

**SUBJECT: SECTION 106 PROCEDURE NOTE AND POLICY GUIDANCE**

**MEETING: ECONOMY AND DEVELOPMENT SELECT COMMITTEE**

**DATE: 25 JANUARY 2018**

**DIVISION/WARDS AFFECTED: ALL**

**1. PURPOSE:**

- 1.1 To advise Members of changes to processes for negotiating Section 106 planning obligations and their subsequent implementation and monitoring. Specifically, the report will consider the following documents, which are reproduced as appendices:
- (1) Procedures for the Development, Monitoring and Control of Section 106 Schemes (Appendix A).
  - (2) Policy Guidance: Approach to Planning Obligations – Residential Development (Appendix B)
  - (3) Recreation and Public Open Space Developer Contributions Charging Schedule (Appendix C)

**2. RECOMMENDATIONS:**

- 2.1 To note the contents of this report and attached documents and comment accordingly, prior to Cabinet being requested to approve the documents for use in the processes for negotiating Section 106 planning obligations and their subsequent implementation and monitoring

**3. KEY ISSUES:**

3.1 Background.

- 3.1.1 Planning obligations under Section 106 of the Town and Country Planning Act 1990 are a means of seeking contributions from developers to enhance the quality of a development, provide community benefits and infrastructure and mitigate any negative impacts that may arise as a consequence of development. They are negotiated under the planning application process and, where they are considered necessary, are required to be entered into prior to the granting of planning permission for the related development.
- 3.1.2 It is a legal requirement (as set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010) that a planning obligation may only constitute a reason for granting permission for the development if the obligation is:
- (a) necessary to make the development acceptable in planning terms;
  - (b) directly related to the development; and
  - (c) fairly and reasonably related in scale and kind to the proposed development.
- 3.1.3 The specific contents of Section 106 agreements vary from one development to another but in general terms the types of provisions contained in them can cover the following matters:

- Affordable Housing
- Education
- Recreation and Open Space
  - Children's Play (generally on site)
  - Adult recreation (generally off-site financial contributions)
- Green Infrastructure
- Travel
  - Highway infrastructure works necessary for the development to go ahead
  - Sustainable transport contributions – walking, cycling, public transport

3.1.4 The Council has established a Section 106 Working Group that has been operating for over 10 years. Its main purpose is to monitor Section 106 agreement process from first stages to the spending of the monies raised. The Working Group meets quarterly and comprises officers involved in the Section 106 process and is chaired by the Head of Planning, Housing and Place Shaping. There is also Member representation on the Group.

### 3.2 Procedures for the Development, Monitoring and Control of Section 106 Schemes (Appendix A)

3.2.1 This document is a procedure note provided to assist the operation of the Section 106 Working Group. It was adopted in 2009 and a number of changes have taken place since that date that necessitate an updating, particularly:

- the introduction of 'pooling restrictions' on the use of Section 106 agreements
- the introduction of a formal pre-application advice system
- a new Local Development Plan (LDP) policy requiring affordable housing financial contributions

3.2.2 Under Regulation 123 of the CIL Regulations 2010, pooled contributions from more than 5 obligations entered into since 6 April 2010 are not permitted for a specific infrastructure project or a type of infrastructure which could be funded from a CIL. This will limit obligations for strategic infrastructure such as major roads or a school, for example, or for broad categories of infrastructure, such as adult recreation facilities or sustainable transport measures, for example, which rely on a large number of contributing developments. Previously it was usual practice to include clauses requiring contributions towards a broad category of development - adult recreation facilities, for instance - and then (once the money was received) go through a bidding process from local organisations seeking funds for recreational projects, with a final decision on allocations being taken by Cabinet. This is no longer feasible as once the 'pooling' limit is reached (and it is back dated to April 2010) no further obligations of this type can be entered into. It is necessary, therefore, for Section 106 agreements to be much more specific on the projects that contributions are required to fund. Such requirements also need to be established at the start of the process as developers need to be given an indication of likely Section 106 contributions when they enter into pre-application discussions. In relation to recreation provision, an additional clause has been inserted into the procedure note requiring Leisure to undertake community liaison to establish priorities for their area at an early stage,

such community consultation to include Councillors, Town and Community Councils, community groups and the Partnership and Community Development Team.

- 3.2.3 An additional section has been inserted into the procedure note to set out the processes for collecting affordable housing financial contributions for those developments where the capacity of the site falls below the threshold at which on-site affordable housing is required. This policy (a clause of Policy S4) was introduced in the new LDP, adopted February 2014, and detailed guidance on how it will be implemented is contained in the Affordable Housing Supplementary Planning Guidance (SPG).
- 3.2.4 The opportunity has been taken to refine and/or update a number of other processes, including revisions to the Terms of Reference for the Working Group, some of which have been suggested by Internal Audit, which has been carrying out a review of Section 106.
- 3.3 Policy Guidance: Approach to Planning Obligations – Residential Development (Appendix B)
- 3.3.1 This Policy Guidance document sets out an approach to guide negotiations for Section 106 planning obligations between Monmouthshire County Council and applicants proposing new residential developments. It replaces the document *Approach to Planning Obligations: Interim Policy (March 2013)*.
- 3.3.2 As Members will be aware, the Monmouthshire LDP was adopted in February 2014. It had been intended to produce full SPG on Planning Obligations to accompany the adopted LDP. The Council, however, had made a decision to carry out preliminary work to implement CIL. As CIL would have largely replaced Section 106 Obligations in the funding of infrastructure provision and because of the complicated relationship between Section 106 and CIL, the preparation of SPG was deferred. The process of implementing CIL, however, has taken longer than anticipated and there is also considerable uncertainty about the future of the measure.
- 3.3.3 A consultation took place on the Council's CIL Draft Charging Schedule (DCS) in April/May 2016. The next stage would have been to submit the DCS for Examination by an independent inspector. This was delayed, however, while site specific viability testing was taking place in connection with a number of planning applications, as there was a risk that assumptions being made by the District Valuer in assessing these applications would undermine the strategic viability work that had been undertaken by the Council's CIL consultants. At the same time, however, a CIL Review report (the Peace Review) published with the UK Government's Housing White Paper November 2016 was recommending a number of substantial changes to CIL that were likely to be considered in the UK Government's Autumn Budget 2017. A decision was taken, therefore, to delay any further work on CIL at least until the UK Government had provided its response to the Peace Review. The Chancellor has now made his Autumn Budget statement, in which the announced proposed changes to CIL were relatively minor with no mention made of the significant amendments recommended in the Peace Review. In addition, the Wales Act 2017 has devolved CIL to the Welsh Government (WG) and it is anticipated that the powers will be

coming across in April 2018. The WG has given no indication of its likely approach to CIL. There is, therefore, still considerable uncertainty over the future of the measure. It was therefore considered prudent to bring forward the production of this Policy Guidance.

3.3.4 The Guidance Note, following a brief overview of the policy and legal context for Section 106 agreements, explains how planning obligations will be negotiated in topic areas set out in paragraph 3.1.3 above. Further sections provide guidance on the procedures to be followed in negotiations on Section 106 agreements and explain how the Council will monitor agreements once they are signed and planning permissions are implemented.

3.3.5 To obtain the status of SPG, the Guidance Note would need to go through a process of public consultation before it could be adopted by the Council. It is being treated, however, as a practice note to assist Development Management officers in their negotiations with developers and also to provide guidance for developers as they formulate their proposals.

#### 3.4 Recreation and Public Open Space Developer Contributions Charging Schedule (Appendix C)

3.4.1 As explained in the Guidance Note, LDP Policy CRF2 requires the provision of recreation facilities, children's play space and amenity open space in accordance with specific standards. Where on-site provision is not possible then a financial contribution is expected from developers in lieu of such provision. Where recreation and open space facilities are provided on-site the developer is required to maintain them and keep them in their intended use for perpetuity, which is usually by the facility being adopted by the Council with a commuted sum being paid for its future maintenance. The report in Appendix C sets out the Council's play and recreation standards and contributions policy. A 2015/16 charging schedule was approved by Cabinet Member decision in June 2015 and it has been necessary to update this to take account of inflation, increased costs etc. It is intended that the new charging schedule will be included as an appendix to the guidance note.

3.5 Members have recently expressed concern regarding the capacity of healthcare related infrastructure to cope with new development. The Health Board was consulted as part of the current LDP, but indicated that no additional infrastructure is required for the growth included in the LDP. In response to recent Member concerns, the Head of Planning, Housing and Place Shaping has undertaken to notify the Health Board of all new major residential planning applications, and as such has made contact to establish points of contact for this and also to commence discussions in anticipation of the next LDP. No response has been received to date. Officers will continue to seek to enter into dialogue and seek clarification regarding the mechanisms for funding and establishing GP surgeries.

## 4. **OPTIONS APPRAISAL**

4.1 The only other option that could be considered would be to do nothing. This is not considered to be appropriate, given the need to clarify, improve, provide guidance on and update where necessary Section 106 processes.

## **5. EVALUATION CRITERIA**

- 5.1 The Section 106 Working Group meets quarterly and monitors Section 106 processes. This will enable the effectiveness of these documents to be assessed on a regular basis. An evaluation assessment has been included in Appendix D for future evaluation of whether the decision has been successfully implemented. It is proposed that the monitoring is considered and reported on as part of the Development Management Annual Performance Report, which is already reported to the Economy and Development Select Committee in September/October each year.

## **6. REASONS:**

- 6.1 Section 106 agreements form a significant part of the planning process and provide a means of seeking contributions from developers to enhance the quality of a development, providing community benefits and infrastructure and mitigating any negative impacts that may arise as a consequence of development. It is important that they are negotiated and implemented effectively and the documents that are the subjects of this report will assist in this process.

## **7. RESOURCE IMPLICATIONS:**

- 7.1 Officer time and costs associated with negotiating, preparing, implementing and monitoring Section 106 agreements and servicing the Section 106 Working Group. These will be carried out by existing staff and within existing budgets. Funding streams arising from Section 106 agreements will supplement Council spending in a number of areas of work.

## **8. WELLBEING OF FUTURE GENERATIONS IMPLICATIONS (INCORPORATING EQUALITIES, SUSTAINABILITY, SAFEGUARDING AND CORPORATE PARENTING):**

### **8.1 Sustainable Development**

The adoption of these documents will assist in the Section 106 process and will be a means of supporting and delivering the LDP. An integrated equality and sustainability impact assessment was carried out in relation to the LDP as a whole. Under the Planning Act (2004), the LDP was required, in any event, to be subject to a Sustainability Appraisal (SA). The role of the SA was to assess the extent to which the emerging planning policies would help to achieve the wider environmental, economic and social objectives of the LDP. The LPA also produced a Strategic Environmental Assessment (SEA) in accordance with the European Strategic Environment Assessment Directive 2001/42/EC; requiring the '*environmental assessment*' of certain plans and programmes prepared by local authorities, including LDP's. All stages of the LDP were subject to a SA/SEA, therefore, and the findings of the SA/SEA were used to inform the development of the LDP policies and site allocations in order to ensure that the LDP would be promoting sustainable development. Section 106 is a means of supporting these existing LDP policies, which were prepared within a framework promoting sustainable development.

### **8.2 Equality**

The LDP was also subjected to an Equality Challenge process and due consideration given to the issues raised. As with the sustainable development implications

considered above, Section 106 is a means of implementing these existing LDP policies, which were prepared within this framework.

8.3 A Future Generations Evaluation (including equalities and sustainability impact assessment) is attached to this report at Appendix E.

**9. CONSULTEES:**

- Head of Planning, Housing and Place Shaping
- Section 106 Working Group
- Development Management officers

**10. BACKGROUND PAPERS:**

- Monmouthshire County Council (MCC) Adopted LDP, February 2014.
- Affordable Housing SPG, March 2016
- Green Infrastructure SPG, April 2015
- MCC, Approach to Planning Obligations Interim Policy, March 2013

**11. AUTHOR & CONTACT DETAILS:**

Martin Davies, Planning Policy Manager

**Tel:** 01633 644826

**E-mail:** [martindavies@monmouthshire.gov.uk](mailto:martindavies@monmouthshire.gov.uk)

## Appendix A



### PROCEDURES FOR THE DEVELOPMENT, MONITORING AND CONTROL OF SECTION 106 SCHEMES

#### 1. THE PLANNING PROCESS AND THE DEVELOPMENT OF THE S106 AGREEMENT

A key to the terms underlined is provided at the end of the document.

- 1.1 Leisure undertake community liaison with regard to the priorities for their area, community consultation to include Councillors, Town and Community Councils, community groups and the Partnership and Community Development Team.
- 1.2 The developer enters into pre-application discussions with Development Management regarding a development. Development Management Officer will consult the relevant members of the S106 Working Group of any relevant schemes of 10 or more units requiring a response within 14 days. A link to the development plans and documents on Idox to be sent to all relevant departments. All relevant departments must respond even if they have no requirements.
- 1.3 Development Management examines relevant LDP policies and SPG, including any development briefs and consults all relevant departments, as listed below, to identify any issues or S106 requirements.

Highways/Drainage – Mark Davies  
Green Travel – Christian Schmidt/Richard Cope  
Housing Strategy – Shirley Wiggam  
Education – Matthew Jones  
Leisure – Mike Moran  
Grounds/Play – Nigel Leaworthy  
Green Infrastructure – Colette Bosley  
Biodiversity – Kate Stinchcombe  
PROW – Ruth Rourke  
Community Facilities – Judith Langdon

- 1.4 Relevant departments need to identify any requirements to improve the provision of education, transport, play and adult recreation services and the possible requirement for an affordable housing financial contribution as a result of the proposed development. Where GI would be triggered by a proposed development the relevant departments to provide a co-ordinated response.
- 1.5 The following three tests are a legal requirement as a result of the CIL Regulations 2010 (Regulation 122) for S106s and planning obligations, and must be taken into account when identifying any requirements for contributions arising from a development. A planning obligation may only constitute a reason for granting permission for the development if the obligation is:
  - (a) necessary to make the development acceptable in planning terms;
  - (b) directly related to the development; and
  - (c) fairly and reasonably related in scale and kind to the proposed development.

- 1.6 In addition, under Regulation 123, pooled contributions from more than 5 obligations entered into since 6 April 2010 are not permitted for a specific infrastructure project or a type of infrastructure which could be funded from a CIL. This will limit obligations for strategic infrastructure such as major roads or a school, for example, or for broad categories of infrastructure, such as adult recreation facilities or sustainable transport measures, for example, which rely on a large number of contributing developments. All relevant departments to check that any identified requirements are not contrary to the pooling regulation.
- 1.7 There are pre-determined standards to which the Council works in each of the areas that could be the subject of a contribution, and these should help to determine the amount of money requested from developers. Where appropriate areas of Open Space, Play, Adult Recreation and Community Growing will be considered as part of the GI proposals in a coordinated approach to development.
- a) Play areas for younger age groups – usually provided within the development site.
  - b) Larger scale play provision and for older age groups – usually achieved by developers providing a capital payment to the Council for us to make off site provision, usually by the improvement of existing play areas.
  - c) Education – an assessment is carried out to determine the educational needs of the increased number of pupils likely to be generated by the new development
  - d) Transport (sometimes Section 278 Agreements) – assessment of need for traffic calming or safe routes to schools, public transport and active travel (in terms of active travel the pre-determined standards is the Welsh Government active travel design guidance)
  - e) Adult Recreation – there is a formula for requesting a set contribution per new dwelling building.
  - f) Commuted sums – required to maintain assets above. These commuted sums need to be calculated taking into account the long-term inflation forecast rate for the period of maintenance (see section 4.7 b).
  - g) Affordable Housing financial contribution – required where the threshold for on-site provision of affordable housing is not met or in exceptional circumstances in-lieu of on-site provision.
- 1.8 All relevant departments must respond within 14 days giving the exact details of what the money is to be spent on to ensure that the pooling regulation is still complied with. Development Management Officer should check with the Enforcement Monitoring Officer to ensure that any requests for contributions are not contrary to the pooling regulation.
- 1.9 A planning application is subsequently received from the developer for residential or non-residential development.
- 1.10 When the planning application is received, formal consultations will be initiated with the relevant departments, although the aim would be to have substantially established all Section 106 requirements at the pre-application stage. However, further negotiation may be necessary, particularly where further information may come to light or viability issues are raised that may result in it not being possible for all policy requirements to be met.
- 1.11 If following this process there is a dispute over viability issues, Development Management will seek independent advice, at the applicant's expense, to arbitrate between the Council and the developer. As well as determining how much affordable housing can be achieved in a development, this process will also assist in establishing the amount of Section 106 contributions that can be obtained in the



other policy areas. Where there are viability issues that may prevent a development coming forward priority will be given to the affordable housing, unless there is an 'overwhelming need' for the contribution to be allocated for another necessary purpose.

- 1.12 The final decision on the required contributions to be requested from a developer will be made by Development Management and all relevant departments notified.
- 1.13 The Report taken to Planning Committee should specify the Heads of Terms for the S106 Agreement including the issue of any future maintenance. The Committee report will be available on the website at least 6 days before the Committee meeting date.
- 1.14 The Planning Committee, subject to the signing of the S106 Agreement, should approve the planning application.
- 1.15 The Development Management Officer completes a proforma to instruct Legal and issues an extension of time letter to the applicant.
- 1.16 It is imperative that all future S106 agreements follow a prescribed format containing default sections (see below) to ensure that there is clarity about amounts to be received, variations and conditions attached to amounts received.
- 1.17 In the first instance Legal needs to check the applicant's title to the development land.
- 1.18 The final wording of the S106 Agreement needs to be agreed by Legal, the applicant and Development Management. Legal should send at least two copies of the final S106 Agreement to the applicant for signing.
- 1.19 The S106 Agreement should be signed within 6 months or there will be delegated authority to refuse.
- 1.20 Upon return of the signed agreement from the applicant to Legal, Development Management is notified that the agreement has been signed.
- 1.21 Legal distributes a copy of the sealed S106 agreement to Land Charges to enter in their records. Importantly, a photocopy of each agreement is passed to all relevant departments.
- 1.22 Development Management should then release the decision notice for the planning permission and place a copy of this and the S106 Agreement on the Planning Register.
- 1.23 The Enforcement Monitoring Officer within the Planning Enforcement Section enters the S106 Agreement information onto the S106 combined report spreadsheet with details of identified schemes, implementation timescales, payments received and expenditure details.
- 1.24 The S106 combined report should be reconciled on a quarterly basis to the financial ledger by an Accountant within Central Finance.
- 1.25 Any variations to the original S106 Agreement, which results in a reduction or an increase in S106 monies (e.g. reduction in the number of dwellings built) should be reported to all relevant departments at the S106 Working Group meeting.

## 2. MONITORING OF S106 AGREEMENTS

- 2.1 The Enforcement Monitoring Officer within the Planning Enforcement Section will monitor the relevant “triggers” and the associated S106 payment requirements and information obtained from other relevant departments as necessary. This covers both the recovery of ‘principal’ sums **and** commuted sums.
- 2.2 The Enforcement Monitoring Officer will arrange for a sundry debtor invoice to be raised to be sent to the developer in advance of “trigger” dates being reached.
- 2.3 The specific financial terms and conditions of S106 agreements should be adhered to during the course of the agreement. If there is to be any deviation from these requirements, the chair of the S106 Working Group must be informed immediately to enable them to assess the implications.
- 2.4 If the S106 Agreement conditions are not met, the Authority could be required to pay back money to the developer including interest. It could be seen that the Authority is not managing the deposits received in the Community’s best interests. It is the responsibility of the relevant departments, who have been in receipt of S106 contributions, to ensure that the money is spent on the correct projects and before the spend by dates specified in the S106 agreement and that records of this expenditure are maintained.

### a) CommutedSums

- 2.5 If there is a commuted sum provision for maintenance of on-site recreation/open space and/or Green Infrastructure within the S106 the Enforcement Monitoring Officer will monitor the relevant “trigger” points. Once a “trigger” point is reached the Enforcement Monitoring Officer will contact Grounds / Countryside to advise them of this.
- 2.6 In the instance of onsite recreation/open space Grounds will arrange to inspect the play area/open space to ensure that it satisfies the standards required by the Council. If it complies Grounds will in the first instance contact the developer and ask them to instruct their solicitors to begin the process of transferring the land to the Council.
- 2.7 At the same time Grounds will instruct Legal to begin the process of the transfer of the land to the Council.
- 2.8 Once the adoption process is completed Legal will advise the Enforcement Monitoring Officer that the land has been transferred to the Council.
- 2.9 Enforcement Monitoring Officer will arrange for a sundry debtor invoice to be raised to be sent to the developer.

### b) Affordable Housing Financial Contributions

- 2.10 If the capacity of the site falls below the threshold at which affordable housing is required the applicant will need to enter into a S106 agreement to pay a financial contribution towards affordable housing in the housing market area in which the site is located. The required contribution to be provided by the Housing Strategy Officer.
- 2.11 The Enforcement Monitoring Officer within the Planning Enforcement Section enters the S106 Agreement information onto the S106 combined report spreadsheet.

- 2.12 If a developer wishes to make a claim for an exemption under the self-build provision then a form should be submitted to the Enforcement Monitoring Officer prior to completion of each dwelling to which the payment relates confirming that the dwelling is intended to be occupied by the owner of the land.
- 2.13 Within 6 months of occupation a further form will need to be submitted to the Enforcement Monitoring Officer evidencing occupation by the owner. The Enforcement Monitoring Officer will contact the developer prior to the end of the six month period to remind them to submit the required form. The Council will at this point agree to defer the payment for the duration of three years from the date that occupation commenced.
- 2.14 The Enforcement Monitoring Officer will contact the developer prior to the end of the three year period to remind them to apply for their self-build exemption. At the same time the Enforcement Monitoring Officer will make appropriate checks to establish that occupation remains the same as at the start of the three year period. Any search request on the property to Land Charges during the three year period should be notified to the Enforcement Monitoring Officer.
- 2.15 Any exemption will be subject to a 'claw-back' mechanism so that if the criteria for self-build status are not complied with within a period of three years from the occupation of the dwelling then the requirement for an affordable housing contribution will be reinstated. In this event the Enforcement Monitoring Officer will arrange for a sundry debtor invoice to be raised to be sent to the developer.
- 2.16 Should there be compliance with the three year period, the Enforcement Monitoring Officer will notify Legal, who, through a variation of the Section 106 Agreement, will confirm with the developer and Land Charges that no payment will be required on that specific dwelling.

### **3. RECEIPT OF MONIES**

#### **a) Section 106 Monies received**

- 3.1 When S106 commuted maintenance or principal sums are received by any department:
- The relevant department should arrange for deposit of the payment to the relevant financial code, always using the account code (YG61) with an appropriate project code and activity code and taxinfo code. Monies received in respect of S106 should be coded against a zero-rated VAT code.
  - All monies received by the Authority should be banked without delay.
  - S106 Agreements are not subject to VAT. It is imperative that any VAT deducted is recovered from Customs & Excise. Queries should be directed to the Senior Accountant – Financial Control, VAT & banking.
  - The relevant department receiving the income informs the Enforcement Monitoring Officer that a S106 payment has been received, who subsequently notifies all relevant departments of receipt.
  - The Enforcement Monitoring Officer acknowledges receipt of the payment with the developer and enters the details on the S106 combined report spreadsheet.

**b) Section 106 Monies not received on or before “trigger date”**

- 3.2 The Enforcement Monitoring Officer requests the S106 payment from the developer, through the raising of a sundry debtor request.
- 3.3 If receipt is forthcoming, refer to paragraph 3.1 above.
- 3.4 If receipt is not forthcoming, the Enforcement Monitoring Officer is to ask legal to send a reminder. If still not forthcoming the Enforcement Monitoring Officer to report to the S106 Working Group and instruct Legal to initiate enforcement procedures to recover the S106 payment.
- 3.5 Legal should keep all relevant departments informed of enforcement procedures. Legal proceeding comprise:
- A formal letter requesting the payment.
  - If no response is received to the formal letter then the authority has the power to enforce the requirements of the agreement by seeking injunctions under the Town and Country Planning Act 1990 Section 106, sub-section (5).
- 3.6 All Section 106 Agreements *should* include a clause for penalty interest to be paid in the event of late payment of any sum required by the agreement.

**4. APPLICATION OF AMOUNTS RECEIVED**

**a) Principal Sums**

- 4.1 The relevant departments **should not commence** any project funded by S106 monies until the project forms part of an approved capital expenditure budget of the Council or has been approved as revenue spend by the S106 working group **and** the monies have been received by the authority. If spend is required before receipt, additional authorization is required by the Head of Finance
- 4.2 Upon receipt of a principal sum, the Enforcement Monitoring Officer should update the S106 combined report spreadsheet (and also notify relevant departments of receipt if considered to be more urgent).
- 4.3 The relevant department should consult with the developer, Area Committees, other relevant departments and the relevant Town/Community Council and the Section 106 Working Group regarding the respective schemes and the application of the monies received if this has not already been done, such as in the instance of historic applications, in advance of receipt of the monies.
- 4.4 Approval to add a scheme to the Authority's S106 program stating the value and financial year needs to be gained so that a principal sum can be applied from the contribution available. This is done in one of the following ways:
- i. A Cabinet Report should be drafted and submitted by the department responsible for the capital works, detailing the nature of the proposed works, the time frame for the project and how they meet the conditions of the S106 agreement and requesting it's inclusion within the Authority's Capital Program.
  - ii. If the sum received by the Authority is for a specific revenue purpose, and the scope of the works is described explicitly in the S106 agreement so as **not** to require any further discussion by or communication to non S106 members,

then the S106 working group can approve at their meeting that the sum can be used to facilitate the spend directly. It should be coded in such a way that the expenditure to which the income is applied can be accurately reconciled within the financial ledger. A scenario where this might apply is 'costs relating to making and administration of a traffic regulation order' or provision of a bus service to a new housing development.

- iii. If the description of the capital works in the S106 agreement is reasonably explicit, member opposition is not anticipated and only a very limited number of member questions are expected, a request for approval can be added as a simple recommendation within one of the Authority capital monitoring reports which go periodically to Cabinet. A suitable text needs to be provided to the Assistant Head of Finance with some background information in the monitoring process to facilitate this.
- 4.5 Upon receipt of a Cabinet Decision or decision by the S106 working group, an Accountant within Central Finance will instigate the necessary procedures for the scheme to be correctly accounted for within the Capital or Revenue Programmes.
- 4.6 Relevant Departments to notify the S106 Working Group and update the S106 combined report spreadsheet with the details of any reports, the schemes concerned and the expenditure of monies.
- 4.7 Some S106 Agreements contain time limits in which the developers' contribution must be spent. This should be borne in mind at all times. If this is not adhered to any unexpended S106 balances plus interest could be requested by the developer to be refunded.

**b) Commuted Maintenance Sums**

- Once the Enforcement monitoring Officer has advised Grounds/Countryside of receipt of a commuted maintenance sum the relevant department will add the play area/open space to it's maintenance schedule if not already there.
- Section 106 monies held for maintenance purposes is separated into amounts for ongoing annual maintenance and programmed maintenance at specified intervals.
- Section 106 monies held for annual maintenance purposes is released into the revenue account on an annual basis for the period specified in the agreement to facilitate maintenance of the specified sites. This will commence in the year after the monies are received.
- Interest will also be released into the revenue account at a rate calculated by an Accountant in Central finance to reflect the amount which could be earned on UK government gilts held for the relevant period. This has not historically occurred as explicitly excluded in the previous version of this report but will be implemented in current and future years.
- Section 106 monies held for programmed maintenance is released when specific refurbishment of sites is required up to the value of the refurbishment.
- A Cabinet report identifying the specific schemes and the cost will be required to release the S106 monies for use. The funds can be released into the relevant account as for annual maintenance or a capital budget be set up as for Capital sums depending on the nature of the work involved.

- Sums held for S106 programmed maintenance, Section 278 sums held and Section 38 sums held will accrue interest at the rate that the Authority earns on its short term investments.
- Interest is not added to Section 106 principal balances as these sums should be spent on a short time frame.

## 5. FORMAT OF SECTION 106 AGREEMENTS

5.1 As referred to above, there is a need to develop a pro forma S106 agreement that follows a prescribed format containing default sections to ensure that there is clarity, including clear information surrounding:

- Triggers – dates, housing property numbers, rates
- Late payment & interest
- Schedule of maintenance and commuted and principal sums payable if relevant
- Specific application of receipts from developers
- Time limits on application of funds
- Treatment of Commuted Maintenance Sums held (basis and calculation of maintenance sum, period of amortisation etc)
- If the site requires it an obligation to enter into a S278 Agreement.

## 6. REFERENCING

6.1 Information will be maintained on the S106 combined report spreadsheet administered and monitored by the Enforcement Monitoring Officer, Leisure, Highways, Education and Finance to allow simple cross-referencing and reconciliation.

Key to terms underlined

| <b>Term</b>                             | <b>Named officers</b>          |
|---|--------------------------------|
| Relevant Departments:                   |                                |
| Development Management                  | Philip Thomas                  |
| Planning Policy                         | Jill Edge                      |
| Enforcement Monitoring Officer          | Helen Etherington              |
| Leisure & Recreation                    | Mike Moran                     |
| Grounds/Play/Open Space                 | Nigel Leaworthy                |
| Green Infrastructure                    | Colette Bosley                 |
| Biodiversity                            | Kate Stinchcombe               |
| PROW                                    | Ruth Rourke                    |
| Legal                                   | Joanne Chase                   |
| Education                               | Matthew Jones                  |
| Highways                                | Mark Davies/Paul Keeble        |
| Public Transport and Transport Planning | Christian Schmidt/Richard Cope |
| Housing Strategy                        | Shirley Wiggam                 |

|                                       |                   |
|---------------------------------------|-------------------|
| Central Finance                       | Dave Jarrett      |
| Land Charges                          | Tudor Baldwin     |
| Partnership and Community Development | Judith Langdon    |
|                                       |                   |
| Section 106 Working Group:            | Mark Hand (Chair) |
|                                       | Jill Edge         |
|                                       | Helen Etherington |
|                                       | Dave Jarrett      |
|                                       | Mike Moran        |
|                                       | Nigel Leaworthy   |
|                                       | Martin Davies     |
|                                       | Joanne Chase      |
|                                       | Paul Keeble       |
|                                       | Mark Davies       |
|                                       | Christian Schmidt |
|                                       | Richard Cope      |
|                                       | Phil Thomas       |
|                                       | Shirley Wiggam    |
|                                       | Matthew Jones     |
|                                       | Deb Hill-Howells  |
|                                       | Cath Fallon       |
|                                       | Matthew Lewis     |
|                                       | Judith Langdon    |

## **APPENDIX 1**

### **TERMS OF REFERENCE FOR THE SECTION 106 WORKING GROUP (Revised 12/01/2018)**

#### **Purpose**

- To monitor Section 106 Agreements from first expressions of interest to the application of commuted maintenance and capital sums.
- To review arrangements for Section 106 Agreements and make recommendations for improvement.
- To receive regular reports from the Enforcement Monitoring Officer identifying details of Section 106 Agreements, implementation timescales and payments received.
- To Receive regular reports from the Relevant Departments on the application of Section 106 monies held for programme maintenance and capital schemes.
- To receive regular reports from Central Finance that sums received on the Authority's ledger reconcile to the S106 combined report, confirming budgets established and slipped, expenditure incurred and balances remaining on schemes. Highlighting capital budgets which are required to be added to the capital program and ensuring that controls within the S106 environment accord with financial processes elsewhere in the Authority
- To be consulted on all relevant matters in relation to Section 106 Agreements.

#### **Membership**

|                   |   |                                       |
|-------------------|---|---------------------------------------|
| Mark Hand (Chair) | - | Planning & Housing                    |
| Jill Edge         | - | Planning Policy                       |
| Helen Etherington | - | Enforcement                           |
| Dave Jarrett      | - | Finance                               |
| Mike Moran        | - | Leisure & Recreation                  |
| Nigel Leaworthy   | - | Grounds/Play/Open Space               |
| Martin Davies     | - | Planning Policy                       |
| Joanne Chase      | - | Legal                                 |
| Paul Keeble       | - | Highways                              |
| Mark Davies       | - | Highways                              |
| Christian Schmidt | - | Public Transport/Transport Planning   |
| Richard Cope      | - | Public Transport/Transport Planning   |
| Phil Thomas       | - | Development Management                |
| Shirley Wiggam    | - | Housing                               |
| Matthew Jones     | - | Education                             |
| Matthew Lewis     | - | Green Infrastructure                  |
| Judith Langdon    | - | Community and Partnership Development |

#### **Accountability**

- Members of the Group are required to attend meetings at which S106 Agreements are discussed that contain contributions for their areas.



- Relevant members of the S106 Working Group are required to update the Combined S106 Report spreadsheet ahead of each meeting with details of monies received, schemes planned or undertaken and reports taken to Cabinet where these appertain to their area.

## **Meetings**

- Meetings will be held quarterly in County Hall in Usk.
- The meetings will be chaired by the Head of Planning.
- Secretariat for the Group will be provided by Planning.
- Invites to meetings will be sent out at least a week ahead of the meeting, with the date of future meetings always included on the agenda and minutes.
- All papers for meetings will be available to view ahead of time on the S106 Working Group site on the Hub.
- Monmouthshire elected members and officers from the Brecon Beacons National Park to be invited to all meetings. Other non-members of the group to be invited to attend when required.

## **Review**

The Working Group will review the relevance and value of its work and the terms of reference on an annual basis.

# Planning Process & the Development of the S106 Agreement

## Development Management

## Council Departments

## Legal

## Enforcement Monitoring Officer

## Finance

**Leisure** undertake community liaison with Councillors, Town and Community Councils, Community Groups and Whole Place Team with regard to priorities for their area

**Pre-Application**

Enter into pre-application discussions with the developer regarding a development

Consult relevant **Council Departments** on schemes of 10 or more units

Respond to **DM** within 14 days even if no S106 requirements. Check that any identified requirements are not contrary to the pooling regulation

**Receipt of Planning Application**

Examine relevant LDP policies and SPG and initiate formal consultation with relevant **Council Departments**

Identify specific requirements for education, transport, play, adult recreation and GI as a result of the proposed development. Respond to **DM** within 14 days

Check with **Enforcement Monitoring Officer** that any identified requirements are not contrary to the pooling regulation.

Check any S106 Agreements entered into since 06 April 2010 in the same area as the development to ensure that the pooling regulation is being complied with, notify **Development Management** .

If following this process there are any identified viability issues seek independent advice, at the applicant's expense.

Make final decision on requirements to be requested from the developer and notify all **relevant departments**

Specify the Heads of Terms for the S106 Agreement in the report taken to Planning Committee

**Approval of Planning Application**

Complete proforma to instruct **legal**

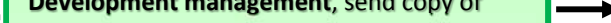
Check applicant's title to the development land. Agree wording of S106 with applicant and **Development Management**. Send to applicant for signing

Release decision notice

On receipt of signed document notify **Development management**, send copy of sealed S106 to **Land Charges** and email copy to all **relevant departments**

Enter S106 Agreement information on to Combined Report spreadsheet with details of scheme, implementation timescales, payments received and expenditure details

Reconcile Combined Report spreadsheet to the financial ledger on a quarterly basis.



# Monitoring & Receipt of Monies

## Enforcement Monitoring Officer

Monitor the relevant “triggers” and associated S106 payment requirements

In advance of “trigger” dates being reached arrange for a sundry debtor invoice to be raised and sent to the developer

On receipt of S106 commuted maintenance or principal sums arrange for deposit of payment to the relevant code, account code YG61 with appropriate project, activity and tax info codes.

Notify relevant **Council departments** of receipt .  
Update S106 combined report

If receipt is not forthcoming ask **Legal** to send a reminder

If still not forthcoming instruct **Legal** to initiate enforcement procedures

## Legal

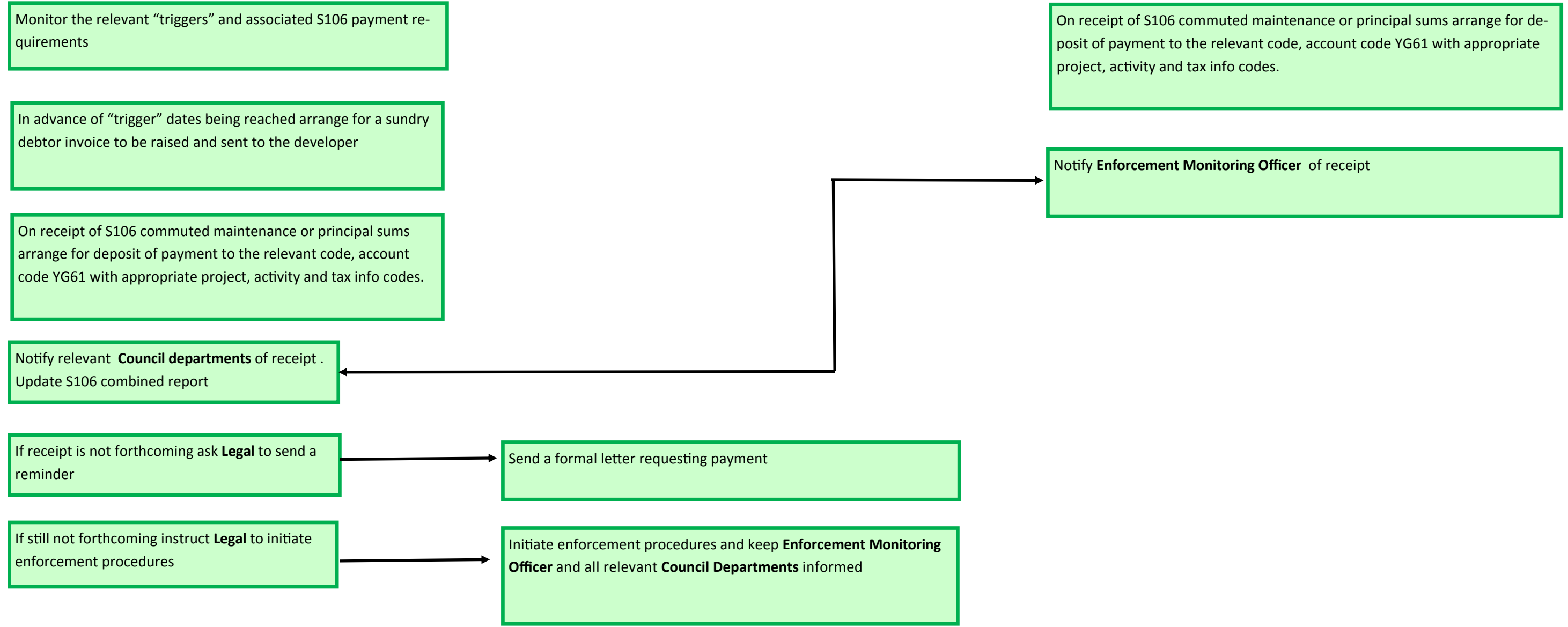
Send a formal letter requesting payment

Initiate enforcement procedures and keep **Enforcement Monitoring Officer** and all relevant **Council Departments** informed

## Council Departments

On receipt of S106 commuted maintenance or principal sums arrange for deposit of payment to the relevant code, account code YG61 with appropriate project, activity and tax info codes.

Notify **Enforcement Monitoring Officer** of receipt

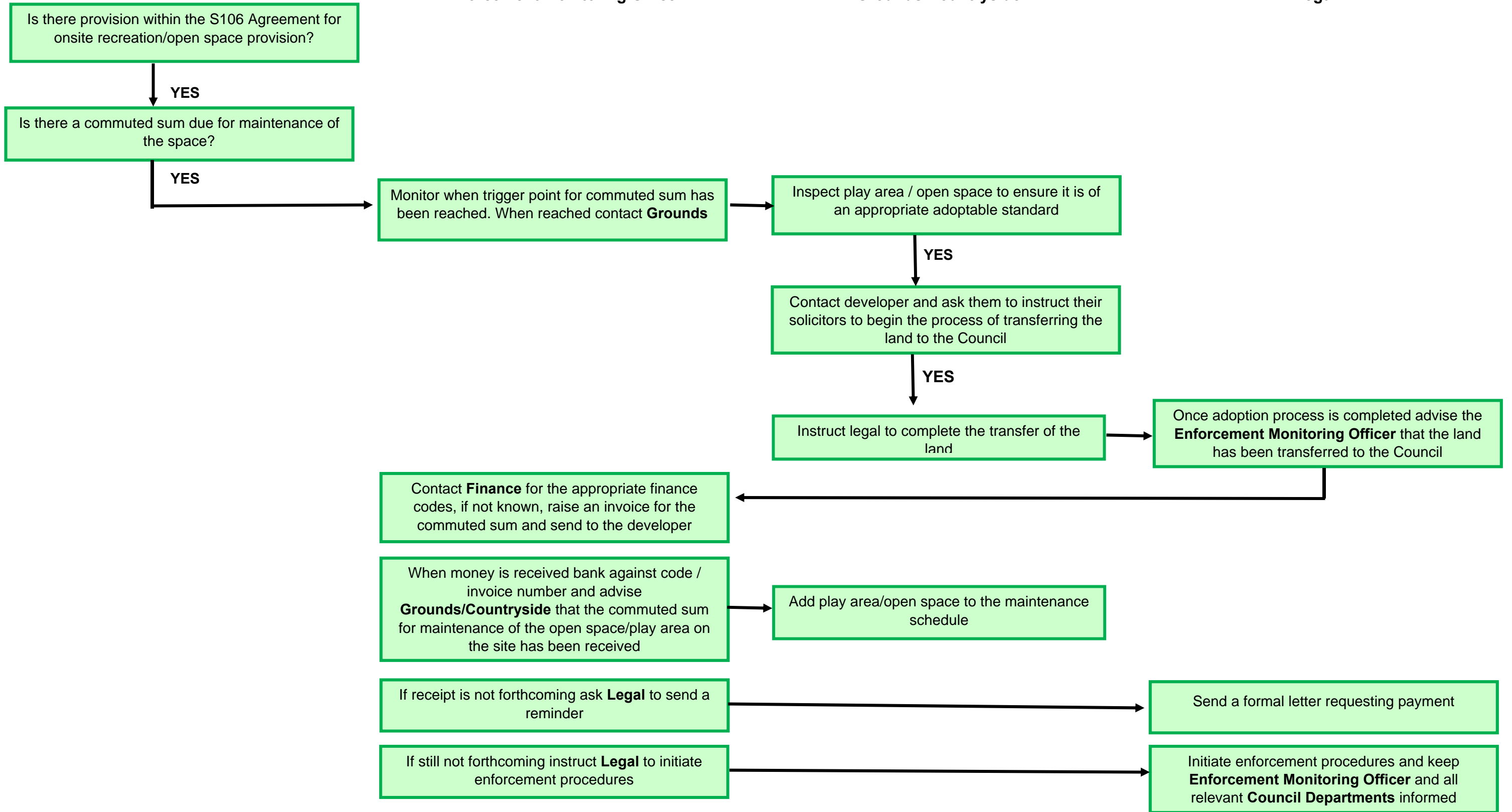


**Commuted Sums**

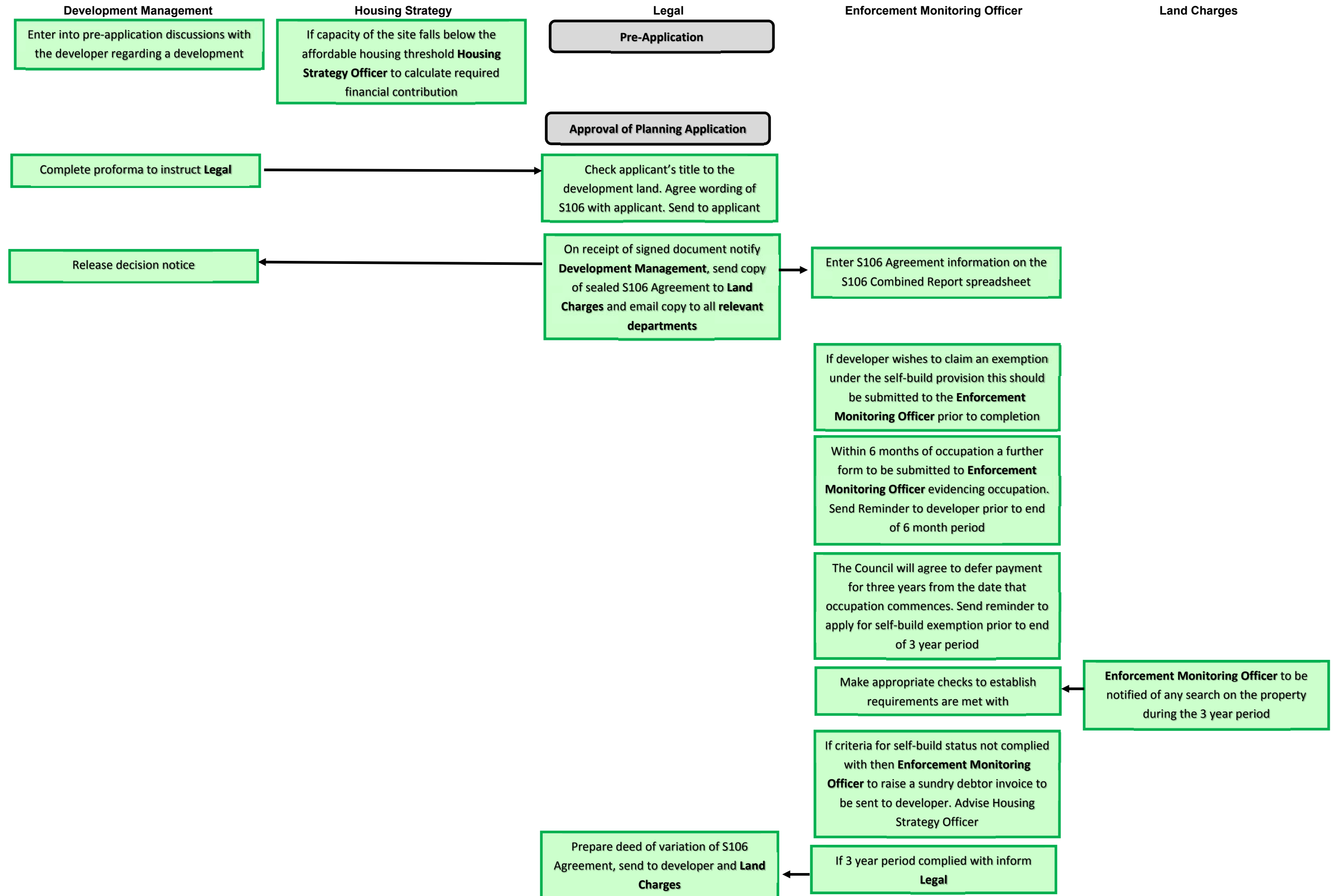
**Enforcement Monitoring Officer**

**Grounds/Countryside**

**Legal**



# Affordable Housing Financial Contributions Monitoring





**Monmouthshire County Council  
Local Development Plan**

**Policy Guidance  
Approach to Planning Obligations -  
Residential Development**

**JANUARY 2018**

**Planning Policy Service**

**Monmouthshire County Council**

County Hall, Rhadyr, Usk, Monmouthshire NP15 1GA

**Tel:** 01633 644429

**Email:** [planningpolicy@monmouthshire.gov.uk](mailto:planningpolicy@monmouthshire.gov.uk)

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- A. Recreation and Public Open Space Developer Contributions Charging Schedule
- B. Cluster areas for the schools within Monmouthshire
- C. Sources of Advice

## 1 Introduction: Purpose of this Guidance

- 1.1 This Policy Guidance sets out an approach to guide negotiations for Section 106 planning obligations between Monmouthshire County Council and applicants proposing new residential developments. It replaces the document *Approach to Planning Obligations: Interim Policy (March 2013)*.
- 1.2 The need for policy guidance to steer negotiations on obligations from new development is based on:
- The importance of providing high quality new developments that are supported by an appropriate range of new infrastructure;
  - The need to provide clarity to the development industry and stakeholders on what is to be expected from new development and how the Council will approach negotiations with planning applicants about planning obligations;
  - The need to reflect recent changes in the legislative framework for planning obligations
- 1.3 The Policy Guidance contains the following information:
- **Section 2** provides an overview of the national and local planning policy and legislative context in relation to planning obligations;
  - **Sections 3-7** explain how planning obligations will be negotiated in individual topic areas: Affordable Housing, Education, Recreation and Open Space, Green Infrastructure (GI) and Travel;
  - **Section 8** provides guidance on the procedures to be followed in the negotiations on Section 106 planning obligations;
  - **Section 9** explains how the Council will monitor Section 106 agreements after they are signed and planning permissions are implemented.
- **Appendices**
- Recreation and Public Open Space Developer Contributions Charging Schedule (Appendix A)
- Cluster areas for the schools within Monmouthshire (Appendix B)
- Sources of Advice (Appendix C)



## 2 Policy and Legal Context

### 2.1 Introduction

2.1.1 In order to set out the Council's approach to planning obligations it is necessary to briefly outline national planning policy and guidance, the legislative basis for planning obligations with the introduction of CIL and Monmouthshire's local planning policy. The relevant policy, legislation and guidance are summarised below

### 2.2 National Planning Policy and Guidance

#### Planning Policy Wales (PPW) (Edition 9) November 2016

2.2.1 PPW identifies (Paras 3.5.5 and 3.5.7) that:

- Planning obligations are useful arrangements to overcome obstacles which may otherwise prevent planning permission from being granted.
- Contributions may be used to offset negative consequences, to help meet local needs, or to secure benefits which 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 delay 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 unrelated benefits.
- If there is a choice between imposing a condition and entering into a planning obligation, the imposition of a condition is preferable.

#### Welsh Office Circular 13/97 Planning Obligations

2.2.2 Further guidance on the use of planning obligations is provided in this Welsh Officer circular, which is still extant, although the CIL regulations that came into force in April 2010 (as amended 2011, 2012, 2013, 2014 and 2015) have implications for Section 106 contributions (see below).

#### Community Infrastructure Levy

2.2.3 Regardless of any future decision on whether or not the Council implements CIL it is necessary to consider two important elements of the CIL Regulations which affect planning contributions:

The CIL Regulations 2010 (Regulation 122) state that:

*'A planning obligation may only constitute a reason for granting permission for the development if the obligation is:*

- (a) necessary to make the development acceptable in planning terms;*
- (b) directly related to the development; and*
- (c) fairly and reasonably related in scale and kind to the proposed development.'*

Although these three tests were set out as part of the policy tests in the Circular 13/97 they are now, as a result of the CIL Regulations **a legal requirement** for Section 106s and planning obligations.

In addition, under Regulation 123 pooled contributions from more than 5 obligations entered into since 6 April 2010 are not permitted for a specific infrastructure project or a type of infrastructure which could be funded from a CIL. This will limit obligations for strategic infrastructure such as major roads or a school, for example, or for broad categories of infrastructure, such as adult recreation facilities or sustainable transport measures, for example, which rely on a large number of contributing developments.

## **2.3 Monmouthshire Local Development Plan (LDP)**

- 2.3.1 The Monmouthshire LDP was adopted in February 2014 and provides the planning policy framework for this guidance note. The LDP recognises the need to ensure that appropriate infrastructure is already in place or can be provided to accommodate the proposed level of growth set out in the plan.
- 2.3.2 The LDP states that new development may be required to provide or contribute towards the provision of necessary infrastructure to enable it to be provided in a timely manner and to support sustainable development in Monmouthshire.
- 2.3.3 The LDP recognises the importance of appropriate infrastructure especially in rural areas and new development. Three types of infrastructure are identified:
  - Physical infrastructure e.g. transport, water, sewerage, flood prevention, utilities
  - Community infrastructure e.g. schools, healthcare, sport and recreation, open space
  - Green infrastructure
- 2.3.3 Strategic Policy S7 – Infrastructure Provision – specifically seeks to ensure that new development is accompanied by an appropriate level of infrastructure to assist in providing for sustainable communities:

## Policy S7 – Infrastructure Provision

The infrastructure needed to service and deliver sustainable development must be in place or provided in phase with proposed development. Where existing infrastructure is inadequate to serve the development, new or improved infrastructure and facilities to remedy deficiencies must be provided. Where provision on-site is not appropriate, off-site provision, or a financial contribution towards it, will be sought.

Financial contributions will also be required towards the future management and maintenance of facilities provided, either in the form of initial support or in perpetuity.

Planning Obligations may be sought to secure improvements in infrastructure, facilities, services and related works, where they are necessary to make development acceptable. In identifying appropriate contributions due regard will be paid to the overall development viability, including the cost of measures that are necessary to physically deliver a development and ensure that it is acceptable in planning terms.

Such obligations may include:

1. Strategic utilities
2. Community and cultural facilities
3. Formal and informal open space
4. Recreation and leisure facilities
5. Green infrastructure
6. Ecological mitigation
7. Educational facilities
8. Transport infrastructure
9. Sustainable transport measures
10. Waste management facilities
11. Renewable / low carbon energy infrastructure
12. Local climate change mitigation and adaptation measures
13. Flood risk management measures
14. Commuted payments for the management and maintenance of facilities provided
15. Broadband infrastructure
16. Other facilities and services considered necessary.

In the event that viability considerations indicate that not all the identified contributions can be reasonably required, priority contributions will be determined on the basis of individual circumstances of each case. In the case of housing developments, priority will be given to the affordable housing required by Policy S4 unless there is an overwhelming need for the available contribution, in whole or in part, to be allocated for some other necessary purpose/s.

Proposals for utility services to improve infrastructure provision will be permitted, subject to detailed planning considerations.

2.3.4 It is recognised that viability considerations will mean that developments are unlikely to be able to support contributions to all the types of infrastructure listed in Policy S7, particularly because it is a significant objective of the LDP that residential developments provide affordable housing in accordance with LDP Policy S4, as considered in Section 3 of this guidance note. Sections 4-7 of the note describe the main categories of infrastructure that will be considered in Section 106 negotiations alongside affordable housing requirements. First priority will have to be given to the infrastructure necessary to overcome obstacles to a development in order to enable a site to be physically delivered and made acceptable in planning terms. The extent of financial contribution towards other infrastructure required to support a development and/or to comply with other LDP policies will be weighed against the need for affordable housing in the County. As stated in Policy S7, this will be considered on a case by case basis but where there are viability issues that may prevent a development coming forward priority will be given to the affordable housing required by Policy S4, unless there is an 'overwhelming need' for the contribution to be allocated for another necessary purpose.

### 3 Affordable Housing

- 3.1 A significant issue for Monmouthshire is the fact that house prices are high in relation to earnings so that there is a considerable need for additional affordable housing in the County in both urban and rural areas, particularly for those who live and work here. Policy S4 of the LDP is the primary means of seeking to improve the provision of affordable housing in Monmouthshire. The policy sets out the thresholds at which affordable housing has to be provided and the percentage of affordable housing that will be required in each case, depending on the location of the development site. Detailed guidance on the implementation of the Council's affordable housing policies is set out in the *Monmouthshire LDP Supplementary Planning Guidance Affordable Housing* (SPG) (March 2016).
- 3.2 Section 106 agreements will be utilised to ensure that affordable housing is provided in accordance with Policy S4. The precise form of Section 106 agreement will depend on the circumstances of individual cases including the ownership of the site and the terms of any obligation or agreement between the owner and a Registered Social Landlord (RSL). However, Section 106 legal agreements will normally include clauses setting out requirements with regard to the following issues:
- The mix of affordable housing types, sizes sought as part of the development
  - The location and distribution of affordable housing within the development site
  - The minimum design standards required for the affordable housing units

- The timing of the construction and occupation of the affordable housing in relation to the development of the whole site, including appropriate restrictions on general market housing occupation
- The price, timing and conditions for the transfer of the land or affordable housing to a RSL
- The arrangements regarding the future affordability, management and ownership of the affordable housing
- With outline applications (where the proposed number of dwellings is not known, but where there is a likelihood that the site threshold will be exceeded) the Agreement will ensure that the appropriate proportion of new housing will be affordable.

It will be necessary for the Section 106 Agreement to include appropriate long-term occupancy arrangements. The Council will require full nomination rights, which will be exercised according to the Council's allocations policy as current at the time. The key requirement is that any housing that is provided as affordable should remain in the affordable housing stock each time there is a change of occupant.

- 3.3 It is a basic principle of Policy S4 that all residential developments (including at the scale of a single dwelling) should make a contribution to the provision of affordable housing in the local planning authority area, irrespective of whether or not the size of the development falls below the threshold for on-site provision. Where the threshold for on-site provision of affordable housing is not met, prior to obtaining planning permission an applicant will need to enter into a S106 agreement to pay a financial contribution towards affordable housing in the housing market in which the site is located. The required contribution will be established by using the Council's Affordable Housing Contribution Calculator. The calculation can be obtained from the Council's Housing Strategy Officer. The contribution will normally be set at the equivalent of 35% of the agreed capacity of the site (25% in Severnside). Example affordable housing financial contribution sum calculations are given in the Affordable Housing SPG. A standard Section 106 agreement that will be used for this purpose is set out in an appendix to that SPG. Self-builders whose developments fall below the thresholds will not be required to make a financial contribution but they will still be required to enter into a Section 106 agreement that sets out a level of contribution but that will be revoked when the applicant demonstrates that he or she has lived in the dwelling as a self-builder for a period of three years.
- 3.4 In seeking to negotiate an element of affordable housing on a site or the level of a financial contribution the Council will take into account: site size, suitability, and the economics of provision; whether there will be particular costs associated with development of the site; and whether the provision of affordable housing would prejudice the realisation of other planning objectives that need to be given priority in the development of the site. (The percentage of affordable housing required is, under the terms of Policy S4, subject to appropriate viability assessment). Where necessary, as part of such negotiations, the Council will undertake viability analysis of residential development sites using the Development Appraisal Toolkit developed by Three Dragons on behalf of South

and West Wales local authorities. The Toolkit is a means of assisting all parties in their understanding of the economics of a particular development. The model enables the testing of claims that affordable housing requirements (along with other costs, such as those from additional infrastructure works, for example) would make a site uneconomic. This approach can employ the default data available for general analysis. For more accurate assessments of costs, revenues and constraints, however, an 'open book' approach, where the developer provides information on development costs and selling prices, is advocated.

- 3.5 Where there is a dispute over viability issues, the Council will seek independent advice (at the applicant's expense) to arbitrate between the Council and the developer. As well as determining how much affordable housing can be achieved in a development, this process will also assist in establishing the amount of Section 106 contributions that can be obtained in the other policy areas described in the following sections of this guidance note. As described in paragraph 2.3.4 above, Policy S7 states that where there are viability issues that may prevent a development coming forward priority will be given to the affordable housing required by Policy S4, unless there is an 'overwhelming need' for the contribution to be allocated for another necessary purpose.

## 4 Education

- 4.1 The LDP seeks to build sustainable communities where people have good access to education provision. The increase in population resulting from new residential developments places additional demands on existing school facilities. Where there is insufficient capacity in these existing schools to accommodate the increased population arising from new residential developments then a financial contribution will be required to enable the shortfall in provision to be met.
- 4.2 Planning obligations for educational facilities may be sought at outline planning permission or full planning permission stage. When determining an outline planning application, a legal agreement will be required to provide for the principle of specific obligations, with the value and details to be determined when the full details of the scheme are known, either via the associated reserved matters application or by any subsequent full application. The S106 agreement at outline stage will, therefore, normally be formula based, with the exact contributions dependent on the final number and size of dwellings.
- 4.3 The trigger for considering whether or not an educational contribution is needed from a development is that the 'net gain' of dwellings to be built is 10 or more.

4.4 The first stage in calculating the need for and, if required, the extent of a financial contribution towards primary school education is to estimate the number of pupils that are expected to arise from each type of dwelling in the development using the table below:

| House Size | Per Year Group Per 1000 dwellings | Total number of pupil places per 1000 dwellings* |
|------------|-----------------------------------|--|
| 2 Bed      | 17                                | 119  |
| 3 Bed      | 31                                | 217  |
| 4+ Bed     | 42                                | 294  |

\* There are seven year groups within a primary school, reception to year 6.

4.5 Affordable housing is exempt from having to contribute towards education provision. Need (**N**), therefore, is calculated solely on the market dwellings in a development, according to the following formula:

$$N = A/1000*119 + B/1000*217 + C/1000*294$$

Where: **A** is the number of 2 bed market dwellings  
**B** is the number of 3 bed market dwellings  
**C** is the number of 4+ bed market dwellings.

4.6 Housing development within a catchment area of a school will increase the numbers of pupils that the school will need to cater for. The number of pupils calculated to be generated by a development will be compared with the number of surplus places at the school in whose catchment area the development is located. If the capacity of the nearest school is exceeded then it might be possible for the additional pupils to be dispersed to other schools within the 'cluster' area within which the school is located. It is government policy, however, that if primary school pupils have to walk more than 2 miles to school then free transport will be provided. Pupils will only be dispersed, therefore, to schools within 2 miles of a development. If the education needs cannot be accommodated within 2 miles then contribution will be required to increase the capacity of the school in whose catchment area the development is located or to another school within the 2 mile radius if this is more appropriate. Cluster areas for the schools within Monmouthshire are given at Appendix B.

4.7 The need for additional school places does not occur until such time as the number of pupils generated by a development, in addition to the projected school roll, exceeds the available places. However, if this is taken literally then the development that generates the first additional place would be responsible for providing the contributions to provide the additional capacity, whilst previous developments would not have been subject to any charge, even though they contributed to the under-supply of places. In this instance, the requirement to contribute to additional provision is reliant on when planning permission is granted and can lead to developments being treated differentially due to the timing of their permissions. Existing surplus capacity

will not automatically be credited to developers. In assessing existing school capacity spaces will be allocated according to the following priority order:

- 1) Allocated LDP sites and sites with extant planning permission
- 2) Windfall LDP compliant sites (i.e. within settlement boundaries or conversion of existing buildings)
- 3) Unallocated sites beyond settlement boundaries.

4.8 To summarise, therefore, the number of pupils which require an educational contribution from a development is calculated as follows:

- 1) Calculate the number of pupil places needed as a result of the development (**N**, as set out in paragraph 4.5 above)
- 2) Identify the number of surplus places available in the school whose catchment area the development is located and check whether any of these places are already earmarked to serve other developments in accordance with the hierarchy set out in paragraph 4.9 above.
- 3) Match the number of pupil places required by a development with the surplus spaces available at the nearest school after the calculations carried out in step 2) above.
- 4) If the number of places required exceeds the available places establish if there are any other schools within 2 miles of the development that have spaces available to take additional pupils.
- 5) Those pupils that remain to be allocated after steps 2) – 4) have been completed are those that require an educational contribution to increase school capacity.

4.11 **The Financial Contribution.** The cost multipliers for an individual primary school place are calculated using Welsh Government data for total funding for Band B for the primary programme (2016 – 2019). The current cost multipliers are given below, although all cost multipliers will be reviewed annually and updated if necessary.

#### **210 Primary School**

- Primary school investment per pupil 2016 = £15,547.00 per pupil.
- Primary school investment per pupil 2019 = £17,257.00 per pupil.

#### **420 Primary School.**

- Primary school investment per pupil 2016 = £13,392.00 per pupil.
- Primary school investment per pupil 2019 = £14,866.00 per pupil.

4.12 **Welsh Medium Primary Schools.** There is sufficient capacity in the Welsh medium primary school in the south of the County to meet demand. This is not the case, however, in the north of the County and it is likely that contributions will be required towards Welsh medium primary education for developments taking place in the catchment area of Ysgol Gymraeg Y Fenni. The contribution required for such developments is calculated as follows



- 1) Calculate the number of pupil places needed as a result of the development (N, as set out in paragraph 4.5 above)
- 2) Establish the percentage of pupils in the Ysgol Gymraeg Y Fenni catchment area receiving Welsh medium primary education (thereby reducing the number of English medium places required)
- 3) Use this percentage to calculate how many of the pupils generated by the development would be likely to require Welsh medium education
- 4) If the number of places required exceeds the capacity of the Welsh medium school then contributions will be needed for the number of places required that is above the existing capacity

4.13 **Secondary Schools.** Currently there is sufficient capacity in the County's secondary schools. No contributions are currently required, therefore, towards secondary education, although this will be monitored as future development proceeds. Should a secondary school be found not to have sufficient capacity then the level of contribution will be calculated as with primary schools above. The formula at secondary level is:

| House Size | Per Year Group Per 1000 dwellings | Total number of pupil places per 1000 dwellings* |
|------------|-----------------------------------|--|
| 2 Bed      | 16                                | 80   |
| 3 Bed      | 30                                | 150  |
| 4+ Bed     | 40                                | 200  |

\* For five year groups, year 7 to year 11

4.14 **Faith Schools.** There are four voluntary aided faith schools in the County. Of these, two have a specific catchment area. These are Archbishop Rowan Williams Primary in Portskewett and Magor Church in Wales Primary. If applications are received for developments in the catchment areas of these schools then the ability of these schools to accommodate pupils generated by the development can be established using the methodology set out in paragraph 4.8 above. If it is identified that the capacity is insufficient to accommodate the development and there is no other capacity within 2 miles, there would be a need to consult with the diocese on the potential to extend the school, while also considering the possibility of expanding another school within a 2 mile radius if this is more appropriate.

## 5 Recreation and Open Space

5.1 Policy CRF2 of the LDP sets out the Council's standards for recreation, open space and allotment provision in Monmouthshire against which development proposals will be assessed. It seeks to secure such provision in conjunction with all new residential development:

**Policy CRF2 – Outdoor Recreation / Public Open Space / Allotment Standards and Provision**

**Development proposals will be assessed against the Council’s standards for recreation and open space and allotments, as follows:**

**Public recreation and open space:**

**NPFA minimum standard for outdoor playing space of 2.4 hectares per 1,000 population and 0.4 hectares of public open space per 1,000 population, which are accessible to residential areas.**

**Allotments:**

- **Spatial standard of 0.25 hectares of allotment space per 1,000 population.**

**Proposals for new residential development should provide appropriate amounts of outdoor recreation and public open space in accordance with the above standards. Any provision should be well related to the housing development that it is intended to serve, however the exact form and type will be determined having regard to the nature and size of the development proposed.**

**Proposals for new residential development on the strategic sites listed in Policy S3 and any development exceeding 50 dwelling units per site, should also make provision for allotments if required in accordance with the above standards.**

5.2 The table below is a summary of the Council’s Recreation and Public Open Space Standards. These are based on the National Playing Fields Association’s (NPFA) (now Fields in Trust) minimum standard for outdoor play space of 2.4 hectares per 1000 population, and 0.4 hectares of public open space per 1,000 population and represents the minimum standard that will be sought throughout the County in both urban and rural areas.

|  |  |
|--|--|
| Outdoor Sport  | 1.6 hectares (4 acres) per 1000 population   |
| Children’s Playing Space   | 0.8 hectares (2 acres) per 1000 population   |
| <ul style="list-style-type: none"> <li>• Equipped/designated</li> <li>• Informal / casual</li> </ul> | <ul style="list-style-type: none"> <li>• 0.3 hectares (0.75 acres) per 1000 population</li> <li>• 0.5 hectares (1.25 acres) per 1000 population</li> </ul> |
| Public Open Space  | 0.4 hectares (1 acre) per 1000 population  |
| Allotments   | 0.25 hectares per 1000 population  |

- 5.3 The trigger for considering whether or not a recreational contribution is needed from a development is generally that the ‘net gain’ of dwellings to be built is 10 or more, although a contribution towards the improvement of existing off-site areas/facilities may still be sought from developers of smaller housing sites where it is: inappropriate to provide them on-site; there are already deficiencies in the facilities that exist in the locality; and where these facilities are fairly and reasonably related to the proposed development.
- 5.4 The Council standard of 1.6ha for sport provision, 0.8ha for children’s play provision and 0.4ha for public open space provision per 1000 population equates to a per dwelling requirement of 70m<sup>2</sup> of recreation space (on the assumption of 2.5 people per dwelling), broken down as follows:

| Category                         | Requirement Per Dwelling                              |
|----------------------------------|---|
| Public Open Space                | 4,000m <sup>2</sup> (0.4ha) ÷ 400 = 10m <sup>2</sup>  |
| Children’s Play Area             | 8,000m <sup>2</sup> (0.8ha) ÷ 400 = 20m <sup>2</sup>  |
| Adult Outdoor Recreational Space | 16,000m <sup>2</sup> (1.6ha) ÷ 400 = 40m <sup>2</sup> |

- 5.5 These standards provide the **starting point** in negotiations between the Council and developers on the recreation and open space required from residential developments. The Council will also have regard to surplus/deficit of recreation and open space provision in an area, and also the proximity to and quality of other provision in the community to secure the widest benefit from new provision or contributions. Wherever possible, provision for outdoor recreation, play areas and public open space should be made on site as an integral part of the development, and in a location well related to the proposed residential properties. Where recreational facilities are provided on-site the developer is required to maintain and keep them in their intended use in perpetuity, which is usually by the facility being adopted by the Council with a commuted sum being paid for its future maintenance. Where some of the provision needs to be made off site, a financial contribution may be sought to allow facilities to be provided or improved in a suitable location nearby. A detailed charging schedule for the calculation of recreation and public open space developer contributions and commuted sums is included at Appendix A.
- 5.6 **Public Open Space.** The LDP defines Public Open Space as ‘green areas for the public to enjoy informal recreation such as parks and gardens and amenity greenspace. It includes informal green spaces around buildings, areas of open space such as green breaks within a development site and commons.’ The requirement for 10 square metres per dwelling is relatively low and often opportunities exist for a larger provision of open space, for example where some parts of sites are undevelopable due to topography, drainage etc. or have to be protected from development on landscape or biodiversity grounds or where the scheme needs to meet any other Green Infrastructure (GI)

requirements. Where there is overprovision within the development against the standard it may be possible to take this into account when assessing other types of open space provision. In addition, developers are encouraged to maximise the functionality of public open spaces by considering opportunities for biodiversity enhancement, ecological connectivity, Sustainable Urban Drainage Systems, walking and cycling and other community and recreational uses. The multifunctional use of open space is an aim of the LDP's GI policies, as considered in Section 6 of this guidance note.

**5.7 Children's Play Areas.** As indicated in the charging schedule in Appendix A, there are three main types of children's play area:

- Local Area for Play (LAP) (400 square metres) – a small area of open space specifically designed for young children to play close to where they live. Normally at least one LAP should be located within one minutes walking time of every home (100m walking distance), catering mainly for 4-6 year olds, and be suitable for children with disabilities.
- Local Equipped Area for Play (LEAP) (3,600 square metres) – a play area equipped mainly for children of early school age (4-8 years old) although consideration should be given to older and younger children. Normally LEAPs should be located within five minutes walking time from every home (400m walking distance).
- Neighbourhood Equipped Area for Play (NEAP) (8,500 square metres) – an unsupervised site equipped mainly for older children, which should incorporate a kick about area and opportunities for wheeled play. Normally a NEAP should be provided within 15 minutes walking time from every home (1000m walking distance).

Once the overall children's play space requirement is established (20 square metres multiplied by the number of dwellings) then this total amount is distributed amongst the different types of play area – LAPs, LEAPs and NEAPs. However, notwithstanding the minimum walking distances set out above, the Council is anxious to avoid a proliferation of small play areas that are difficult and expensive to maintain, little used and/or offering limited opportunities for imaginative play. For instance, applying the standard to a 100 dwelling development would result in a requirement for 2,000 square metres of children's play space, sufficient for five LAPs, which would not be desirable, or just over half a LEAP, which would not be practicable. Innovative approaches to children's play provision, therefore, are encouraged. This could include: combining the different types of play area described above in one location or by the creation of connected accessible green corridors; making financial contributions to off-site facilities (new or improved), which offer 'economies of scale' that enable a better standard and quality of play provision; or maximising the functionality of public open spaces, by considering opportunities for biodiversity enhancement, ecological connectivity, walking and cycling and other community and recreational uses alongside the provision of play space as part of the Council's GI approach.

- 5.8 **Adult Outdoor Recreational Space.** The LDP defines Outdoor Sport as comprising ‘facilities such as pitches, greens, courts, athletic tracks and miscellaneous sites such as croquet lawns and training areas’. Given the usual scale of housing development in Monmouthshire, it is rarely possible to provide such facilities on site, hence the Council’s normal policy is to request a financial contribution per dwelling towards the provision of adult recreation facilities in the vicinity of the application site as an alternative means of complying with Policy CRF2. As set out in the charging schedule in Appendix A, this contribution is currently set at £3132 per dwelling. This is an estimate of what it would cost to provide 40 square metres of adult recreational area on site. Financial contributions raised through this policy would not necessarily be used for ‘Outdoor Sport’ as defined in the LDP. There may be other types of recreational facilities that need to be provided or enhanced to meet the demands placed upon them by the additional population generated by new developments, including, for instance, community halls and leisure centres/swimming pools. In addition, as with Public Open Space and Children’s Play Space considered above, open space provided in accordance with the LDP’s GI policies can also be utilised as adult recreation facilities, for walking and cycling, for example, and as such can sometimes be accepted as an alternative means of complying with Policy CRF2.
- 5.9 **Allotments,** Policy CRF2 requires developments of more than 50 dwellings to provide allotments at a standard of 0.25 hectares per 1,000 population. This would equate to 6.25 square metres per dwelling based on 2.5 people per dwelling. It is recognised, however, that sometimes the provision of allotments in a scheme is not appropriate particularly if there is not a specific need or desire for them in an area. In addition, often allotments do not fit into a proposed layout and/or may be out of character with the type of GI/open space being proposed in a scheme. In such circumstances a contribution may be sought towards off-site provision, particularly if there are specific allotment provision or improvement schemes being proposed in a locality, or an alternative may be agreed such as a community orchard, which is a means of providing a beneficial amenity for residents and meeting GI requirements. Conversely, if there was an over provision of open space on a site or a particularly valuable GI resource being provided then this could possibly be traded off against the need to provide allotments to meet the policy requirement.
- 5.10 The Council’s preference is for on-site open space to be offered to it for adoption, subject to a commuted sum being paid for its future maintenance in accordance with the charging schedule in Appendix A. It is recognised, however, that in some cases developers wish to utilise private management companies as an alternative to public adoption. Where this occurs the Section 106 agreement will be drafted to include provisions for on-site open space to be satisfactorily managed and maintained in perpetuity.
- 5.11 Viability considerations and the need to give priority to the provision of affordable housing may mean that it is not always possible to achieve full compliance with the requirements of Policy CRF2. In such situations,

consideration will be given to the deficit or surplus of open space provision in the settlement in which the development is located. This information is included in the Monmouthshire Open Space Study (2008), which identified the standards of provision for public recreation, open space and allotments now detailed in Policy CRF2. The study assessed the quantity, quality and accessibility of such provision within the County in order to identify deficiencies of existing provision against standards. A re-survey of existing amenity open space in the County is currently being undertaken and its findings will be used to re-calculate deficits or surpluses of open space in a community where appropriate. Where a scheme is viable and meeting affordable housing requirements then it should be possible to achieve full compliance with Policy CRF2. Where a scheme is not viable then in the first instance consideration will be given to deducting contributions to those types of recreation and open space where there is a surplus of that facility in the locality. Severe viability issues with a development may result in other policies of the LDP having to be given precedence over Policy CRF2. This will be determined on a case by case basis. In any event, the Council is moving away from an approach to recreation and open space provision based on strict compliance with predetermined standards. This is in accordance with LDP GI policies that encourage the multifunctional use of open space, as considered in the next section of this guidance note.

## **6 Green Infrastructure**

- 6.1 The LDP aims to ensure the provision of high quality open space, with networks of green infrastructure which protect existing features and promote both biodiversity and access. The creation and maintenance of high quality open space is critical to both the conservation objectives of the plan and the promotion of health and well-being by providing an accessible environment for new and existing development. The relevant LDP GI policies are Policy S13 and Policy G11:

### **Policy S13 – Landscape, Green Infrastructure and the Natural Environment.**

Development proposals must:

.....

2. **Maintain, protect and enhance the integrity and connectivity of Monmouthshire’s green infrastructure network.**
3. **Protect, positively manage and enhance biodiversity and geological interests, including designated and non-designated sites, and habitats and species of importance and the ecological connectivity between them.**
4. **Seek to integrate landscape elements, green infrastructure, biodiversity features and ecological connectivity features, to create multifunctional, interconnected spaces that offer opportunities for recreation and healthy activities such as walking and cycling.**

### **Policy GI1 – Green Infrastructure**

Development proposals will be expected to maintain, protect and enhance Monmouthshire’s diverse green infrastructure network by:

- a) **Ensuring that individual green assets are retained wherever possible and integrated into new development. Where loss of green infrastructure is unavoidable in order to secure sustainable development appropriate mitigation and/or compensation of the lost assets will be required;**
- b) **Incorporating new and /or enhanced green infrastructure of an appropriate type, standard and size. Where on-site provision of green infrastructure is not possible, contributions will be sought to make appropriate provision for green infrastructure off-site.**

The implementation and interpretation of these policies is supported by the *Monmouthshire LDP Green Infrastructure Supplementary Planning Guidance* (April 2015). Using a three-step approach, the SPG outlines the Council’s expectations on how on- and off-site green infrastructure should be considered and embedded within development proposals. It provides practical design and planning checklists, supplemented by good practice case studies and signposts to further information and guidance. New development should incorporate new and / or enhanced GI in order to comply with Policies S13 and GI1, recognising the benefits that arise from GI, which include enhancing local distinctiveness, supporting the economy, helping mitigate climate change, encouraging sustainable development, protecting the environment/biodiversity, improving community cohesion and social inclusion and promoting health and well-being, as set out in the SPG.

- 6.2 The GI SPG does not include quantitative standards for the provision of different types of GI. As the preceding section on recreation and open space provision has stated, the Council will adopt a flexible approach in negotiations on open space provision. It is recognised that the GI approach offers opportunities for the multifunctional use of public open spaces that meets requirements for biodiversity protection, enhancement, resilience and ecological connectivity, for example, while at the same time providing facilities for children's play, corridors for connected walking, cycling and other community and recreational uses.
- 6.3 Notwithstanding criterion b) of Policy GI1, the Council will not be seeking Section 106 contributions to make provision for green infrastructure off-site unless such provision is directly related to the development and necessary to make it acceptable in planning terms. In this respect, it is considered to be entirely appropriate to seek **direct** mitigation and compensation for lost GI assets in accordance with criterion a) of Policy GI1 and to achieve this through Section 106 agreements.
- 6.4 **Mitigation and Compensation.** Development proposals which harm the GI network will need to provide comprehensive mitigation and compensatory measures to ensure that the overall functionality and connectivity of the GI network is maintained. Where unavoidable in order to meet development objectives, any residual loss of existing GI assets will need to be compensated for by provision of new or enhanced GI. Where on-site mitigation measures cannot be provided, or only provided in part, then off-site compensation will be sought to help reinforce GI connectivity and/or improve the GI network. The nature, scale and location of off-site GI compensatory measures will need to be proportionate and related to the assets being replaced. In this respect, there may be opportunities for treating such GI provision (improvements to a country park or a contribution to improving connectivity for people and wildlife between the proposed development site and the wider GI network, for instance) as also being an alternative means of complying with Policy CRF2 if such GI facilities are also providing opportunities for play and recreation. The Environment Act (Wales) 2016 places a requirement upon local authorities to consider ecosystem resilience which will need to be assessed on a case by case basis but may require compensation off site.
- 6.5 **GI Implementation.** Consideration of how GI design proposals will be implemented, how the subsequent management and maintenance regimes will operate and how they will be adequately funded will need to be incorporated at planning application stage. The funding for managing and maintaining new and/or enhanced GI provision will generally be paid for by the developer via contributions secured through S106 Agreements. Where private management companies are to be utilised the Section 106 agreement will be drafted to include provisions for on-site open space to be satisfactorily maintained in perpetuity. Management and maintenance will need to be compatible with any approved GI management plan. In some cases, open space areas may include Sustainable Drainage Systems (SUDS). These have particular requirements in



terms of their design and maintenance and developers should enter into early discussions with the Council's drainage section to discuss such proposals

- 6.6 **Biodiversity and Geological Diversity.** Although it is likely that biodiversity and geological diversity can mostly be addressed through the general GI approach, sometimes there are detailed matters arising that need to be controlled through specific clauses in a Section 106 agreement and appropriate planning obligations may be required to ensure suitable protection, monitoring, mitigation or compensation and favourable management. In this respect, LDP Policy NE1 – Nature Conservation and Development, needs to be taken into account, although this only deals with local designations / priority habitats and there may be circumstances when internationally / nationally designated sites or matters relating to protected species have an associated section 106 consideration.
- 6.7 **Public Rights of Way (PROW).** Similarly, sometimes PROWs are affected by a development and do not form part of a general GI proposal. In such cases protection and /or compensation will be established on a case by case basis. LDP Policy MV3 seeks to protect and enhance the rights of way network and the Council will use planning obligations as necessary to secure such protection or enhancements. This could also provide benefits for GI.

## 7 Travel

- 6.1 The LDP highlights the importance of minimising the need to travel, improving accessibility to jobs, services and community facilities and addressing climate change. The LDP aims to deliver a transport system in Monmouthshire that manages the use of the private car effectively and encourages the use of other transport modes – be it public transport or cycling or walking. Section 106 agreements are a means of achieving these aims and are also used where local transport infrastructure and highway alterations are necessary to remove specific obstacles to development. Parts of LDP policies S16, MV1 and MV2 are particularly relevant:

**Policy S16 - Transport**

Where appropriate, all development proposals shall promote sustainable, safe forms of transport which reduce the need to travel, increase provision for walking and cycling and improve public transport provision. This will be facilitated by:

- Reducing the need to travel, especially by car;  
.....
- Promoting public transport, walking and cycling;  
.....

### **Policy MV1 – Proposed Developments and Highway Considerations**

**All planning applications for developments which are likely to have a significant impact on trip generation and travel demand must, as appropriate, be accompanied by a Transport Assessment that includes a Transport Implementation Strategy for the development detailing the measures proposed to improve access by public transport, walking and cycling and reduce the number and impacts of car journeys associated with the proposal.**

**Development that is likely to create significant and unacceptable additional traffic growth in relation to the capacity of the existing road network and / or fails to provide a safe and easy access for road users will not be permitted, unless appropriate proposals for related improvements to the highway system or a contribution towards mitigating traffic management / reduction measures are made.**

.....

### **Policy MV2 – Sustainable Transport Access**

**The development of sites shall, dependent on their location, size and local need, include provision for and the integration of appropriate sustainable transport links, including public transport, walking and cycling. Non-car access will be supported and prioritised over access by car.**

**Development should link into the existing or proposed public rights of way, walking, cycleway and green infrastructure networks and this will be reflected in the layout and conditions / obligations on any permission granted.**

**Where deemed necessary, financial contributions will be required towards improvements in transport infrastructure and services, in particular to support sustainable travel links / public transport, cycling and walking**

- 6.2 Where specific highway improvements are required to provide access to a development site these will generally be achieved through an agreement under Section 278 of the Highways Act (1980). It is current practice, however, to include a clause in any Section 106 agreement requiring the entering into a Section 278 agreement to ensure that such highway works are carried out at an appropriate stage of the development.
- 6.3 Contributions towards sustainable transport measures will be negotiated on a site-by-site basis. Such measures could include:
- Improved bus services – subsidies towards additional services or new routes

- New bus stops
  - Improved facilities for walking and cycling access to development sites, including in connection with the Active Travel (Wales) Act 2013, Safe Routes to Schools, etc.
  - Road safety improvements
  - Implementation of Green Travel Plans
  - Strategic improvements to bus and rail stations
- 6.4 The scale of contribution will vary according to the circumstances of each site. Recent required contributions have ranged from around £500 to £2,000 per dwelling. In other cases, particularly on LDP strategic sites, a single figure has been requested to achieve the provision of a specific facility, e.g. £200,000 from the development at the former Paper Mill at Sudbrook to enable the introduction of a new bus service .

## 8 Procedure

### 8.1 Pre-application Advice

Prospective developers are strongly advised to discuss their proposals with Development Management (DM) Officers so that the specific nature and scale of any planning obligations for individual sites can be discussed at an early stage. Please note this is by means of a formal pre-planning application service which is available at a modest cost (the price depends on the level of service required). Full details can be found on the Council's website at the following link:

<http://www.monmouthshire.gov.uk/planning/pre-application-advice-service>.

The views given at the pre-planning stage are given at an officer level only and do not prejudice the decision of the Council if a formal planning application is received. The DM case officer will contact individual departments with details of the proposed development so that any possible Section 106 contributions can be identified and included in the officer written response. The relevant services that deal with the matters set out in this guidance note are Housing, Education, Leisure, Grounds Maintenance, Community and Partnership Development Team (in relation to community facilities), GI, Highways/Drainage and Transport Planning.

- 8.2 Requests for contributions will be examined to ensure that there is no conflict with the 'pooling' restrictions referred to in paragraph 2.2.3 above. While not readily apparent from the wording of the relevant regulation (Regulation 123 of the CIL Regulations 2010, as amended 2014) the Council's approach will be that any Section 106 agreement that is replaced by a new agreement for the same site and substantially for the same development does not count towards the pooling restriction. Similarly, an agreement entered into for a permission that has subsequently lapsed could not be implemented and, therefore, will not be counted towards the pooling restriction.

- 8.3 When the planning application is received, formal consultations will be initiated with these departments, although the aim would be to have substantially established all Section 106 requirements at the pre-application stage. However, further negotiation may be necessary, particularly where new information comes to light or where viability issues are raised that may result in it not being possible for all policy requirements to be met.
- 8.4 Where an application is to be recommended for approval the report taken to Planning Committee will specify the Heads of Terms for the Section 106 Agreement, including the issue of any future maintenance. Planning Committee will be asked to resolve to grant planning approval, subject to the signing of the Section 106 agreement. If Members agree with the recommendation then the Development Management case officer will complete a pro forma to instruct the Council's Legal Officer to draw up the Section 106 agreement, while at the same time issuing an extension of time letter to the applicant to enable this to take place.
- 8.5 In the first instance, the Legal Officer will check the applicant's title to the development land. The final wording of the Section 106 Agreement needs to be agreed by Legal, the applicant and the relevant authority departments. Legal will send at least two copies of the final S106 Agreement to the applicant for signing. The S106 Agreement should be signed within 6 months or there will be delegated authority to refuse. Upon return of the signed agreement from the applicant to Legal, Development Management will be notified that the agreement has been signed. Development Management will then release the decision notice for the planning permission and place a copy on the Planning Register. The planning permission and the associated Section 106 agreement will also be entered as a land charge.

## 9 Monitoring

- 9.1 The Council has an Enforcement Monitoring Officer within the Planning Enforcement Section who will monitor the relevant "triggers" (the stage of the development at which a payment is required) and the associated Section 106 amounts, together with information obtained from other relevant departments as necessary. This covers both the recovery of one-off 'principal' sums and commuted sums required for maintenance purposes. The Enforcement Monitoring Officer will arrange for a sundry debtor invoice to be raised to be sent to the developer in advance of "trigger" dates being reached.

### 9.2 Commuted Sums

If there is a commuted sum provision for maintenance of on-site recreation/open space and/or Green Infrastructure within the Section 106 agreement the Enforcement Monitoring Officer will monitor the relevant trigger points. Once a trigger point is reached the Enforcement Monitoring Officer will contact Grounds / Green Infrastructure to advise them of this. In the instance of onsite recreation/open space Grounds will arrange to inspect the play

area/open space to ensure that it satisfies the standards required by the Council. If it complies Grounds will in the first instance contact the developer and ask them to instruct their solicitors to begin the process of transferring the land to the Council. At the same time Grounds will instruct Legal to begin the process of the transfer of the land to the Council. Once the adoption process is completed Legal will advise the Enforcement Monitoring Officer that the land has been transferred to the Council. The Enforcement Monitoring Officer will then arrange for a sundry debtor invoice to be raised to be sent to the developer.

### 9.3 **Section 106 Working Group**

The Council has an established a working group, comprising of officers involved in the Section 106 process and chaired by the Head of Planning, Housing and Place Shaping to monitor the progress of developments that are subject to Section 106 provisions. The purpose of the group as set out in its terms of reference are as follows:

- To monitor Section 106 Agreements from first expressions of interest to the application of commuted maintenance and capital sums.
- To review arrangements for Section 106 Agreements and make recommendations for improvement.
- To receive regular reports from the Enforcement Monitoring Officer identifying details of Section 106 Agreements, implementation timescales and payments received.
- To receive regular reports from the Relevant Departments on the application of Section 106 monies held for programme maintenance and capital schemes.
- To receive regular reports from Central Finance that sums received on the Authority's ledger reconcile to the S106 combined report, confirming budgets established and slipped, expenditure incurred and balances remaining on schemes. Highlighting capital budgets which are required to be added to the capital program and ensuring that controls within the S106 environment accord with financial processes elsewhere in the Authority
- To be consulted on all relevant matters in relation to Section 106 Agreements.

## **APPENDIX A**

### **Recreation and Public Open Space Developer Contributions Charging Schedule**

## **APPENDIX B**

### **Cluster areas for the schools within Monmouthshire**

|   |   |
|---|---|
| <p><b>Abergavenny</b></p> <p><b>Cantref Primary School</b></p> <p><b>Deri View Primary School</b></p> <p><b>Gilwern Primary School</b></p> <p><b>Goytre Fawr Primary School</b></p> <p><b>Llanfoist Fawr Primary School</b></p> <p><b>Llanvihangel Crucorney Primary School</b></p> <p><b>Our Lady &amp; St Michael's Catholic Primary</b></p> <p><b>Ysgol Gymraeg Y Fenni</b></p> <p><b>Llantilio Pertholey Church in Wales Primary</b></p> <p><b>King Henry VIII Secondary School</b></p> | <p><b>Caldicot</b></p> <p><b>Archbishop Rowan Williams Church in Wales Primary</b></p> <p><b>Castle Park Primary School</b></p> <p><b>Dewstow Primary School</b></p> <p><b>Durand Primary School</b></p> <p><b>Magor Church in Wales Primary</b></p> <p><b>Rogiet Primary School</b></p> <p><b>Undy Primary School</b></p> <p><b>Ysgol Gymraeg Y Ffin</b></p> <p><b>Caldicot Secondary School</b></p> |
| <p><b>Chepstow</b></p> <p><b>Pembroke Primary School</b></p> <p><b>Shirenewton Primary School</b></p> <p><b>The Dell Primary School</b></p> <p><b>Thornwell Primary School</b></p> <p><b>St Mary's Roman Catholic Primary</b></p> <p><b>Chepstow Secondary School</b></p>   | <p><b>Monmouth</b></p> <p><b>Cross Ash Primary School</b></p> <p><b>Kymin View Primary School</b></p> <p><b>Llandogo Primary School</b></p> <p><b>Overmonnow Primary School</b></p> <p><b>Trellech Primary School</b></p> <p><b>Raglan VC Primary School</b></p> <p><b>Usk Church in Wales Primary</b></p> <p><b>Osbaston Church in Wales Primary</b></p> <p><b>Monmouth Comprehensive School</b></p> |



## **APPENDIX C**

### **Sources of Advice**

**Planning Policy Team**

County Hall

Rhadyr

Usk

NP15 1GA

Tel: 01633 644429

Email: [planningpolicy@monmouthshire.gov.uk](mailto:planningpolicy@monmouthshire.gov.uk)

**Development Management**

County Hall

Rhadyr

Usk

NP15 1GA

Tel: 01633 644800

Email: [planning@monmouthshire.gov.uk](mailto:planning@monmouthshire.gov.uk)

## Appendix C



### REPORT

|                                  |   |
|----------------------------------|---|
| <b>SUBJECT:</b><br>Contributions | <b>Recreational &amp; Public Open Space Developer</b>     |
| <b>MEETING:</b>                  | <b>Cabinet Decision</b>                                   |
| <b>DATE TO BE CONSIDERED:</b>    |   |
| <b>DIVISIONS/WARDS AFFECTED:</b> | <b>All Wards outside the Brecon Beacons National Park</b> |

#### 1. PURPOSE

- 1.1 To seek approval of the Council's 2018/2019 charges for public outdoor recreational contributions expected from housing developers.

#### 2. RECOMMENDATION

- 2.1 To approve the 2018/2019 level of financial contributions expected from developers in lieu of on-site provision of public open space and recreational facilities, as indicated in **Appendix 1 - Table 1**.

#### 3. KEY ISSUES

- 3.1 The Council has, under Policy CRF2 of the adopted Monmouthshire Local Development Plan (**APPENDIX 2**), adopted the Fields in Trust (F.I.T.) 'Six Acre Standard' to guide the provision of recreational open space in the County. In addition, the Council has its own standard for the provision of public open space.
- 3.2 Based on an assessment of local needs, the Council currently negotiates with developers on the basis of 1.6ha (4 acres) for sport provision; 0.8ha (2 acres) for children's play provision; and 0.4ha (1 acre) for public open space provision per 1000 population. Together, these requirements satisfy the Fields in Trust 'Six Acre Standard' and are considered as the minimum standards for the County.
- 3.3 The Council's standard, therefore equates to 70m<sup>2</sup> per dwelling of recreation space that has been calculated and broken down as follows:

| Category                         | Area Per Dwelling                                     |
|----------------------------------|---|
| Public Open Space                | 4,000m <sup>2</sup> (0.4ha) ÷ 400 = 10m <sup>2</sup>  |
| Children's Play Area             | 8,000m <sup>2</sup> (0.8ha) ÷ 400 = 20m <sup>2</sup>  |
| Adult Outdoor Recreational Space | 16,000m <sup>2</sup> (1.6ha) ÷ 400 = 40m <sup>2</sup> |

- 3.4 In most cases recreational facilities are provided on-site by the developer and the developer is required to maintain and keep them in their intended use in perpetuity; which is usually by the facility being adopted by the Council with a commuted sum being paid for its future maintenance.
- 3.5 Commuted maintenance sums are received to fund ongoing annual maintenance and periodic major maintenance for a period of 20 years.

- 3.6 The calculation of the amount invoiced to the developer is based upon applying inflation to maintenance changes over the 20-year period and then discounting the gross amount back for the time value of money.
- 3.7 **Where the Council considers that on-site recreation provision is not possible or practicable, alternative provision is required to be made in the locality.** In such circumstances the normal practice is for a developer to make a financial contribution to the Council in lieu of on-site provision. The specification and costing details in **APPENDIX 3** are illustrative of what the Council will provide when facilities are provided off-site. However, these illustrative cost details should not be seen as the total a developer would be expected to spend when they are making on-site provision. The over-riding issue is that all developments provide facilities that meet the Council's adopted Fields in Trust specification.
- 3.8 In March 2015 Cabinet agreed the level of developer contributions expected towards off-site recreation and public open space provision. This report recommends that the principle of developer contributions be continued in its current form, but that the level of contributions is revised to reflect 2018/2019 prices that have been increased by 6.5% for commuted sums and by 9% for the capital costs.
- 3.9 In accordance with the Council's specification (which accords with the relevant F.I.T requirements) for recreational and public open space, **APPENDIX 1 TABLES 1 & 2** summarise the costs calculated for off-site developer contributions at 2018/2019 prices. These figures have been revised to take account of the rise with commuted sums and the rise in capital costs as well as specification improvements in order to fully meet the requirements of the F.I.T standard. **APPENDIX 3** provides full details of how the individual cost elements have been calculated.

#### **4. REASON**

- 4.1 The charges need updating for the 2018/2019 financial year.

#### **5. RESOURCE IMPLICATIONS**

- 5.1 Implementation within the planning process will be undertaken with the co-operation of the Enterprise Directorate and Waste and Street Services and other services, where appropriate.

#### **6. Sustainable Development & Equality Implications**

There are positive implications for the health and well-being of children and young people with additional play and recreation provision being provided.

#### **7. Safeguarding & Corporate Parenting Implications**

There are no safeguarding and corporate parenting implications.

#### **8. CONSULTEES**

Section 106 Working Group  
Countryside GI Team

9. **BACKGROUND PAPERS** - Cabinet Member Report "Recreational & Public Open Space Standards and Developer Contributions", June 2015
10. **AUTHOR:** Nigel Leaworthy - Operations Manager Waste and Street Services.
11. **CONTACT DETAILS:**

Tel 01633 644151

Email [nigelleaworthy@monmouthshire.gov.uk](mailto:nigelleaworthy@monmouthshire.gov.uk)

## APPENDIX 1 Calculated Costs 2015/2016

**Table 1: Cost per Dwelling of Recreation and Public Open Space**

|  | Land Purchase | Capital Cost | Adoption Cost | Admin. Cost                    | Total Cost       |
|--|---------------|--------------|---------------|--------------------------------|------------------|
| <b>10m<sup>2</sup> Public Open Space</b>     | £39.30        | £38.46       | £132.81       | £20.66                         | <b>£231.23</b>   |
| <b>20m<sup>2</sup> Children's Play Area</b>  | £78.58        | £313.27      | £472.33       | £82.29                         | <b>£946.47</b>   |
| <b>40m<sup>2</sup> Adult Recreation Area</b> | £157.33       | £2017.44     | £911.34       | £205.86                        | <b>£3'291.97</b> |
|  |               |              |               | <b>Total Cost Per Dwelling</b> | <b>£4'469.67</b> |

**Table 2: Costs of Children's Play Areas**

|   | Land Purchase    | Capital Cost       | Adoption Cost     | Total Cost         |
|---|------------------|--------------------|-------------------|--------------------|
| <b>Local Area for Play</b>                  | £1493.13         | £17389.86          | £32912.76         | <b>£51'795.75</b>  |
| <b>Local Equipped Area for Play</b>         | £14146.40        | £59255.67          | £84822.99         | <b>£158'225.06</b> |
| <b>Neighbourhood Equipped Area for Play</b> | £33401.60        | £119'153.35        | £177484.38        | <b>£330'039.33</b> |
| <b>Total</b>                                | <b>£49041.12</b> | <b>£195'798.86</b> | <b>£295222.26</b> | <b>£540'062.24</b> |

**Note:** The Total Cost Per Dwelling calculation shown in Table 1 is derived using the following formulae for each of the three individual costs:

|   |   |   |   |  |
|---|---|---|---|--|
| <b>A</b>                                      |   | <b>B</b>  |   | <b>C</b>   |
| The relevant cost shown in Table 1 and below: |   | ( The total area of the relevant ( recreational facility shown in ( Appendix B and below: |   | The area of the relevant recreational ) facility required per dwelling shown in ) paragraph 3.3 and below: ) |
| <i>Land Purchase</i>                          | ÷ | <i>Public Open Space 10,000m<sup>2</sup></i>  | ÷ | <i>Public Open Space 10m<sup>2</sup></i>   |
| <i>Capital Cost</i>                           |   | <i>Adult Recreation 16,187m<sup>2</sup></i>   |   | <i>Adult Recreation 40m<sup>2</sup></i>  |
| <i>Adoption Cost</i>                          |   | <i>Children's Play Area 12,500m<sup>2</sup></i>   |   | <i>Children's Play Area 20m<sup>2</sup></i>  |
| i.e. A ÷ (B ÷ C)                              |   |   |   |  |

## APPENDIX 2 Policy CRF2 of the Adopted Monmouthshire Local Development Plan

6.1.42 Standards of provision for recreation and open space will be based on the Fields in Trust (FIT) minimum standard for outdoor play space of 2.4 hectares per 1000 population, and 0.4 hectares of public open space per 1000 population. This is the Council's minimum standard that will be sought throughout the County in both urban and rural areas.

6.1.46 Where possible, provision for outdoor recreation and public open space should be made on site as an integral part of the development, and in a location well related to the proposed residential properties. Where some of the provision needs to be made off site, a financial contribution may be appropriate to allow facilities to be provided or improved in a suitable location nearby. Developers are encouraged to maximise the functionality of public open spaces, by considering opportunities for biodiversity enhancement, ecological connectivity, SUDS, walking and cycling and other community and recreational uses.

## APPENDIX 3 Calculated Costs 2018/2019

### 1. Public Open Space (10,000m<sup>2</sup>)

| DESCRIPTION  | QUANTITY            | COST               |
|--|---------------------|--------------------|
| Footpath   | 150m <sup>2</sup>   | <b>£38'453.02</b>  |
| Boundary Fence: 1.2m high tanalised timber post and two rail | 100m                |                    |
| Standard Trees   | 40                  |                    |
| Grass Area   | 9,850m <sup>2</sup> |                    |
| Orchard Brambley Seat  | 2                   |                    |
| Earth Anchor Litter Bin                                      | 2                   |                    |
| DESCRIPTION  | FREQUENCY           | COST               |
| Rotary grass cutting   | 14 per year         | <b>£132'808.70</b> |
| Tree inspection  | Yearly              |                    |
| Seat inspection  | Yearly              |                    |
| Empty litter bins  | Weekly              |                    |
| Seat painting  | Every 5 years       |                    |
| Overlay footpath   | Every 10 years      |                    |
| Fence painting   | Every 10 years      |                    |

### 2. Youth/Adult Outdoor Recreation Area (16,187m<sup>2</sup>)

| DESCRIPTION          | QUANTITY    | COST               |
|----------------------|-------------|--------------------|
| Football Pitch       | 1           | <b>£816'407.82</b> |
| Multi-Sports Pitches | 2           |                    |
| Changing Rooms       | 1           |                    |
| DESCRIPTION          | FREQUENCY   | COST               |
| Building Maintenance | As required |                    |
| Rotary grass cutting | 14 per year |                    |
| Fertiliser           | 2 per year  |                    |
| Sand top dressing    | 2 per year  |                    |
| Renovation work      | Yearly      |                    |

| DESCRIPTION                         | QUANTITY    | COST               |
|-------------------------------------|-------------|--------------------|
| Take down/set up goal posts/nets    | As required | <b>£368'792.46</b> |
| Over marking for multi-sports pitch | Yearly      |                    |
| Over marking for grass pitches      | Weekly      |                    |
| Brushing for multi-sports pitch     | Monthly     |                    |
| Empty litter bin                    | Weekly      |                    |

### 3. Local Area for Play LAP (400m<sup>2</sup>)

| DESCRIPTION  | QUANTITY          | COST              |
|--|-------------------|-------------------|
| Grass Area   | 300m <sup>2</sup> | <b>£17'389.86</b> |
| Shrub Planted Area                                 | 30m <sup>2</sup>  |                   |
| Standard Trees                                     | 2                 |                   |
| Tarmac Footpath                                    | 50m <sup>2</sup>  |                   |
| Powder Coated Galvanised Bow Top Fencing           | 50mts             |                   |
| Self Closing Gate                                  | 1                 |                   |
| Play Equipment: Such as;<br>- Wicksteed Swing Unit | 1                 |                   |
| - Kompan Crazy Scrambler Springer                  | 1                 |                   |
| - Hopscotch Area                                   | 1                 |                   |
| Impact Absorbing Surface                           | 19 m <sup>2</sup> |                   |
| Orchard Brambley Seat                              | 1                 |                   |
| Earth Anchor Litter Bin                            | 1                 |                   |
| DESCRIPTION  | FREQUENCY         | COST              |
| Rotary grass cutting                               | 14 per year       | <b>£32'913.83</b> |
| Tree/Shrub maintenance                             | 4 per year        |                   |
| Play equipment maintenance                         | Weekly            |                   |
| Empty litter bin                                   | Weekly            |                   |
| Seat painting                                      | Every 5 years     |                   |
| Overlay footpath and replace safety surfacing      | Every 10 years    |                   |
| Fence painting                                     | Every 10 years    |                   |

### 4. Local Equipped Area for Play LEAP (3,600m<sup>2</sup>)

| DESCRIPTION   | QUANTITY           | COST              |
|---|--------------------|-------------------|
| Grass Area  | 3300m <sup>2</sup> | <b>£59'255.67</b> |
| Shrub Planted Area                                      | 50m <sup>2</sup>   |                   |
| Standard Trees  | 40                 |                   |
| Tarmac Footpath   | 100m <sup>2</sup>  |                   |
| Powder Coated Galvanised Bow Top Fencing                | 75 mts.            |                   |
| Self Closing Gate                                       | 2                  |                   |
| Play Equipment such as;<br>- Kompan SupaNova Roundabout | 1                  |                   |
| - Hags/SMP Midi Venturer Multiplay Unit                 | 1                  |                   |
| - Proludic Pod Swing                                    | 1                  |                   |
| - Wicksteed Cobra Seesaw                                | 1                  |                   |
| - Kompan Spica 1  | 1                  |                   |
| Impact Absorbing Surface                                | 135m <sup>2</sup>  |                   |



| DESCRIPTION                      | QUANTITY       | COST              |
|----------------------------------|----------------|-------------------|
| Orchard Brambley Seat            | 2              |                   |
| Earth Anchor Litter Bin          | 2              |                   |
| DESCRIPTION                      | FREQUENCY      | COST              |
| Rotary grass cutting             | 14 per year    | <b>£84'822.99</b> |
| Tree/Shrub maintenance           | 4 per year     |                   |
| Furniture maintenance            | Yearly         |                   |
| Play equipment maintenance       | Weekly         |                   |
| Empty litter bin                 | Weekly         |                   |
| Seat painting                    | Every 5 years  |                   |
| Overlay footpath                 | Every 10 years |                   |
| Replace impact absorbing surface | Every 10 years |                   |
| Fence painting                   | Every 10 years |                   |

### 5. Neighbourhood Equipped Area for Play NEAP (8,500m<sup>2</sup>)

| DESCRIPTION   | QUANTITY           | COST               |
|---|--------------------|--------------------|
| Grass Area  | 8000m <sup>2</sup> | <b>£119'153.35</b> |
| Shrub Planted Area  | 200m <sup>2</sup>  |                    |
| Standard Trees  | 40                 |                    |
| Tarmac Footpath   | 100 <sup>2</sup>   |                    |
| Powder Coated Galvanised Bow Top Fencing                                      | 100 mts            |                    |
| Self Closing Gate   | 2                  |                    |
| Play Equipment: Such as;  |                    |                    |
| - Kompan Izar Unit  | 1                  |                    |
| - Proludic Pod Swing  | 1                  |                    |
| - Wicksteed Cobra See Saw   | 1                  |                    |
| - Kompan SupaNova Roundabout  | 1                  |                    |
| - Kompan Galaxy Spica 1   | 1                  |                    |
| - Kompan Algol Unit   | 1                  |                    |
| Impact Absorbing Surface  | 200m <sup>2</sup>  |                    |
| Orchard Brambley Seat   | 2                  |                    |
| Earth Anchor Litter Bin   | 2                  |                    |
| Teenage Area: Either SMP Arena Meeting Point Shelter or Steel Youth Shelter   | 1                  |                    |
| Either Tarmac Hard Play Area with Basketball Hoop or SMP Indiana Goal Section | 1                  |                    |
| DESCRIPTION   | FREQUENCY          | COST               |
| Rotary grass cutting  | 14 per year        | <b>£177'484.38</b> |
| Tree/Shrub maintenance  | 4 per year         |                    |
| Furniture maintenance   | Yearly             |                    |
| Play equipment maintenance  | Weekly             |                    |
| Empty litter bin  | Weekly             |                    |
| Seat painting   | Every 5 years      |                    |
| Overlay footpath  | Every 10 years     |                    |
| Replace impact absorbing surface  | Every 10 years     |                    |
| Fence painting  | Every 10 years     |                    |

**Note:** Costs reflect the current rates of tendered contracts by Monmouthshire County Council. The costs are indicative and for costing purposes only.

## Appendix D

### Evaluation Criteria – Cabinet, Individual Cabinet Member Decisions & Council

|                                |   |
|--------------------------------|---|
| <b>Title of Report:</b>        | <b>SECTION 106 PROCEDURE NOTE AND POLICY GUIDANCE</b> |
| <b>Date decision was made:</b> | <b>25 January 2018</b>                                |
| <b>Report Author:</b>          | <b>Martin Davies</b>                                  |

#### **What will happen as a result of this decision being approved by Cabinet or Council?**

What is the desired outcome of the decision?

What effect will the decision have on the public/officers?

To adopt the documents for use in Section 106 processes and improve the efficiency of these processes.

To provide guidance for officers, members, developers, the public and applicants on how Section 106 agreements are negotiated, giving greater clarity and transparency

12 month appraisal

Was the desired outcome achieved? What has changed as a result of the decision? Have things improved overall as a result of the decision being taken?

#### **What benchmarks and/or criteria will you use to determine whether the decision has been successfully implemented?**

Think about what you will use to assess whether the decision has had a positive or negative effect:

Has there been an increase/decrease in the number of users

Has the level of service to the customer changed and how will you know

If decision is to restructure departments, has there been any effect on the team (e.g increase in sick leave)

Successful implementation will result in the documents being adopted and utilised in Section 106 processes. Regular feedback on the usefulness of the documents will be provided to the Section 106 Working Group.

12 month appraisal

*Paint a picture of what has happened since the decision was implemented. Give an overview of how you fared against the criteria. What worked well, what didn't work well. The reasons why you might not have achieved the desired level of outcome. Detail the positive outcomes as a direct result of the decision. If something didn't work, why didn't it work and how has that effected implementation.*

**What is the estimate cost of implementing this decision or, if the decision is designed to save money, what is the proposed saving that the decision will achieve?**

Give an overview of the planned costs associated with the project, which should already be included in the report, so that once the evaluation is completed there is a quick overview of whether it was delivered on budget or if the desired level of savings was achieved.

---

Officer time and costs associated with negotiating, preparing, implementing and monitoring Section 106 agreements and servicing the Section 106 Working Group. These will be carried out by existing staff and within existing budgets.

**12 month appraisal**

*Give an overview of whether the decision was implemented within the budget set out in the report or whether the desired amount of savings was realised. If not, give a brief overview of the reasons why and what the actual costs/savings were.*

## Future Generations Evaluation

( includes Equalities and Sustainability Impact Assessments)

|   |  |
|---|--|
| <p><b>Name of the Officer</b> completing the evaluation<br/>Martin Davies</p> <p><b>Phone no:</b> 01633 644826<br/><b>E-mail:</b> martindavies@monmouthshire.gov.uk</p> | <p><b>Please give a brief description of the aims of the proposal</b></p> <p>The Local Development Plan (LDP), which was adopted on 27 February 2014, sets out the Council's vision and objectives for the development and use of land in Monmouthshire, together with the policies and proposals to implement them over the ten year period to 2021. Planning obligations under Section 106 of the Town and Country Planning Act 1990 are a means of seeking contributions from developers to enhance the quality of a development, provide community benefits and infrastructure and mitigate any negative impacts that may arise as a consequence of development. Section 106 agreements, therefore, are a means of delivering the LDP.</p> |
| <p><b>Name of Service</b></p> <p>Planning Policy</p>  | <p><b>Date Future Generations Evaluation form completed</b></p> <p>16/01/2018</p>  |


- 1. Does your proposal deliver any of the well-being goals below?** Please explain the impact (positive and negative) you expect, together with suggestions of how to mitigate negative impacts or better contribute to the goal.


| Well Being Goal  | How does the proposal contribute to this goal? (positive and negative)   | What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?            |
|--|--|--|
| <p><b>A prosperous Wales</b><br/>Efficient use of resources, skilled, educated people, generates wealth, provides jobs</p>                                 | <p><b>Positive:</b> Section 106 funding can help contribute to the provision of infrastructure to support development, improve general prosperity and ensure education facilities are sufficient.</p> <p><b>Negative:</b> None. Where appropriate, planning applications are subject to viability testing to ensure that the viability of development is not adversely affected by Section 106 requirements.</p> | <p><b>Better contribute to positive impacts:</b> Monitor the effectiveness of Section 106 spending on a regular basis.</p> |
| <p><b>A resilient Wales</b><br/>Maintain and enhance biodiversity and ecosystems that support resilience and can adapt to change (e.g. climate change)</p> | <p><b>Positive:</b> Section 106 funding can be used to finance schemes promoting Green Infrastructure, Biodiversity etc.</p> <p><b>Negative:</b> None</p>  | <p><b>Better contribute to positive impacts:</b> Monitor the effectiveness of Section 106 spending on a regular basis.</p> |
| <p><b>A healthier Wales</b><br/>People's physical and mental wellbeing is maximized and health impacts are understood</p>                                  | <p><b>Positive:</b> Section 106 funding can be used to finance schemes promoting walking and cycling, thereby promoting healthy living.</p> <p><b>Negative:</b> None</p>   | <p><b>Better contribute to positive impacts:</b> Monitor the effectiveness of Section 106 spending on a regular basis.</p> |
| <p><b>A Wales of cohesive communities</b><br/>Communities are attractive, viable, safe and well connected</p>  | <p><b>Positive:</b> Section 106 funding can be used to finance the infrastructure to promote sustainable communities, including community and social facilities, open space, public transport, walking</p>   | <p><b>Better contribute to positive impacts:</b> Monitor the effectiveness of Section 106 spending on a regular basis.</p> |

| Well Being Goal   | How does the proposal contribute to this goal? (positive and negative)   | What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?  |
|---|--|--|
|   | <p>and cycling connections etc. Section 106 agreements are also the means of providing affordable housing to support communities.</p> <p><b>Negative:</b> None</p>   |  |
| <p><b>A globally responsible Wales</b><br/>Taking account of impact on global well-being when considering local social, economic and environmental wellbeing</p>                                | <p><b>Positive:</b> Section 106 supports the implementation of the LDP, the policies of which have been subject to a Sustainability Appraisal and Strategic Environmental Assessment to ensure that social, economic and environmental objectives are met, thereby contributing to sustainable development and global well-being.</p> <p><b>Negative:</b> None</p>   | <p><b>Better contribute to positive impacts:</b> Monitor the effectiveness of Section 106 spending on a regular basis. Decisions on how to spend Section 106 monies will be subject to a Future Generations Evaluation.</p>                                    |
| <p><b>A Wales of vibrant culture and thriving Welsh language</b><br/>Culture, heritage and Welsh language are promoted and protected. People are encouraged to do sport, art and recreation</p> | <p><b>Positive:</b> Section 106 funding can be used to support community and sporting facilities.</p> <p><b>Negative:</b> None</p>   | <p><b>Better contribute to positive impacts:</b> Monitor the effectiveness of Section 106 spending on a regular basis.</p>   |
| <p><b>A more equal Wales</b><br/>People can fulfil their potential no matter what their background or circumstances</p>   | <p><b>Positive:</b> The LDP should bring positive benefits to all members of Monmouthshire's population. All the policies of the plan have been subject to a Sustainability Appraisal that measures their performance against sustainability objectives, including such matters as providing equitable access to jobs, services and facilities, allowing all people to meet their housing needs, protecting people from health risk and providing opportunities for healthy lifestyles, supporting all</p> | <p><b>Better contribute to positive impacts and mitigation of negative impacts:</b> Monitor the effectiveness of Section 106 spending on a regular basis. Decisions on how to spend Section 106 monies will be subject to a Future Generations Evaluation.</p> |




| Well Being Goal | How does the proposal contribute to this goal? (positive and negative)  | What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts? |
|-----------------|---|---|
|                 | <p>members of the community and promoting community cohesion. Section 106 is a means of supporting and delivering the LDP.</p> <p><b>Negative:</b> Decisions on how to prioritise the spending of Section 106 receipts could potentially have implications for groups with protected characteristics. Spending decisions will be subject to separate Future Generation Evaluations.</p> |   |

**2. How has your proposal embedded and prioritised the sustainable governance principles in its development?**

| Sustainable Development Principle  | How does your proposal demonstrate you have met this principle?  | What has been done to better to meet this principle?                     |
|--|--|--|
|  <p>Balancing short term need with long term and planning for the future</p> | <p>The LDP covers the period 2011-21. Section 106 supports the implementation of the LDP. By its nature, therefore, it cannot look beyond the 2021 but the SA/SEA of the LDP would have ensured consideration of the impact on future generations.</p> | <p>Ensure that the LDP and its policies have been subject to SA/SEA.</p> |

| Sustainable Development Principle   | How does your proposal demonstrate you have met this principle?  | What has been done to better to meet this principle?   |
|---|--|--|
|  <p>Working together with other partners to deliver objectives</p> | <p>The Procedure Note is an internal document that does not require public consultation. The Policy Guidance is intended for use as a practice note to assist Development Management officers in their negotiations with developers and also to provide guidance for developers as they formulate their proposals. It sets out how the Council will approach such negotiations and will not be adopted as Supplementary Planning Guidance so does not require consultation with outside bodies or the general public.</p> <p>Individual planning applications are subject to consultation procedures and this gives the public, community and town councils and other outside bodies the opportunity to express their views on what Section 106 contributions arising from a development should be spent on. Where appropriate, specific public consultation also takes place before decisions on how to spend Section 106 funding are made.</p> | <p>Processes will be put in place to ensure community groups etc. will be consulted on how Section 106 money is spent.</p> |



| Sustainable Development Principle  | How does your proposal demonstrate you have met this principle?  | What has been done to better to meet this principle?   |
|--|--|--|
|  <p>Involvement<br/>Involving those with an interest and seeking their views</p>                                  | <p>The Procedure Note is an internal document that does not require public consultation. The Policy Guidance is intended for use as a practice note to assist Development Management officers in their negotiations with developers and also to provide guidance for developers as they formulate their proposals. It sets out how the Council will approach such negotiations and will not be adopted as Supplementary Planning Guidance so does not require consultation with outside bodies or the general public.</p> <p>Individual planning applications are subject to consultation procedures and this gives the public, community and town councils and other outside bodies the opportunity to express their views on what Section 106 contributions arising from a development should be spent on. Where appropriate, specific public consultation also takes place before decisions on how to spend Section 106 funding are made.</p> | <p>Processes will be put in place to ensure community groups etc. will be consulted on how Section 106 money is spent.</p>   |
|  <p>Prevention<br/>Putting resources into preventing problems occurring or getting worse</p>                     | <p>N/A</p>   | <p>N/A</p>   |
|  <p>Integration<br/>Positively impacting on people, economy and environment and trying to benefit all three</p> | <p>Section 196 supports the implementation of the LDP which has been subject to a Sustainability Assessment that balances the impacts on Social, Economic and Environmental factors.</p>   | <p>Section 106 supports the implementation of the LDP which has been subject to a Sustainability Assessment that balances the impacts on Social, Economic and Environmental factors.</p> |

**3. Are your proposals going to affect any people or groups of people with protected characteristics?** Please explain the impact, the evidence you have used and any action you are taking below.

| Protected Characteristics   | Describe any positive impacts your proposal has on the protected characteristic | Describe any negative impacts your proposal has on the protected characteristic | What has been/will be done to mitigate any negative impacts or better contribute to positive impacts? |
|---|---|---|---|
| <p><b>Positive:</b> The LDP should bring positive benefits to all members of Monmouthshire’s population. All the policies of the plan have been subject to a Sustainability Appraisal that measures their performance against sustainability objectives, including such matters as providing equitable access to jobs, services and facilities, allowing all people to meet their housing needs, protecting people from health risk and providing opportunities for healthy lifestyles, supporting all members of the community and promoting community cohesion. The use of Section 106 is a means of supporting and delivering the LDP.</p> <p><b>Negative:</b> Decisions on how to prioritise the spending of Section 106 receipts could potentially have implications for groups with protected characteristics.</p> <p><b>Mitigation:</b> Monitor the effectiveness of Section 106 spending on a regular basis. Decisions on how to spend Section 106 monies will be subject to a Future Generations Evaluation.</p> |   |   |   |
| Age   | See above   | See above   | See above   |
| Disability  | See above   | See above   | See above   |
| Gender reassignment   | See above   | See above   | See above   |
| Marriage or civil partnership   | See above   | See above   | See above   |
| Race  | See above   | See above   | See above   |
| Religion or Belief  | See above   | See above   | See above   |
| Sex   | See above   | See above   | See above   |
| Sexual Orientation  | See above   | See above   | See above   |

| <b>Protected Characteristics</b> | <b>Describe any positive impacts your proposal has on the protected characteristic</b> | <b>Describe any negative impacts your proposal has on the protected characteristic</b> | <b>What has been/will be done to mitigate any negative impacts or better contribute to positive impacts?</b> |
|----------------------------------|--|--|--|
| Welsh Language                   | See above  | See above  | See above  |

**4. Council has agreed the need to consider the impact its decisions has on important responsibilities of Corporate Parenting and safeguarding. Are your proposals going to affect either of these responsibilities?** For more information please see the guidance <http://hub/corporatedocs/Democratic%20Services/Safeguarding%20Guidance.docx> and for more on Monmouthshire's Corporate Parenting Strategy see <http://hub/corporatedocs/SitePages/Corporate%20Parenting%20Strategy.aspx>

|                     | <b>Describe any positive impacts your proposal has on safeguarding and corporate parenting</b> | <b>Describe any negative impacts your proposal has on safeguarding and corporate parenting</b> | <b>What will you do/ have you done to mitigate any negative impacts or better contribute to positive impacts?</b> |
|---------------------|--|--|---|
| Safeguarding        | N/A  | N/A  |   |
| Corporate Parenting | N/A  | N/A  |   |

**5. What evidence and data has informed the development of your proposal?**

- Monmouthshire Local Development Plan 2011-2021  
This is the adopted development plan for Monmouthshire (excluding that part of the County within the Brecon Beacons National Park) which sets out the development framework for the County until 2021.
- Consultation with members of the Section 106 Working Group who have provided details of their procedures and policies for incorporation in the documents.

**6. SUMMARY: As a result of completing this form, what are the main positive and negative impacts of your proposal, how have they informed/changed the development of the proposal so far and what will you be doing in future?**

The positive impact of this proposal is that it raises finance to provide infrastructure to support the implementation of the Monmouthshire LDP and meet the social, economic and environmental objectives of the plan.

Potential negative impacts would only occur if viability of development was adversely affected by Section 106 and viability testing of development proposals where appropriate is undertaken to ensure that this does not happen.

Future decisions taken on how Section 106 funding is spent will be subject to engagement with the local community and Future Generations Evaluation.

**7. Actions. As a result of completing this form are there any further actions you will be undertaking? Please detail them below, if applicable. N/A**

| What are you going to do | When are you going to do it? | Who is responsible | Progress |
|--------------------------|------------------------------|--------------------|----------|
|                          |                              |                    |          |
|                          |                              |                    |          |
|                          |                              |                    |          |

**8. Monitoring: The impacts of this proposal will need to be monitored and reviewed. Please specify the date at which you will evaluate the impact, and where you will report the results of the review.**

**The impacts of this proposal will be evaluated on:**

On a quarterly basis through Section 106 Working Group. On annual basis through reporting to Economy and Select Scrutiny Committee. The LDP is also subject to an Annual Monitoring Report that is submitted to the Welsh Government and made publicly available.