

**Supplementary  
Planning  
Guidance**

**Planning  
Obligations**



**Adopted  
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# Planning Obligations Supplementary Planning Guidance

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# Planning Obligations

## 1. Introduction

- 1.1 Carmarthenshire County Council (CCC) adopted its Local Development Plan on the 10th December 2014, and its aim is to make the Development Plan system more relevant, inclusive and engaging to local communities.
- 1.2 This Supplementary Planning Guidance (SPG) was prepared within the context of the Local Development Plan (LDP) and to provide a clear picture of what types of obligations developers may be expected to contribute towards, the likely amounts of these obligations and the trigger at which different obligations will be sought by the Council. The LDP and SPG are material considerations in the determination of planning applications and appeals.
- 1.3 New development often creates a need for additional infrastructure or improved community services and facilities, without which there could be a detrimental effect on local amenity and the quality of the environment. Planning Obligations are the mechanism used to secure these measures.
- 1.4 Planning Obligations are secured pursuant to Section 106 of the Town and Country Planning Act 1990(as amended) and the Planning & Compulsory Purchase Act 2004 and are often agreements usually in the context of planning applications between the local planning authority and persons with an interest in the land (Section 106 Agreement). Planning Obligations can also be given unilaterally to the Council by the persons with an interest in the land (Unilateral Undertaking). Unilateral undertakings are commitments offered by the applicant to the LPA with the intention of overcoming any obstacles that may arise in preventing the awarding of planning permission. They can be offered by the developer at any stage in the planning process and are usually drafted by solicitors representing the developers.
- 1.5 Planning obligations secured by way of a Section 106 agreement or Unilateral Undertaking (also called a Unilateral Obligation), are registerable land charges which are binding on the land and are therefore enforceable against all successors in title.
- 1.6 Obligations relating to matters not covered by this SPG may be sought where there is sufficient robust evidence to justify such obligations. Each planning application will be considered in line with Policy GP3 of the LDP.

## 2. Legislation, Guidance and Policy Context

### National Policy Context

- 2.1 The legislative basis for planning obligations is Section 106 of the Town and Country Planning Act 1990 as amended by Section 12 of the Planning and Compensation Act (1991). Typically obligations are negotiated in the context of granting planning permission and are used to secure provisions to enable the development of land that are not suitable or capable of being contained in a condition attached to the planning permission.
- 2.2 Planning obligations are intended to make acceptable development which would otherwise be unacceptable in planning terms. The legislation allows planning obligations to:
- Restrict development or use of land;
  - Require specific operations or activities to be carried out in relation to the land;
  - Require payment of sums of money to help mitigate the impact of the development, commuted sums etc; and
  - Require land to be used in a certain way.
- 2.3 Guidance on planning obligations is further provided by Circular 13/97 (Planning Obligations), which sets out a number of tests for the use of planning obligations.
- Any obligation must be necessary to make the proposed development acceptable in planning terms;
  - The obligation must be relevant to planning;
  - The obligation must be directly related to the proposed development;
  - Obligations must be fairly and reasonably related in scale and kind to the proposed development;
  - Obligations must be reasonable in all other respects.
- 2.4 The guidance contained within this SPG is based upon recognition of the need to satisfy the five policy tests.
- 2.5 More recently, Part 11 of the *Planning Act 2008* provided for the introduction of the Community Infrastructure Levy (CIL) to fund the provision of infrastructure in England and Wales. The Community Infrastructure Levy Regulations came into force on 6th April 2010. Regulation 122(2) gives legal effect to three of the tests from Circular 13/97, as follows:
- “a planning obligation may only constitute a reason for granting planning permission if it complies with the three tests...namely, that it is:*
- (a) Necessary to make the development acceptable in planning terms;*
  - (b) Directly related to the development; and*
  - (c) Fairly and reasonably related in scale and kind to the development.”*
- 2.6 To assist Welsh Local Authorities deliver infrastructure from planning, Welsh guidance has been prepared by the Welsh Government titled ‘Community Infrastructure Levy

(CIL) – Preparation of a Charging Schedule’. This sits alongside the guidance prepared by the Secretary of State for Communities and Local Government (CLG) titled ‘The Community Infrastructure Levy Guidance – Charge Setting and Charging Schedule Procedures’.

- 2.7 Carmarthenshire County Council has not introduced a CIL charging schedule at present and is consequently continuing to rely on planning obligations to provide necessary infrastructure. It may be required to introduce a CIL charging schedule in the future. In the event that this takes place, this SPG will be reviewed in light of the charging schedule and other informant considerations.
- 2.8 Planning Policy Wales Edition 7: (2014) (PPW) sets out the key requirements of the 1990 Act and Circular 13/97, providing national context for development plan policies. PPW is supplemented by topic based *Technical Advice Notes* (TANs). Where appropriate, reference is made to the relevant Technical Advice Note in each of the topic based Annex of this guidance.

## **Local Policy Context**

- 2.9 The aim of the SPG is to elaborate on, and assist in the implementation of the policies and provisions of the LDP. Policy GP3 of the LDP sets out the areas where contributions may be sought.

***“The Council will, where necessary seek developers to enter into Planning Obligations (Section 106 Agreements), or to contribute via the Community Infrastructure Levy to secure contributions to fund improvements to infrastructure, community facilities and other services to meet requirements arising from new developments.***

***Where applicable, contributions will also be sought towards the future and ongoing maintenance of such provision either in the form of initial support or in perpetuity.***

***In implementing this policy schemes will be assessed on a case-by-case basis.”***

- 2.10 The policy recognises the requirement set out in PPW and Circular 13/97 in relation to the tests for the use of planning obligations.
- 2.11 Government advice stipulates that Planning Obligations must be governed by the fundamental principle that planning permission may not be bought or sold. It is therefore not legitimate for unacceptable development to be permitted because of benefits or inducements offered by a developer which are not necessary to make the development acceptable in planning terms. Furthermore, planning obligations should never be used purely as a means of securing for the local community a share in the profits of a development (in other words, as a means of securing a betterment levy).

### 3. The Use of Planning Obligations in Carmarthenshire

#### Process

- 3.1 All planning applications which meet the thresholds and triggers set out in the Summary of Planning Obligations Requirements (Table 1 – pages 7-8) will be required to make contributions in light of this SPG. This includes applications for the renewal of extant planning permissions. Likewise, material changes in planning circumstances will be considered regarding Section 73 applications, the practical effect of which is to grant a fresh consent.
- 3.2 Developers should make themselves aware of the likely planning obligation liabilities associated with a proposed development. This has a direct bearing on development viability, and should be considered in the deliberations over site value assumptions. Where an applicant submits that the planning requirements associated with a scheme are too onerous and renders the development unviable, the developers will be required to submit the development economics, based on properly sourced evidence to indicate at what levels of contributions that would make the scheme viable. This follows the same principles identified within the Affordable Housing Supplementary Planning Guidance.
- 3.3 The Council welcomes pre-application discussions on all developments which would fall within the remit of requiring planning obligations. It is advisable that the following information should be submitted as part of any planning proposals in order to avoid any undue delay with the processing and negotiations within the planning application cycle.
  - Certificate of Title – proof of ownership of all the property and/or land affected by the application site edged red. Because planning obligations run with the land, all owners, lessees and mortgagees must be signatories;
  - Any valuation to prove eligibility for reduced contributions, accompanied by information detailing how costs were derived;
  - All other requirements outlined by the application form checklist;
  - Details of the solicitor that will be handling the case.
- 3.4 Applicants are responsible for the Council's legal costs incurred in relation to the process of drafting, approving and completing any Deed of Obligation, including costs of title investigation which is necessary to ensure the correct parties enter into the Deed. Should an application be approved subject to the signing of a Section 106 agreement, the decision notice relating to that application should be issued within 12 months from the date of the resolution to approve. Where evidence is provided by the applicant to the Council's satisfaction that the agreement cannot be signed within the prescribed period, then a variation on the time limit will be considered on a case by case basis. Should this information not be forthcoming, the Local Planning Authority reserves the right to refuse the application based on the non-completion of the S106 agreement.
- 3.5 The required planning obligations are identified at the time that planning permission is granted, but they don't normally become effective until the implementation of the planning permission. The decision notice will not be signed until the legal agreement has been signed by all parties. Where a planning obligation has been drawn seeking a developer to provide facilities, services or commuted sums, the legal agreement must provide trigger points which specify when a particular planning obligation is due to

ensure that the delivery of those obligations are timely. Trigger points for payment of planning contributions can 'upon 'commencement of development' or 'upon the commencement of construction / occupation of a particular unit of accommodation, as examples. Such trigger points may also be useful mechanisms for phasing developments. In every instance, obligations will be assessed on a case by case basis.

- 3.6 Once financial contributions have been received by the Council they will be held until monies are spent in line with the signed legal agreements. With the exception of Unilateral Undertakings, contributions remaining unspent at the end of the time period (if specified) within the Planning Agreement they will be returned to the, unless alternative provision is agreed between the payee and the Council. The time period specified will normally be set to coincide with the life of the planning permission.

### **Monitoring and Enforcement**

- 3.7 The Local Authority will monitor planning obligations to ensure that they are complied with in full by the developer and the Council. It should be noted that it is the responsibility of the developer to notify the Authority upon commencement of development and also when any triggers specified in the agreement are reached.
- 3.8 An annual monitoring report will be prepared at the end of each financial year summarising the types of planning obligations completed, and how any contributions that have been collected have been used.
- 3.9 Where it is found that an agreement is not being complied with, the Council will, in the first instance, seek an informal resolution within the developer concerned to ensure timely and satisfactory compliance with the legal agreement. If this approach remains unsuccessful, the Authority's Head of Legal Services will consider the most appropriate course of action to be taken. This may comprise serving a Mandatory Injunction upon the landowner and/or other party(ies) to the agreement, or debt recovery proceedings to ensure compliance.

### **Time Limited S106 Agreements and Reviews**

- 3.10 In exceptional circumstances, where the Council accepts that the scheme is unable to make any, or all the required contributions due to proven viability difficulty, it may, where applicable, impose a planning condition or obligation, setting a limited timeframe within which the development must be substantially completed.
- 3.11 Where reductions are justified, the Council may require developers to agree to timely review points in their section 106 agreement to take account of any subsequent change in the economy, which may make additional planning obligations feasible.

### **Dispute Resolution / Setting Contribution Levels**

- 3.12 Where there is a dispute between the Council and landowner, applicant and/or developer, and where all parties agree, a third party may be appointed to undertake an independent assessment of scheme viability and the ability to achieve the planning obligations that are in dispute. The third party appointment will be paid for by the applicant/owner/developer. All key stakeholders must endorse the process, play an active role and be willing to submit appropriate information to enable the appraisal to be undertaken. The third party's role would be to validate factual information to assist

in the resolution of issues. Both parties should where applicable, accept the third party decision on the determination of viability. However, the third party would where applicable, not act as an arbitrator. Responsibility remains with the Local Authority and landowner, applicant and/or developer to resolve the dispute.

- 3.13 A Statement of Common Ground must be jointly produced to establish project elements, costs and assumptions that can be agreed between both parties at the outset of the third party's involvement. Any financial assessment can then focus on addressing the specific areas of disagreement. To address commercially sensitive information, a confidentiality agreement can be drawn-up to ensure that any sensitive financial information is made available only to the assessor and not shared directly with the Local Authority or any other third party. Only the findings of the assessor need to be shared across all parties, based upon the information supplied to them and their professional opinion on its accuracy. However, enough information must be presented to ensure the decision making process can continue and to see the effect the decision may have on the scheme viability and also give confidence to determine the need to depart from policy.

### Summary of Planning Obligations Requirements

- 3.14 Table 1 below provides a summary of the current planning obligation requirements and the triggers for those contributions. The content of the following table will be subject to a continual review in line with any variations within Council policy and the potential forthcoming consideration relating to CIL.

Type of Contribution	Applies to (types of development).	Trigger
Affordable Housing	Residential	<p>The threshold for on-site contributions is set at 5 dwellings</p> <p>For sites below the on-site contribution threshold, all housing developments which result in a net increase of one dwelling will be subject to a commuted sum contribution.</p> <p>The commuted sum contribution differs within each submarket area. The formula for the commuted sum is identified within the Affordable Housing SPG.</p>
Education Contributions	Residential	<p>The threshold for contribution is currently set at 10no. or more dwellings.</p> <p>Early Years - 0.04 pupils per dwelling            Primary - 0.4 pupils per dwelling            Secondary - 0.2 pupils per dwelling.</p> <p>The contribution depends if the area is subject to the Modernising Education</p>



		<p>Programme (MEP) proposals.</p> <p><i>If yes</i>, i.e. there is no future capacity and extensions are required to accommodate additional pupils then the scale is as follows:</p> <p>1-15 places - £3000 per place  16-30 places - £3,500 per place  30+ places - £4,000 per place</p> <p><i>If no</i>, ie if there is capacity in local schools there is a lower sum to accommodate additional pupils as follows:</p> <p>1-15 places - £1000 per place  16-30 places - £1500 per place  30+ places - £2000 per place</p>
Caeau Mynydd Mawr	<ul style="list-style-type: none"> <li>• Housing</li> <li>• Commercial/ Retail</li> <li>• Employment</li> <li>• Education/Community</li> <li>• Transport/highways infrastructure</li> </ul>	<p>All the developments below which are within the Caeau Mynydd Mawr SPG area.</p> <ul style="list-style-type: none"> <li>• <b>Housing:</b> £1,043 per dwelling.</li> <li>• <b>Commercial/Retail:</b> Site area pro rata with equivalent of 30 dwellings per hectare – i.e. £31,290 per ha.</li> <li>• <b>Employment:</b> Site area pro rata with equivalent of 30 dwellings per hectare – i.e. £31,290 per ha.</li> <li>• <b>Education/Community:</b> Site area pro rata with equivalent of 30 dwellings per hectare – i.e. £31,290 per ha.</li> <li>• <b>Transport/highways infrastructure:</b> Site area pro rata with equivalent of 30 dwellings per hectare – i.e. £31,290 per ha.</li> </ul>
Leisure, Recreation and Open Space Contributions.	Residential	<p><b>Open space</b> - £10,000 administration/maintenance fee plus £2,463 per plot.</p> <p>A contribution will be sought from a developer if the number of dwellings to be built is 5 or more.</p>
Transport		<p>There are no standardised highway contributions required by the Highways Department. Each application is on its merits in order to bring a development forward. This is agreed at the negotiation stage.</p>

Table 1

## 4. Affordable Housing

4.1 Technical Advice Note (TAN) 2: Planning and Affordable Housing (2006), defines the term affordable housing as:

*“...housing where there are secure mechanisms in place to ensure that it is accessible to those who cannot afford market housing, both on first occupation and for subsequent occupiers ...” (TAN 2, 2006)*

4.2 There are two main types of affordable housing as defined by TAN 2:

- **Social Rented Housing** – provided by local authorities and Registered Social Landlords where rent levels have regard to the Welsh Government’s guideline rents and benchmark rents;
- **Intermediate Housing** – where prices or rents are above those of social rented housing but below market house prices and rents. This includes low cost home ownership models such as shared equity or assisted purchase schemes.

4.3 Annex B of the TAN also indicates that affordable housing should:

- meet the needs of eligible households, including availability at low enough cost for them to afford, determined with regard to local incomes and local house prices; and,
- include provision for the home to remain affordable for future eligible households, or if a home ceases to be affordable or staircasing to full ownership takes place, any subsidy should generally be recycled to provide replacement affordable housing.

4.4 All other housing is classified as ‘market’ housing, which includes private rent or sale in the open market, where no occupancy restrictions are in place.

### Trigger for affordable housing contributions – Proposals above the threshold

4.5 The Affordable Housing SPG provides the mechanisms at which affordable housing contributions will be sought. On all housing developments, the site threshold for affordable units is based on 5 or more dwellings. The affordable housing target is set by a settlement’s location within a sub market area. In the higher viable areas, the maximum target is set at 30%, the middle viable areas are set at 20%, and within the lower viable sub market areas, an affordable housing target of 10% is considered. The LDP’s Proposals Map and Appendix 1 of the Affordable Housing SPG delineate these target areas on a County wide map. The red areas indicate the 30% target areas, the green areas indicate the 20% target areas, and the blue areas indicate the 10% target area.

4.6 It is the Council’s preference for on-site provision of affordable housing to encourage mixed, balanced and inclusive communities. Off-site provision will only be considered in lieu of on-site provision in exceptional circumstances, to be considered on a site-by-site basis.

- 4.7 In exceptional circumstances where on-site provision is not considered appropriate and off-site units cannot be delivered on an alternative site, the Council will consider whether a commuted payment in lieu of on site affordable housing provision would be appropriate.
- 4.8 This may include, but does not limit, the use of these financial contributions to provide:
- The purchase and refurbishment of long-term empty properties by a RSL, which will be managed as affordable housing
  - Delivery of Mortgage Rescue;
  - To top up any existing Social Housing Grant Scheme or match fund any other scheme to maximise their delivery;
  - Development of Supported or Adapted Housing;
  - Purchase of land for affordable housing;
  - Any other method identified strategically that will increase the supply of affordable housing in the County.

### **Commuted Sums – Proposals below the threshold**

- 4.9 The LDP through Policy AH1 (as a result of the examination and subsequently the Inspectors report), has made it a requirement to provide a commuted sum contribution from all housing developments which results in a net increase of one dwelling up to the threshold for when on-site contribution are sought. The level of contribution will vary across the County based upon its location. Commuted sum charges will be based on floor space (cost per sq.m).
- 4.10 Money will be pooled until sufficient funding is secured to develop an affordable unit or units within a larger scheme, or to support other affordable housing schemes.
- 4.11 The following types of residential units are exempted from affordable housing obligations.
- Sheltered Housing
  - Care Homes, rest homes and nursing homes
  - Student Accommodation (including colleges, training centres and residential schools)
  - Hostels
- 4.12 Detailed Guidance on the type, tenure and provision of affordable housing can be found in the Affordable Housing Supplementary Planning Guidance.

## 5. Education Facilities

- 5.1 The justification for requiring financial or in-kind contributions in respect to educational facilities is set out in Welsh Office Circular 13/97 (Planning Obligations). Paragraph A4 identifies that Section 106(2) of the Town and Country Planning Act 1990 provides for payments of money to be made, either of a specific amount or by reference to a formula.
- 5.2 Paragraph B10 of Circular 13/97 states that provision of educational facilities may be acceptable provided that such facilities are directly related to the development proposal, the need for them arises from its implementation, and they are related in scale and kind.
- 5.3 The Local Education Authority (LEA) is required to publish annually School Organisation Data which provides an assessment of the sufficiency of school provision throughout the Authority, outlining present and future needs. It identifies capacity in all schools based on the size of the teaching area and the current and forecasted number of pupils on roll.
- 5.4 Carmarthenshire County Council has published its Modernising Education Programme (MEP) strategy which provides information based on the conclusion of a whole County Strategic Review of school places. It has also published a draft school development programme based on this Strategy.
- 5.5 New housing development generates an increased demand for school places. Where a new residential development generates additional demand for school places, from early years to secondary, which cannot be adequately met by existing provision and /or materially affects the MEP draft school development plans, a contribution will be required. This contribution will be used to meet the impact of the development.
- 5.6 Education obligations will apply to residential developments only and will be required from all developments containing or reasonably expected to generate 10 or more eligible dwellings.
- 5.7 For clarity, the following types of residential units are exempted from educational obligations.
- One bedroom dwellings and studio flats;
  - Sheltered / elderly person housing;
  - Care Homes, nursing homes and rest homes;
  - Hostels;
  - Student Accommodation (including colleges, training centres and residential schools).
- 5.8 Contributions may be used for:
- Provision of new schools;
  - Provision of new classrooms;
  - Improvements and refurbishment of existing facilities to provide additional capacity i.e. Extended teaching areas, extension to staff rooms;
  - Provision of additional resources or improvements to existing resources necessitated by the additional demand.

5.9 Education - The pupil product is calculated as follows:

- Early Years - 0.04 pupils per dwelling
- Primary - 0.4 pupils per dwelling
- Secondary - 0.2 pupils per dwelling

5.10 The contribution depends if the area is subject to the Modernising Education Provision (MEP) proposals.

*If yes*, i.e. there is no future capacity and extensions are required to accommodate additional pupils then the scale is as follows:

- 1-15 places - £3000 per place
- 16-30 places - £3,500 per place
- 30+ places - £4,000 per place

*If no*, i.e. if there is capacity in local schools, there is a lower sum to accommodate additional pupils as follows:

- 1-15 places - £1000 per place
- 16-30 places - £1500 per place
- 30+ places - £2000 per place

#### Example

Development Proposal: 100 dwellings (comprising 40 No 3 bedroom, 20 No. 2 bedroom, 20 No. 4 bedroom, 20 No. 1 bedroom dwellings. Consequently there are 80 eligible dwellings.

The requirement would therefore be as follows:

Early Years - Early Years – 80 (dwellings) x 0. 04 (\*Pupil Yield factor) = 3.2 pupils

Primary – 80 (dwellings) x 0. 4 (\*Pupil Yield factor) = 32 pupils

Secondary – 80 (dwellings) x 0. 2 (pupil yield factor) = 16 pupils

Assessment shows that there are no surplus spaces in Early Years education, 10 surplus Primary school places in local Primary schools and only 4 spaces in Secondary education.

Calculation	- Early Years	3.2 * 3,000	=	£9,600
	- Primary Education	10 (surplus) * 1,000	=	£10,000
	-	22 * 3,500	=	£77,000
	- Secondary Education	4 (surplus) * 1,000	=	£4,000
	-	12 * 3,000	=	£36,000
		<b>Total required contribution</b>	<b>=</b>	<b>£127,900</b>

Table 2

## **6. Leisure, Recreation and Open Space Contributions**

- 6.1 Paragraph 11.1.3 of PPW: Edition 7 identifies that the Welsh Government's main planning objective is to promote a more sustainable pattern of development by creating and maintaining networks of facilities and open spaces particularly within urban areas. In addition, paragraph 11.3.2 of PPW highlights that planning authorities may be justified in seeking Section 106 contributions to contribute to the maintenance of facilities, open space, meet the needs of new communities, and ensure that standards of provision are met.
- 6.2 Policy REC2 of the LDP states that all new residential developments of five or more units will be required to provide on site open space in accordance with the Council's adopted standards of 2.4ha per 1000 population. In the event that the above standards cannot be met on site, or where there is sufficient existing provision already available to service the development, then off site financial contributions will be sought as and where appropriate.
- 6.3 The Council (along with other partners) will look to utilise the contributions within the areas that have been identified as requiring funding for various projects within the local communities. The funds will be used within certain timescales as negotiated during the section 106 agreement stage.

### **Trigger for Obligations**

- 6.4 A contribution will be sought from a developer if the number of dwellings to be built is 5 or more.
- 6.5 The current level of contribution set by the Leisure department is - £10,000 administration/maintenance fee plus £2,463 per plot.
- 6.6 The current level of contribution will be subject to a continual review in line with any variations within Council policy and procedures.

## **7. Highways Contributions**

- 7.1 At the date of publication of this SPG, there are no standardised highway contributions which are adopted by the Highways Department; however in some instances there may be a requirement to overcome certain highway constraints in order for a development to come forward. Any highway contributions and the timings of any highway upgrades / development will be safeguarded via a legal agreement.

## **8. Caeau Mynydd Mawr (CMM)**

- 8.1 This section sets out the principles of the Caeau Mynydd Mawr Special Area of Conservation (SAC) SPG.
- 8.2 The Caeau Mynydd Mawr SAC SPG ensures that as development proceeds in the SPG area, appropriate land within that same area is brought into management in order to provide habitat for the marsh fritillary butterfly and accord with the Conservation

Objectives. The SPG is resourced by developer contributions secured from the granting of planning permissions.

- 8.3 The SPG area is robustly defined and is based upon best scientific knowledge. More information on how the area has been defined is available within the SPG and its supporting evidence.
- 8.4 This section also provides guidance on the level of contributions that will be sought by the Council and confirms the various classifications of development that are privy to the provisions of the SPG levy.
- 8.5 Table 3 confirms the amount of developer contributions that the Council will seek to secure. The schedule also confirms the specific classifications of development that will be subject to the provisions of the levy. A flow chart has been developed to provide added clarity for all parties.
- 8.6 Where established through negotiation and the production of evidence to the satisfaction of the Council, consideration will be given to the phasing of contributions. Such phasing (including timing of contributions) will be set out within the legal agreements and will be negotiated by the Council on a case by case basis.
- 8.7 Suitable evidence in terms of 'in kind' contributions (e.g. land/retention of connectivity corridors) will also need to be confirmed to the satisfaction of the Council if these are to be used to offset/part offset the financial sums owed.
- 8.8 The developments below are subject to the provisions of the levy sets out in Table 3 overleaf and are thus 'chargeable':-
- Housing
  - Commercial/ Retail
  - Employment
  - Education/Community
  - Transport/highways infrastructure
- 8.9 The above list is not exhaustive and does not preclude the Council seeking contributions from other development proposals within the SPG area.
- 8.10 The SPG contribution set out in the legal agreement will not include any legal fees owed to the Council or incurred by the applicant. In terms of what to submit and when, it is advisable that applicants liaise with the Council in advance of submitting a planning application. In order to validate the application and underpin the legal agreement, the Council will require the necessary legal documentation to be made available at submission (e.g. proof of title). Reference should be made to Section 3 of this SPG for more information.

### **Deliverability and prioritisation of Planning Obligations**

- 8.11 The Council recognises that the provisions of the Caeau Mynydd Mawr SPG represent a long term commitment which will be subject to ongoing monitoring and review.
- 8.12 The provisions of the Caeau Mynydd Mawr SPG are prioritised above all other planning gain contributions within the Caeau Mynydd Mawr SPG area. This is due to

the requirements placed upon the Council as the Competent Authority under the Conservation of Habitats and Species Regulations 2010.

**Table 3**

<p>1. Is the development proposal situated within the SPG area set out in Appendix 1 of the Caeau Mynydd Mawr SPG? Y/N</p> <p>If N then the development is not subject to the provisions of the CMM SPG. If Y then please proceed to stage 2 below.</p> <p>2. Does the development fall into any of the below classifications ? Y/N.</p> <p>If N then the development is not subject to the provisions of the SPG. If Y then the development is chargeable at the stated rate.</p> <ul style="list-style-type: none"><li>• <b>Housing:</b> £1,043 per dwelling.</li><li>• <b>Commercial/Retail:</b> Site area pro rata with equivalent of 30 dwellings per hectare – i.e £31,290 per ha.</li><li>• <b>Employment:</b> Site area pro rata with equivalent of 30 dwellings per hectare – i.e £31,290 per ha.</li><li>• <b>Education/Community:</b> Site area pro rata with equivalent of 30 dwellings per hectare – i.e £31,290 per ha.</li><li>• <b>Transport/highways infrastructure:</b> Site area pro rata with equivalent of 30 dwellings per hectare – i.e £31,290 per ha.</li></ul> <p>*The above list is not exhaustive and does not preclude the Council seeking contributions from other development proposals within the SPG area*</p> <p>3. In the instance of housing development, calculate a residual figure for the number of 'chargeable' dwellings proposed as agreed with the Council.</p> <p>4. In the instance of 'other' development, calculate a residual figure for the amount of 'chargeable' land take/site area proposed as agreed with the Council.</p> <p>5. In the instance where an in kind/site specific mitigation scheme has been agreed with the Council, quantify (in monetary terms) the amount of financial contribution that will be offset from that owing to the Council as a result. <i>*Subtract this sum to form a residual overall chargeable total at this point*.</i></p> <p>6. What is the total amount of 'chargeable' development?</p> <ul style="list-style-type: none"><li>• Housing (number of chargeable units x 1,043) = £</li><li>• Other (chargeable site area pro rata where 1ha is £31,290) = £</li></ul>
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7. Total financial contribution required (i.e. the sum owed to the Council and to be included within the legal agreement). £

**\*The contribution sum identified in 7 above does not include any legal fees owed to the Council or incurred by the applicant\***

## **9. Legal Costs**

- 9.1 The County Council will seek contributions towards both the legal fees and administrative costs of preparing and completing planning obligations. Such costs will be relatively limited as a proportion of contributions overall, but will enable the County Council to resource the process effectively. In addition to meeting legal costs, such contributions will help to fund systems which manage and co-ordinate the process of handling applications liable to result in developer contributions from start to finish.
- 9.2 In cases where a developer challenges the obligations being required on viability grounds and the Local Authority has to use a viability Development Appraisal Toolkit to assess viability, a charge will be added.