances legitimate social, environmental and economic requirements in order to create sustainable local communities.

3.0 Drafting of Agreements & Monitoring Fees

3.1 Planning Obligations can be contained in Unilateral Undertakings or Agreements. Unilateral Undertakings are usually drafted by the developer's solicitors whereas Agreements are usually drafted by the Council's in house solicitors (but there is no objection to the developers arranging for their own solicitors to draft the Agreement if preferred). Either way the developers will be responsible for the Council's legal costs incurred in relation to the process of drafting, approving and completing any Deed of Obligation, including costs of title investigation which is necessary to ensure the correct parties enter into the Deed.

3.2 In addition a Monitoring Fee, equal to 15% of the planning application fee, will be required to cover the Council’s costs incurred in entering into early negotiations and ongoing monitoring of the obligations. Applicants will be expected to contractually agree within the legal agreement that they will make this payment prior to the commencement of development.

3.3 All financial contributions identified in legal agreements will usually be index linked using the Retail Price Index – all items (except Education which will use the Building Cost Information Service (BCIS) All in Tender Price Index figure) to the date of the committee, or delegated authority approval. Trigger dates for the payment of financial contributions will be included within the legal agreement,

and a clear timetable of when the contribution should be spent will also be identified within the agreement.
3.4 Once financial contributions have been received by the Council they will be held in interest bearing accounts, which will be allocated a unique finance code. Contributions remaining unspent at the end of the specified period will be returned to the payee along with any interest accrued, unless alternative provision is agreed between the payee and the Council.
3.5 Planning Obligations will be monitored by the Planning Contributions Manager to ensure that all obligations are complied with by both the developer and the Council. Regular monitoring reports will be produced that will provide details of agreements entered into, financial contributions received, and the completion of schemes that have been funded through financial contributions in whole or in part.

4.0 Types of Obligations

4.1 When negotiating the level of contributions that will be provided the Local Planning Authority will take into account any abnormal costs that developers may face. However, the Local Planning Authority considers that costs incurred in delivering sustainable development that benefits Newport's communities is to be expected, and therefore a development site should still be able to contribute towards, where appropriate, the following planning objectives*:

- Affordable Housing Provision
- Community Facilities Provision – improvements to libraries, community halls
- Community Woodland Initiatives
- Education Provision
- Highway Infrastructure Works
- Landscape Improvements
- Local Labour & Training Initiatives
- Pedestrian, Cycle and Public Transport Improvements
- Habitat Conservation & Improvement
- Provision of Public Realm
- Recreational Facilities – including formal and informal play space, sports provision, and associated commuted maintenance payments
- Travel Plans

4.2 The priority given to the different types of planning obligation will be at the discretion of the Local Planning Authority, and dependent upon the characteristics and location of individual sites. The Planning Officer's report to Committee will provide the justification for the chosen priorities.

*These are listed in alphabetical order and not in order of priority. The list should be regarded as illustrative (and not exhaustive) of the types of contributions that might be necessary depending on individual circumstances.

5.0 S106 Toolkit

5.1 The Local Planning Authority, in conjunction with other Local Planning Authorities in South East Wales, has commissioned a 'Development Appraisal Toolkit' from Three Dragons Consultancy. This toolkit will be used by the Planning Contributions Manager to determine the impact of planning contributions, and abnormal costs, on the viability of a proposed development as

part of the Section 106 negotiations. It is therefore expected that an ‘open book’ approach to negotiations will be supported by developers in order that planning obligations can be secured at appropriate levels, whilst ensuring that the development remains viable. Any financial information supplied by a developer as part of this ‘open book’ process will be considered as being ‘information supplied commercially in confidence’. Consequently any applications under the Freedom of Information Act to gain access to this information would be strongly resisted by the Local Planning Authority.

PART TWO

6.0 Affordable Housing

Policy Background

6.1 Welsh Assembly Government (WAG) published Technical Advice Note 2: Planning and Affordable Housing (TAN2) in June 2006. TAN2 defines affordable housing as ‘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’. TAN2 identifies that affordable housing includes social rented housing (e.g. provided by local authorities and registered social landlords) and intermediate housing (e.g. Homebuy), where prices or rents are above those of social rent but below market housing prices and rents.

6.2 Policy H5 (Housing Mix and Affordable Housing) of Newport’s Adopted Unitary Development Plan (1996 -2011) identifies that the Council will seek to negotiate appropriate elements of affordable housing on new developments.

6.3 In June 2006 WAG issued Ministerial Interim Planning Policy Statement (01/2006) on Housing (MIPPS). Paragraph 9.3.5 of the MIPPS states that where development plan policies identify that affordable housing, or other developer contributions, are required on specific sites, then this will be a material consideration in determining relevant applications.

Trigger for Obligation

6.4 Up to **30% affordable housing will be sought on appropriate sites that meet the relevant thresholds identified in the Affordable Housing SPG.** Affordable housing should normally be provided on-site in order to contribute to socially mixed communities, though in exceptional circumstances it may be provided off-site or a commuted sum paid in lieu.

6.5 Registered Social Landlords are key partners in the process and the Council will involve them at an early stage in negotiations with developers.

6.6 **Detailed guidance** on the type and provision of affordable housing in Newport can be found in **Affordable Housing Supplementary Planning Guidance**. Further information in relation to affordable housing provision, Housing Market Assessments, and waiting lists can be obtained from the :

OR

7.0 Education

Policy Background

7.1 The justification for requiring financial or in-kind contributions in respect to educational facilities is set out in Welsh Office Circular 13/97 (Planning Obligations). Paragraph A4 identifies that Section 106(2) of the Town and

Country Planning Act 1990 provides for payments of money to be made, either of a specific amount or by reference to a formula. Paragraph B10 states that provision of educational facilities may be acceptable provided that such facilities are directly related to the development proposal, the need for them arises from its implementation, and they are related in scale and kind.

7.2 Paragraph 7.34 of the Adopted Unitary Development Plan (1996 -2011) states that in areas identified for new housing, the Council will seek contributions towards the cost of additional education provision generated as a result of the development.

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Social Wellbeing & Housing
Civic Centre
Newport
NP20 4UR
Tel 01633 233387

Planning Contributions Manager
Planning & Economic Regeneration
Civic Centre
Newport
NP20 4UR
Tel 01633 232514

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7.3 Contributions may be used for:

- provision of new schools
- provision of new classrooms
- improvements and refurbishment of existing facilities to provide additional capacity
- provision of additional resources or improvements to existing resources necessitated by the additional demand.

7.4 Negotiations with developers on planning agreements will include:

- the project(s) to which their contributions may be used
- the timing of the payment of agreed contributions; on large sites payments may be phased by agreement with the authority
- when contributions will be spent; this will normally be within 5 years of receipt of the final payment.

Trigger for Obligation

7.5 A contribution will be sought from a developer if the number of dwellings to be built is 5 or more and where:

(a) the pupils probably arising from the development will cause the capacity of any catchment area school to be exceeded; and/or

(b) there is surplus capacity in schools to accommodate some or all of the pupils probably arising from the development, but refurbishment is required to make these places suitable for use.

In both cases (a) and (b) the contribution requested will relate to the number of pupils expected to be generated by the proposed development.

The only form of exempt dwelling will be:

 bed-sits/studio apartments and 1 bedroom dwellings, or
 sheltered/elderly person housing and student housing

7.6 The Council will take the following factors into account when calculating if, and how much, of a financial contribution towards education facilities will be required:

 School capacities and allocated development sites

The school capacity is published in the Newport City Council Schools Organisation Plan. However, for the purposes of planning contributions, the pupil capacity will be calculated net of any capacity that has been achieved through using temporary accommodation (e.g. portacabins) within school grounds. The Council will seek contributions from developers of sites allocated in the Unitary Development Plan as new schools, or improvements and refurbishments to existing schools, have already been planned to meet the anticipated demand from these sites.

 Windfall Sites

Where the number of pupils on roll is lower than the capacity (having taken temporary accommodation into account), the Council will consider the potential intake of pupils from any allocated sites within a school catchment area before calculating the contributions from developers of windfall sites.

7.7 Where appropriate large scale development that generates sufficient pupil numbers to justify a new primary or secondary school will be required to provide a suitable educational facility within their development, or make an equivalent financial contribution (e.g. land value and building costs) towards its offsite provision if not physically able to accommodate the facility on site.

Education Contribution Formula

7.8 Firstly calculate the number of pupils in each age range that are expected to arise from each type of dwelling in the development.

Proposed Dwelling Type*

Nursery

No. of

Dwellings x

Primary

No. of

Dwellings x

Secondary

No. of

Dwellings x

Houses: 2+ beds 0.02 0.31 0.22

Flats and apartments: 2+ beds 0.02 0.07 0.05

*Where an outline planning application is submitted that does not identify the proposed mix or total number of units then as a starting point for negotiation the presumption will be that the development would be all for 2+ bed houses, and that development will be at a gross density of 35 dwellings per hectare (or pro rata).

Total number of nursery pupils generated……. **A**

Total number of primary school pupils generated……. **B**

Total number of secondary school pupils generated….. **C**

7.9 Calculate the requirement for increased capacity taking into account capacity and “number on role” (NOR).
Or
Then
7.10 The 2006/7 Cost Multipliers are:
The average take up of post 16 school places in Newport is 0.2 of Secondary School places. The Post 16 figure of £17,253 should therefore by multiplied by 0.2 to calculate the relevant contributions towards post 16 education.
b. If the NOR is already **greater than** identified capacity
Use the number of additional pupils generated by the development.
Nursery: **D** = **A**
Primary: **E** = **B**
Secondary: **F** = **C**
a. If the NOR is **less than** identified capacity
Calculate the number of additional pupils by which the school NOR exceeds the published “capacity” once the number of pupils generated are added to the school role.
Nursery: **D** = NOR + **A** – capacity
Primary: **E** = NOR + **B** – capacity
Secondary: **F** = NOR + **C** – capacity
Section 106 Contribution = ([**D** + **E**] x Nursery/Primary Cost Multiplier)
+ (**F** x Secondary Cost Multiplier) + (**F** x 0.2 x Post 16 Cost Multiplier)
2006/7 Cost Multipliers for Additional Places
Nursery and Primary: £16,932 Secondary: £16,071 Post 16: £17,253
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The primary cost multiplier is based on actual costs of developing a primary school in Newport.
The costs of developing a secondary school in Newport, are based on actual costs of developing secondary schools in other local authorities in Wales, and the estimated average cost figure for building a new secondary school in Newport identified as part of the Secondary School rebuild programme for Bettws, Hartridge, and Duffryn.
All cost multipliers will be reviewed and updated annually.
7.11 Further information on school capacities and ‘numbers on roll’ can be obtained from:
OR

Example:

A development of:
 500 dwellings (100 one-bedroom flats, 100 two-bedroom flats and 300 three or four bedroom houses)
 In the catchment of nursery X (capacity 45, current number on role 45), primary school Y (capacity 210; current number on role 208) and secondary school Z (capacity [1,500 – 40 temporary accommodation] = 1,460; current number on role 1,467).
Nursery pupils = (100 x 0.00) + (100 x 0.02) + (300 x 0.02) = 8 (**A**)
Primary pupils = (100 x 0.00) + (100 x 0.07) + (300 x 0.31) = 100(**B**)

Secondary pupils = (100 x 0.00) + (100 x 0.05) + (300 x 0.22) = 71 (**C**)
Nursery school is at capacity thus: **D** = **8(A)**
Primary school is below capacity thus: **E** = 208 + 100(B) – 210 = **98**
Secondary school above capacity thus: **F** = **71(C)**
Contribution = ($106_{[D\&E]}$ x £16,932) + ($71_{[F]}$ x £16,071) + (71 x $0.2_{[Post\ 16]}$ x £17,253)
= £1,794,792 + £1,141,041 + £244,993
= £3,180,826
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8.0 Leisure & Recreation

Policy Background
8.1 Welsh Assembly Government published Planning Policy Wales (PPW) in 2002. Paragraph 11.1.3 of PPW identifies that the Assembly Government's main planning objective is to promote a more sustainable pattern of development by creating and maintaining networks of facilities and open spaces particularly within urban areas.
In addition paragraph 11.1.12 of PPW highlights that planning authorities may be justified in seeking Section 106 contributions to contribute to the maintenance of facilities, open space, meet the needs of new communities, and ensure that standards of provision are met.
8.2 Policy CF4 (Open Space Standards) of the Adopted Unitary Development Plan (1996-2011) states that provision of open space at a minimum standard of 2.4 hectares per 1000 population will be sought on all new housing developments with the developer making a requisite commuted sum towards future maintenance.
Trigger for Obligation
8.3 Outdoor play space will be sought on all residential developments of **5 units and over** as a collective number of small sites would place the same level of pressure on resources as a large individual site. A financial contribution in lieu of on site provision will be sought for developments between 5 and 15 dwellings. For developments of 15 or more dwellings the preference is for provision to be situated on site, however in exceptional circumstances a financial contribution will be considered.
Further Information

8.4 Further information and details on types of equipment and maintenance costs can be found in the Council's Outdoor Play Space Supplementary Planning Guidance. Detailed requests can be directed to:
Or
Parks Manager
Sports & Leisure
Civic Centre
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NP20 4UR
Tel 01633 232830
Planning Contributions Manager
Planning & Economic Regeneration
Civic Centre
Newport
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Tel 01633 232514
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9.0 Transportation

Highway & Infrastructure Provision
Policy Background
9.1 Welsh Office Circular 13/97 (Planning Obligations) identifies in Paragraph B10 that if appropriate contributions may be sought towards new access roads, improved junction layouts, extra car parking facilities, new/improved rail/bus stations, park and ride schemes, improved bus services, and improved measures for cyclists and pedestrians both on, and where necessary off, the development site.
Trigger for Obligation
9.2 The Local Planning Authority will require contributions from any development, regardless of size or type, where there is a requirement to improve existing, or construct new, highway infrastructure, either in order to provide safe access to a new development, or, as a result of the additional traffic impact associated with the development. This contribution would be required in addition to contributions to other travel modes such as public transport provision, cycle routes, or footpaths.
Further Information
9.3 Further information on highway design requirements, Section 278 Agreements (1980 Highways Act), and car parking standards can be obtained from:
Principal Engineer (Planning)
Civic Centre
Newport
NP20 4UR
Tel 01633 232677
OR
Planning Contributions Manager
Planning & Economic Regeneration

Civic Centre
Newport
NP20 4UR
Tel 01633 232514

Residential and Employee Travel Plans
Policy Background
9.4 PPW (2002) identifies (Paragraph 8.7.1) that when determining a planning application for development that has transport implications, local planning authorities should take into account the willingness of a developer to promote travel by public transport, walking or cycling, or to provide infrastructure or measures to manage traffic and overcome transport objections to the proposed development.
9.5 Paragraph 8.7.5 of PPW (2002) states that planning obligations may also be used in appropriate circumstances to secure off-site improvements in public transport, walking and cycling, where such measures are likely to influence travel patterns to and from the development site.
Trigger for Obligation
9.6 Developers will be required to produce a Travel Plan where Traffic Impact Assessments (TIAs) identify that a proposed development could have a detrimental impact upon travel movements on the existing highway network. The Travel Plan will need to identify what measures will be implemented by the developer to overcome any detrimental impact through promoting sustainable integrated transport solutions that will reduce the reliance on the private car. The objective of the travel plan will be to achieve at least a 10% modal shift in travel behaviour of the occupiers of the site. The Travel Plan obligation will require occupiers of development to undertake a staff/resident travel survey and implement and monitor a staff/resident travel plan. The Travel Plan should include the provision of up to date information about public transport services, timetables, and opportunities for car sharing (e.g. via a car share website). However additional measures may also be sought, including provision of designated car share parking spaces, discount vouchers/passes for public transport, or financial contributions toward shuttle buses and park and ride schemes.
Further Information
9.7 For further information please contact:
Planning Contributions Manager
Planning & Economic Regeneration
Civic Centre
Newport
NP20 4UR
Tel 01633 232514
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10.0 Local Labour and Training Initiatives

Policy Background

10.1 Paragraph 7.1.6 of PPW (2002) identifies that all communities need new employment opportunities. As a result Newport City Council has produced a Construction Employment Charter (CEC). The CEC's purpose is to help secure the social and physical regeneration of the City for the lasting benefit of local communities through creating a genuine partnership between the public sector, the private sector and the community. The CEC invites construction employers to use their best endeavours to recruit locally skilled and locally trained people on construction projects.

Trigger for Obligation

10.2 The Charter is a voluntary code of practice, and developers are encouraged to make a commitment to the following principles;

- To inform the Charter Manager of new employment opportunities within Newport and to identify whether those jobs can be filled by suitably experienced local unemployed people;
- To use local companies as suppliers where appropriate.
- To adopt the Charter principles, including equal opportunities, and health and safety, and, also provide a commitment to employee and apprentice development and training.

10.3 It is considered that all construction related developments may be able to offer employment opportunities, and consequently all developers are asked to sign up to the Construction Employment Charter.

Further Information

Construction Employment Charter
Manager
Civic Centre
Newport
NP20 4UR
Tel 01633 259163

Appendix 2

Planning Obligations Service Standards

Introduction

From 1st January 2007 the Council introduced a separate fee system for progressing and the subsequent monitoring of planning agreements or obligations.

The implementation of the new fee system will allow the Vale of Glamorgan Council to provide an efficient approach to all matters relating to planning agreements, to the benefits of all parties involved.

These service standards have been devised to demonstrate the Council's commitment to delivering a quality service to developers and the interested persons in respect of all matters relating to planning obligations.

The aims of the planning obligations service are:

Clarity – To ensure that developers are advised at the earliest opportunity what planning obligations are appropriate.

Fairness – To ensure individuals and developers are offered the same level of service.

Speed - To deal with planning obligation legal agreements as quickly as possible.

Consistency – To ensure that planning obligations are sought in accordance with national and local planning policies in a consistent manner.

Quality – To ensure that planning obligations are successfully sought where they are necessary and that contributions are spent in a way that best meets the needs of the Vale's community resulting from new development.

Transparency - To ensure that all interested parties can have easy access to the Council's records relating to planning obligations.

The Council has a main point of contact for all issues relating to planning obligations – contact Victoria Abraham (Principal Planner – Development Control) Tel. 01446 704662 or e-mail vlabraham@valeofglamorgan.gov.uk.

The service you can expect from us when entering a planning agreement:

The Council will provide pre-application advice on any developments which are likely to require a planning obligation so that developers are aware of the Council's requirements at an early stage.

The Council is working on a suite of documents to set out its expectations in respect of planning obligations for typical developments to improve clarity, although each case will be assessed on its own merits.

Planning Committee reports will include details of the planning obligations to be secured through legal agreements.

Following approval from Planning Committee, the Council will aim to provide a first draft legal agreement to the developer or their solicitor within 3 weeks, and thereafter the matter will be progressed as quickly as possible depending on the developer's acceptance of the agreement.

An annual report will be provided by the Local Planning Authority every April until complete implementation of the legal agreement, to let the developer know the Council's progress on the implementation of the planning obligation. At effective completion a closing report will be prepared outlining how the planning obligation has been implemented.

The service you can expect from us as an interested party:

The Council will encourage consultation and feedback on draft local policies and guidance, particularly through the ongoing preparation of the Local Development Plan.

A database of planning obligations will be set up to store information on all planning agreements so that requests for information can be easily answered and the information readily provided.

Public consultation will be carried out during the assessment of all planning applications and potentially issues may be highlighted that could be addressed by means of planning obligations. However, each case will be considered on its own merits.

Planning obligations shall be constantly monitored to ensure they are implemented successfully to the benefit of the Vale's community in response to the pressures resulting from new development.

An annual report will be sent to Planning Committee outlining the Council's overall position on planning obligations in terms of receipts and spend, including year on year trend data and area comparison data. The report will be made publicly available.

Customer comments and complaints:

The Council is committed to improving customer service and we would like you to tell us if we are doing something well and suggest if there are areas where we could improve. However, if you are dissatisfied with the level of service you have received then please let us know.

In the first instance you should use the main point of contact for all issues relating to planning obligations, Victoria Abraham (Principal Planner – Development Control) Tel. 01446 704662 or e-mail vlabraham@valeofglamorgan.gov.uk.

Alternatively, you can write to:
Head of Planning and Transportation,
Vale of Glamorgan Council,
Dock Office,
Barry CF63 4RT
or e-mail Planning&Transport@valeofglamorgan.gov.uk.

More information about making complaints or paying compliments can be found on the Council's web site at www.valeofglamorgan.gov.uk.

Appendix 3

Standard Heads of Terms

Figure 1: Standard Heads of Terms for Public Art

Definitions

Public Art	means art that is the original work of a living professional artist and is created for a particular place, commissioned by or working in collaboration with others such as architects, landscape designers, planners, developers, arts officers and community representatives or the provision of facilities which enable the creation of art.
Public Art Fund	means the Council's fund for public art derived through financial contributions for public art, where public art has not been provided on development sites to the value of 1% of the build costs, which is held in an interest bearing account until such time as sufficient funds are available to cover the cost of an alternative work of art or until a suitable alternative site is found.
For FUL / RES applications:	
Public Art Contribution	means a sum of […] pounds [£…] to be set aside to provide public art on site and / or to be paid as a financial contribution to the Public Art Fund.
For Outline applications:	
Public Art Contribution	means the value of the public art to be provided on site, or the value of the financial contribution to be paid in lieu of on site provision, calculated as 1% of the total building costs of the development.

Clauses

Prior to beneficial occupation of any part of the development, the developer shall provide details including timeframes for implementation of the public art to be provided on site. These details must be approved by the Council prior to beneficial occupation and the works shall thereafter be implemented in accordance with the approved scheme.

Once the on-site provision of public art has been approved by the Council, including details of the costs, the developer shall pay any remaining sum from the Public Art Contribution to the Council for the provision of Public Art off site. This sum shall be received prior to the beneficial occupation of 50% of the Development.

The developer will provide the public art on site in accordance with the approved details and timeframes, and no later than 12 months after substantial completion of the development.

Figure 2: Standard Heads of Terms for Public Open Space and Recreational Facilities

Definitions

Public Open Space	means land of public amenity or recreational value which is freely available for use by the public.
Public Open Space Land	means the land hatched on plan [xxx] attached to the planning application to be transferred to the Council free of charge to use as Public Open Space.
Recreational Facilities	means facilities or equipment to enable children's play or other recreational enjoyment of public open space to a specification to be agreed by the Local Planning Authority.
POS / Recreational Facilities Contribution	means the sum of … (£…) to be paid to the Council to provide or enhance public open space and/or recreational facilities on site or in lieu of on site provision in the vicinity of the site likely to be used by future occupiers of the development.
Recreational Facilities Maintenance Contribution	means a sum to be agreed by the Local Planning Authority following submission of the maintenance scheme for the Recreational Facilities, to be used to maintain the Recreational Facilities for a 20 year period.
Public Open Space Maintenance Contribution	means a financial contribution of … pounds (£…) to be paid to the Council as a commuted sum to maintain the Public Open Space Land.

Clauses

A scheme for the provision of the Recreation Facilities must be submitted to the Local Planning Authority for approval prior to the commencement of development. The scheme shall include a schedule of costs for maintenance of the Recreational Facilities for a 20 year period.

Prior to the beneficial occupation of the […] residential unit, the developer will provide the Recreational Facilities. Alternatively, if the Council is in agreement, the developer may pay the Recreational Facilities contribution. Where a financial contribution is to be paid in lieu of the provision, this shall be payable prior to beneficial occupation of the development.

The Recreational Facilities Maintenance Contribution and Public Open Space Maintenance Contribution shall be paid to the Council upon implementation of the Public Open Space / Recreational Facilities scheme or alongside the POS/Recreational Facilities contribution, whichever is relevant.

Claw back periods

Where maintenance contributions are required the standard claw back period will be 20 years from the date upon which the financial contribution was paid, or the date upon which it was due, whichever is the latter.

Figure 3: Standard Heads of Terms for Community Facilities

Definitions

Community Facilities	means the provision of facilities (a building or structure) or services which meet local community needs and are publicly available.
Community Facilities Land	means the land hatched on plan [ref …] attached to this Deed where the Community Facilities are to be provided.
For FUL / RES applications: Community Facilities Contribution	means the sum of … pounds [£…] to be paid to the Council to provide or enhance Community Facilities on site or in the vicinity of the site.
For Outline applications Community Facilities Contribution	means the contribution to be calculated using the Council's relevant formula at the time of submission of the full details of the development, to be paid to the Council to provide or enhance Community Facilities on site or in the vicinity of the site.

Clauses

No construction works shall take place on site until details of the on site Community Facilities have been submitted and approved by the Local Planning Authority. Prior to the beneficial occupation of the […] residential unit, the developer shall provide the Community Facilities on site in accordance with the approved details.

The Community Facilities Land must be used for the purpose of providing Community Facilities only in accordance with details agreed by the Council and shall thereafter remain in that use in perpetuity.

Prior to the beneficial occupation of the […] residential unit, the developer will pay the Council the Community Facilities Contribution

Figure 4: Standard Heads of Terms for Waste & Recycling Facilities

Definitions

Community Recycling Facility	means the provision of a designated site with appropriate facilities for drop-off, storage and collection of domestic materials for re-use or recycling which meet local community needs and are publicly available.
Community Recycling Facility Land	means the land hatched on plan [ref …] attached to this Deed where the Community Recycling Facility is to be provided.
Recycling Facilities Contribution	means the sum of … pounds [£…] to be paid to the Council to provide or enhance Community Recycling Facilities on site or in the vicinity of the site.

Clauses

No construction works shall take place on site until details of the on site Community Recycling Facility have been submitted and approved by the Local Planning Authority. Prior to the beneficial occupation of the […], the developer shall provide the Community Facilities on site in accordance with the approved details.

The Community Recycling Facility Land must be used for the purpose of providing Community Recycling Facility only in accordance with details agreed by the Council and shall thereafter remain in that use in perpetuity.

Prior to the beneficial occupation of the […] the developer will pay the Council the Recycling Facilities Contribution.

Figure 5: Standard Heads of Terms for Transport

Definitions

Sustainable Transport Contribution	means the sum of […] pounds [£…] payable to the Council to provide or enhance Sustainable Transport Facilities serving the site.
Sustainable Transport Facilities	means information, facilities or infrastructure which provides or improves access for pedestrians, cyclists, public transport users, motor cycles, taxis or car sharers, in the vicinity of the site.
Sustainable Transport Maintenance Contribution	means the sum of […] pounds [£…] payable to the Council as a commuted sum to ensure the maintenance of the sustainable transport facilities for a 20 year period.

Clauses

The Sustainable Transport Contribution will be paid to the Council in full prior to the beneficial occupation of the development.

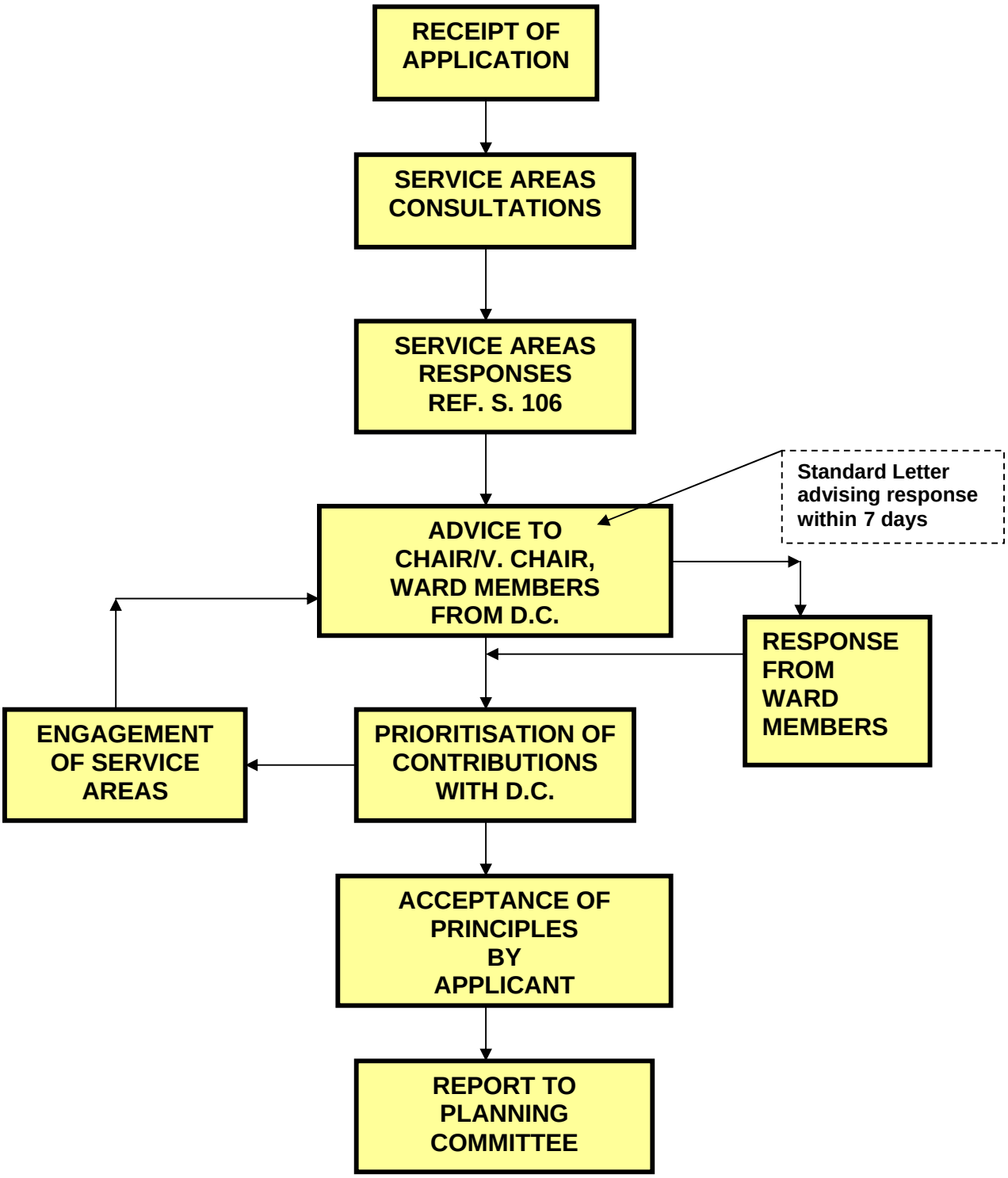
The Sustainable Transport Maintenance Contribution shall be paid to the Council within 12 months of the completion of the Sustainable Transport Facilities works if not before.

Prior to beneficial occupation the developer will submit a Travel Plan for the development for the approval of the Council to include a designated budget for implementation of […] pounds [£…]. The Travel Plan will thereafter be implemented in accordance with the approved details.

Claw back periods

Where maintenance contributions are required the standard claw back period will be 20 years from the date upon which the financial contribution was paid, or the date upon which it was due, whichever is the latter.

Appendix 4 Example Process Map detailing protocol for member influence



Appendix 5 – Example of a fully integrated database to manage and monitor planning obligations.