

Carmarthenshire

Revised Local Development Plan 2018-2033

Draft Supplementary Planning Guidance Planning Obligations



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Planning Obligations

1. Introduction

- 1.1 Carmarthenshire County Council (CCC) adopted its revised Local Development Plan (rLDP) on the (date of adoption to be inserted).
- 1.2 This Supplementary Planning Guidance (SPG) supports and elaborates on the rLDP's policies. It aims to provide clarity to developers, agents and other stakeholders regarding the basis on which planning obligations will be secured. In doing so it aims to provide clarity around the 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 often 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 usually agreements 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 during 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, 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 evidence to justify such obligations. Each planning application will be considered in line with Policy INF1: Planning Obligations of the LDP:

INF1: Planning Obligations

Where necessary, planning obligations will be sought to ensure that the effects of developments are fully addressed in order to make the development acceptable. Contributions will be required to deliver or fund improvements to infrastructure, ecology, community facilities and other services and facilities to address requirements or impacts arising from new developments.

Where applicable, contributions will also be sought towards the future and ongoing maintenance of such provision.

- 1.7 Other measures which may also be used to secure infrastructure provision include:
- Planning conditions
 - S278 and S38 Agreements
 - Community Infrastructure Levy (CIL) (Carmarthenshire County Council does not currently operate a CIL).

2. Legislation, Guidance and Policy Context

National Legislation and 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).
- 2.2 Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that the determination of a planning application must be in accordance with the development plan unless material considerations indicate otherwise.
- 2.3 Planning obligations are intended to assist in mitigating the impact of unacceptable development to make it acceptable 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; and,
- Require land to be used in a certain way.

2.4 Guidance on planning obligations is provided by Welsh Government in 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.

2.5 The policy requirements of the rLDP and the guidance within this SPG has been prepared in accordance with the requirements of the Circular.

2.6 Part 11 of the Planning Act 2008 introduced the Community Infrastructure Levy (CIL). The Community Infrastructure Levy Regulations 2010 and subsequent amendments set out CIL legislation. Regulation 122(2) of the Regulation states that 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.

3. The Use of Planning Obligations in Carmarthenshire

Process

- 3.1 The process of securing and negotiating planning obligations is outlined in Appendix 2 of this SPG.
- 3.2 The Council will seek to use planning conditions to make otherwise unacceptable development acceptable and will only use planning obligations where it is not possible to address unacceptable impacts through the use of effective and enforceable conditions. The Council's approach to the use of planning obligations is to secure them where they are necessary to ensure development satisfies the policy requirements of the rLDP and any other material considerations, where they meet the tests identified above.
- 3.3 It is recommended that pre-application advice is sought at the earliest possible stage prior to making a planning application using the Council's pre-application service, particularly for major and more complex developments. It maximises the opportunity during the early stages of the scheme design process to ensure development meets all relevant policy requirements and enables discussion of planning obligations where these are necessary to make a scheme acceptable. Early discussions help to ensure that formal applications can be dealt with in a more transparent, certain and speedy manner and allow the legal agreement or unilateral undertaking to be executed and completed as soon as practicable. Where planning obligations are required, the pre-application stage offers the opportunity to identify the draft Heads of Terms. It also presents an opportunity to consider the implications on financial viability and whether a viability appraisal can be justified at application stage. Applicants should provide a full list of the Heads of Terms that they intend to deliver to mitigate the impact of their proposed development. A template for identifying the Heads of Terms is provided in Appendix 1 of this document and is available on the Council's website; this should be submitted alongside the formal planning application. Where possible, the expected value or scale of the contributions should be accurately identified. Additional guidance is set out below to guide applicants through the process of identifying the level of contribution sought. There are also contribution calculators available on the Council's website to assist in

identifying the level of contribution required towards affordable housing and public open space.

3.4 It is recommended that the following information should be submitted with the application for those developments that trigger the need for a legal agreement to avoid any undue delay with the processing and negotiations within the planning application.

- Certificate of Title – proof of ownership of all the property and/or land affected by the application site edged red. Planning obligations run with the land, therefore all owners, lessees and mortgagees must be signatories;
- Any valuation to prove eligibility for reduced contributions, accompanied by information detailing how costs were derived (please see the section relating to Viability below for additional information on viability appraisals);
- All other requirements outlined by the application form checklist;
- Details of the appointed solicitor

3.5 The requirements of the rLDP's policies for planning obligations have been set out within this SPG along with any exemptions, where applicable. All planning applications which meet the thresholds set out in the rLDP's policies will be required to make contributions unless identified as an exemption or unless it is demonstrated to the Council's satisfaction that they would render the scheme financially unviable (please see the section on Viability Appraisals below for more information). The requirement for planning obligations also applies to applications for the renewal of extant planning permissions.

Viability Appraisals

3.6 The requirement for developer contributions has a direct bearing on development viability and it is the Council's aim to ensure that the level of contribution sought through the rLDP's policies can be viably provided. Their impact on a scheme's viability should be considered at the planning application stage. Each application will be considered on a case-by-case basis given that the site-specific differences which inevitably occur. If an applicant considers that the planning requirements associated with a scheme are too onerous and renders the development unviable, then they will have the opportunity to challenge this through presenting a financial viability appraisal; this should be based on

properly sourced evidence to indicate at what level the contributions would remain viable. This follows the same principles identified within the Affordable Housing SPG.

- 3.7 The Council have prepared a user-friendly Development Viability Model (DVM) for this purpose which is available on the Council's website. It is the Council's preference that any viability appraisals are presented using the Council's own model as it ensures that all necessary information is provided to enable a full and speedy appraisal in the most efficient way. Applicants may use another format to present the viability appraisal, however, submissions in other formats are likely to incur an additional fee to assess. Further information is available on the Council's website including a series of videos demonstrating how to use the DVM. The DVM is a site-specific appraisal tool and is issued for specific sites. Applicants will therefore need to request a DVM specifically for their site from the relevant planning officer. There is a charge for the DVM which varies according to the scale of development. The fee covers the Council's administrative time taken to personalise and issue the model for the specific site as well as time required to carry out a review of the submitted financial viability appraisal. These costs will be in addition to the application fee and the council's legal costs.
- 3.8 If, following an appraisal by the Council's officers, 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 accept the third-party decision on the determination of viability. However, the third party would not act as an arbitrator, where applicable. Responsibility remains with the Local Authority and landowner, applicant and/or developer to resolve the dispute.
- 3.9 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. The assessor's findings need to be shared with all parties based upon the information supplied to them and their professional opinion. The assessor should present sufficient information 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.

Completing the S106 Agreement

- 3.10 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 6 months from the date of the resolution to approve provided that the Section 106 agreement has been completed. The applicant will be required to provide all necessary documentation and information in a timely manner to facilitate the timely completion of this process. 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, and/or progress on the Section 106 Agreement is unduly delayed, the Local Planning Authority reserves the right to refuse the application based on the non-completion of the S106 agreement within the prescribed 6-month period.
- 3.11 The required planning obligations are identified at the time that planning permission is granted. 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 is appropriate and timely. In every instance, the triggers for completing the obligations will be assessed on a case-by-case basis. They will be linked to stages and milestones of the site's development as appropriate and can be phased where reasonably practicable and logical to offset the development's impact. However, the nature and number of triggers used within the legal agreement will need to consider the practicality of monitoring them and should not be unreasonably onerous on the Council.
- 3.12 In the interests of transparency and propriety, financial contributions will be secured through a Section 106 Agreement rather than relying on making a payment not identified within an Agreement. Once financial contributions have been received by the Council they will be held until monies are spent in line with the signed legal agreements.

Legal Costs

- 3.13 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. The Council will seek contributions towards both the legal fees and administrative costs of preparing and completing planning obligations. In addition to meeting legal costs, such contributions will help to fund systems which manage and co-ordinate the process of handling applications subject to Section 106 Agreements.
- 3.14 In cases where a developer challenges the obligations being required on the basis of its impact on the scheme's financial viability through a viability appraisal, an additional charge will be incurred (please see the section on viability above for more information).

Monitoring and Enforcement

- 3.15 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.
- 3.16 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.
- 3.17 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

3.18 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.

3.19 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.

Summary of Planning Obligations Requirements

3.20 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 in Council policy.

Type of Contribution	Applies to (types of development).	Trigger
Affordable Housing Specific rLDP Policies: AHOM1: Provision of Affordable Homes AHOM2: Affordable Housing – Exceptions Sites	Residential	The threshold for on-site contributions is set at 10 dwellings and the level sought as follows: <ul style="list-style-type: none"> • sites comprising 10 – 19 homes will be required to provide an affordable housing contribution of 10%; • sites comprising 20 - 50 homes will be required to provide an affordable housing contribution of 12%; • sites comprising 51 – 100 homes will be required to provide an affordable housing contribution of 20%;

		<ul style="list-style-type: none"> • sites of 101 homes or more will be required to provide an affordable housing contribution of 25%. <p>For sites below the on-site contribution threshold, all housing developments which result in a net increase of one or more dwellings will be required to provide a commuted sum contribution with the exception of single dwellings which are categorised as 3-bed, 4-person homes and not exceeding 88 square metres in internal, habitable floor space.</p>
Education Facilities	Residential	<p>The threshold for contribution is set at 10 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 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>, i.e. 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>
<p>Caeau Mynydd Mawr Specific rLDP Policies: NE4: Development within the Caeau Mynydd Mawr (CMM) Project Area</p>	<ul style="list-style-type: none"> • Housing • Commercial/ Retail • Employment • Education/Community • Transport/highways infrastructure 	<p>Applies to development within the Caeau Mynydd Mawr Project area.</p> <ul style="list-style-type: none"> • Housing: £1,531 per dwelling • Commercial, Retail, Employment, Education, Community, Transport, Highways Infrastructure and residential where the number of dwellings is not known £45,933 per hectare of development land
<p>Open Space Specific rLDP Policies: PSD8: Provision of New Open Space</p>	Housing	<p>The threshold for contribution is set at 5 or more dwellings.</p> <p>Please refer to the public open space contribution calculator which is available online.</p>
<p>Highways, Transport and Active Travel Specific rLDP Policies: SP17: Transport and Accessibility</p>	All development	<p>There are no standardised highway contributions. Each application is considered on its merits to bring a development forward. This is agreed at the negotiation stage.</p>

<p>TRA1: Transport and Highways Infrastructural Improvements</p> <p>TRA2: Active Travel</p> <p>TRA5: Highways and Access Standards in Development</p>		
Ecology	All development	<p>Section 106 Agreements will only be used where conditions would not be appropriate. They will be used to secure net biodiversity benefits and to offset the environmental impacts of development.</p> <p>With the exception of the Caeau Mynydd Mawr Project, there are no standardised contributions identified in relation to the natural environment and ecology. However, strategic mitigation projects may be developed in the future where such schemes may be the most practicable mechanism for enabling development where mitigation is necessary. Each application is considered on its merits and its anticipated impact.</p>
Welsh Language	Housing Employment / Retail / Commercial	<p>There are no standardised contributions identified in relation to the Welsh language. Each application is considered on its merits and its anticipated impact. Section 106 Agreements will only be used where conditions would not be appropriate.</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.
- **Shared Equity Housing** - where the applicant is offered the opportunity to purchase the property at a discounted rate, with the amount of discount treated as an interest free loan secured as a second charge on the property and repayable to the provider on the sale of the property or stair casing to 100% ownership. Shared Equity Housing can be delivered through a Home Buy scheme operated by a Registered Social Landlord (RSL) or the Social Housing Association (SHA), or by a developer who has a scheme in place and capacity to operate it.
- **Shared ownership** - where the occupant owns a percentage of the property and the remainder is owned (usually) by an RSL. The occupant pays a rent to the RSL for the proportion of the property they do not own. It can also be provided by the SHA or a developer who has a scheme in place and capacity to operate it.
- **Low Cost Home Ownership** - where the sale price of the housing is restricted and where there are secure mechanisms in place to ensure that the housing is affordable and available to those in local housing need and remains so in perpetuity. This type of housing can be built and sold by developers to persons in local housing need for affordable housing or can be developed and occupied by individuals in local housing need as self-build.

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 10 or more dwellings. The percentage target level for affordable housing is based on the scale of the proposed development. Therefore, sites comprising 10-19 homes will be required to provide an affordable housing contribution of 10%. Sites comprising of 20-50 homes will be required to provide an affordable housing contribution of 12%. Following this, any sites of 51-100 homes will be required to provide an affordable housing contribution of 20%. Finally, sites of 101 homes or more will be required to provide an affordable housing contribution of 25%.

4.6 The above affordable housing target percentage noted is a target to be used as a starting point for affordable housing negotiations. 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 onsite 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 a affordable housing in the County.
 - To top up any existing Social Housing Grant Scheme or match fund any other scheme to maximise their delivery;

Commuted Sums – Proposals below the threshold

- 4.9 The rLDP policy AHOM1 requires a commuted sum contribution on any proposal comprising 1-9 dwellings. The commuted sum charges will be based on floor space (cost per sqm).
- 4.10 Proposals for single dwellings categorised as 3-bed, 4-person dwellings or smaller, and less than 88 square metres will be exempt from this requirement and will not need to provide a contribution towards affordable housing.
- 4.11 Where the above requirements cannot be achieved due to their impacts upon a proposal's financial viability, a variation may be agreed on a case-by-case basis, as set out above.
- 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 Welsh Office Circular 13/97 (Planning Obligations) makes provision for local authorities to secure developer contributions towards education facilities. 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 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.
- 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 not required to provide contributions towards educational facilities:
 - One bedroom dwellings and studio flats;
 - Sheltered / elderly person housing;
 - Care Homes, nursing homes and rest homes;
 - Hostels; and,
 - 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 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 level of the contribution depends on whether the area is subject to the 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 - 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
		Total required contribution	=	£127,900

6. Public Open Space

6.1 Open spaces are vital for health, well-being, and amenity, contributing to the landscape and public realm of Carmarthenshire. The revised LDP identifies open space as 'Areas including playing fields, outdoor sports facilities, informal recreation, and play space, as well as water areas like rivers, lakes and reservoirs which offer opportunities for sport, recreation and tourism and can also provide visual amenity.' A variety of open spaces are to be integrated within residential proposals to promote the obtainment of

sustainable development, and ensure that a range of needs, abilities, and interests created by the prospective residents are duly met. Whilst all well-designed open spaces are integral to the flow and overall feel of a development and the wider built environment, Greenspace, Play Space, Outdoor Sports, and Community Growing Spaces are the categories outlined within Carmarthenshire’s open space standards.

6.2 Policy PSD8: Provision of New Open Space of the rLDP requires all new residential developments of five or more homes to provide onsite open space in accordance with the Council’s adopted standards. The Carmarthenshire Open Space standards, taken from Policy PSD8 which are elaborated upon in the SPG on Open Space, are set out below:

Open Space Category	Quantity Standard		Accessibility Standard
	Per 1000 People (ha)	Per Person (m2)	
Play Space	0.8	8	Doorstep: 1½-minute walk (100m) Local: 5-minute walk (400m) Neighbourhood: 12½-minute walk (1,000m)
Outdoor Sports	1.6	16	Playing Fields: 15-minute walk (1,200m)
Accessible Greenspace	0.25	2.5	Wherever possible
Community Growing Space	0.2	2	-

Additional guidance relating to the open space typologies is set out in the Open Space SPG.

6.3 The delivery of open spaces shall be achieved through Integrated Provision or an appropriate and agreed mix of Commuted Sums. Please refer to the *Open Space SPG*

to establish the expectations for proposals to integrate Open Spaces (amount referred to as the Open Space Requirement).

- 6.4 The *Public Open Space Assessment (POSA)* identifies existing levels of open space provision and assesses them against the Council's Open Space Standards to highlight the sufficiency across the County. As a high-level assessment it acknowledges that the level of open space provision is dynamic and is likely to fluctuate over time. Nevertheless, its results are considered to provide an indicative reflection of provision and discretion is given to any subsequent work which may be used to inform the assessment of planning applications and the associated requirements for developer contributions. Expected to be periodically reviewed, the POSA is used to provide the basis for determining the need for planning obligations in line with the accessibility and quantity of existing open space provisions. The Open Space SPG, Public Open Space Assessment and Open Space Requirement calculator will assist applicants in identifying the level of contribution required.

7. Highways, Transport and Active Travel Contributions

- 7.1 This chapter provides guidance on planning obligations related to highways, transport, and active travel in Carmarthenshire. The objective is to ensure that new developments contribute appropriately to sustainable transport networks, improve road safety, and promote active travel modes such as walking and cycling.

Highways and Transport

- 7.2 Planning obligations related to highways and transport are crucial to managing the impact of new developments on Carmarthenshire's transport network. Obligations in respect of transport infrastructure will be required where there is a need to improve existing or construct new highway infrastructure to access development in a safe and appropriate manner. New developments often have broader impacts, potentially increasing demand on an already strained transport network that may exceed its capacity during peak times.

- 7.3 Challenges arising from additional traffic include congestion, road safety concerns, and adverse effects on other road users, necessitating improvements or expansions to maintain efficiency and safety. Specific transport-related infrastructure improvements may be secured through Section 106 agreements to mitigate localised impacts, especially where there is an increase in traffic volumes or new access requirement. This approach is particularly relevant for larger-scale developments or those generating significant traffic volumes and parking demands.

Active Travel

- 7.4 To align with the Active Travel (Wales) Act 2013, planning obligations may include various measures to promote walking and cycling as viable, sustainable transport modes. Developers may be required to contribute to the creation or enhancement of walking and cycling routes that provide safe, direct, and accessible links to key destinations such as schools, workplaces, and local amenities. These routes should integrate seamlessly with existing active travel networks to ensure continuity and usability for all users.
- 7.5 Connections to existing active travel networks will be a priority for developments, particularly those located near designated active travel routes. Developers may be required to fund or construct links that bridge gaps in the network, ensuring that residents and visitors can travel sustainably and safely across the county. By implementing these measures, developments will contribute to the council's broader objectives of promoting healthier lifestyles, reducing carbon emissions, and supporting vibrant, connected communities.
- 7.6 Planning obligations for new highways, transportation and active travel infrastructure may potentially be applied to any form of development irrespective of its size, scale or type.

8. Natural Environment and Biodiversity

- 8.1 In 2022 Carmarthenshire County Council declared a Nature Emergency, this followed the declaration of a Climate Emergency in 2019. Biodiversity and Green and Blue

Infrastructure have become increasingly prominent in Welsh legislation and planning policy following recognition of the key role development has in reducing harm and encouraging biodiversity through well-designed schemes.

- 8.2 The Council has a statutory duty to ensure planning applications maintain and enhance biodiversity within the County and promote the resilience of ecosystems under the Environment Act (Wales) 2016. The Council must also protect habitats and species of international, national and local importance. Biodiversity conservation and enhancement also has an integral role in sustainable development and is fundamental to the social and economic wellbeing of Carmarthenshire's residents. The Council must ensure that no development results in a decline of biodiversity and must seek an overall net benefit for biodiversity from all developments by following the 'stepwise approach'. The 'Stepwise approach' is a process set out within chapter 6 of Planning Policy Wales (edition 12). This approach notes developers must first avoid harm to biodiversity, then minimise and mitigate any unavoidable impacts, and, as a last resort provide compensation. This approach is designed to ensure that developments contribute positively to the environment rather than depleting it.
- 8.3 The development of our urban and rural areas can have significant impacts resulting in a decline of biodiversity. However, if ecology is considered at the start of the planning process, development can have a positive impact where management, restoration and enhancement features for habitats and species are integrated into the design. The Biodiversity SPG provides additional guidance to applicants, setting out how they should consider ecology in the planning application process from the outset and provides guidance on best practice.
- 8.4 In all cases, the preferred option for delivering Net Benefit for Biodiversity will be onsite, in accordance with PPW. However, certain elements of Net Benefit for Biodiversity may be required offsite through planning obligations. The following list provides an indication of how planning obligations will potentially be used in respect of the natural environment and biodiversity:
- Secure works necessary to protect and enhance existing features and ensure necessary works to create new compensatory features or other mitigation measures are implemented;

- Secure contribution for works and mitigation measures necessary to protect and enhance existing features of nature conservation or ecological importance and existing landscape features and ensure necessary works to create replacement compensatory features;
- Support requisite land management and maintenance plans; and,
- Restrict uses to avoid damage or harm to existing features or assets

8.5 The development's wider anticipated environmental impact will be considered in the determination of an application, and contributions may be sought where necessary to secure works or contributions towards the scheme's impact on the environmental qualities. This will be considered on a case-by-case basis but may include contributions towards strategic mitigation schemes, where appropriate, or may include site-specific projects.

9. Caeau Mynydd Mawr (CMM) Special Area of Conservation Strategic Mitigation Project

9.1 This section sets out the principles of the Caeau Mynydd Mawr (CMM) Special Area of Conservation (SAC) SPG.

9.2 The CMM SAC SPG ensures that as development proceeds in the project area, appropriate land within that same area is brought into management to provide habitat for the marsh fritillary butterfly and accord with the Conservation Objectives.

9.3 The project area is robustly defined and is based upon best scientific knowledge. More information on how the area has been defined is available in the rLDP's supporting evidence. The project area boundary can be viewed in the CMM SPG and on the rLDP's proposals map.

9.4 The types of developments within the project area which are listed below are required to contribute towards the CMM mitigation project:

- Housing

- Commercial/ Retail
- Employment
- Education/Community
- Transport/highways infrastructure

It should be noted that the above list is not exhaustive, and the Council may seek contributions from other types of development proposals within the project area.

- 9.5 The amount of contribution sought is calculated based on the cost of managing land for the CMM project. The calculation is set out within the Evidence Paper: Mitigation Payment Calculation (Dec 2019). The current level of contribution is £1,531 per dwelling, or for non-residential uses £45,933 per hectare of development land.
- 9.6 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.
- 9.7 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.
- 9.8 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.

1. Is the development proposal situated within the CMM project area set out in Appendix 1 of the Caeau Mynydd Mawr SPG? Yes / No

If No, then the development is not subject to the provisions of the CMM SPG. If Yes, then please proceed to stage 2 below.

2. Does the development fall into any of the below classifications? Yes / No

If No, then the development is not subject to the provisions of the SPG. If Yes, then the development is chargeable at the stated rate.

- **Housing:** £1,531 per dwelling.
- **Commercial, Retail, Employment, Education, Community, Transport and Highways Infrastructure:** Site area pro rata with equivalent of 30 dwellings per hectare.

3. In the instance of housing development, calculate a residual figure for the number of 'chargeable' dwellings proposed as agreed with the Council.
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.
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. *Subtract this sum to form a residual overall chargeable total at this point.*
6. What is the total amount of 'chargeable' development?
 - Housing (number of units x 1,531) = £
 - Other (site area pro rata where 1ha is £45,933) = £
7. Total financial contribution required (i.e. the sum required 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.

10. Welsh Language

- 10.1 The Welsh language plays an important role in the social, cultural and economic lives of residents of, and visitors to, Carmarthenshire. The county is home to 72,800 Welsh speakers (Gwynedd is the only local authority with a higher number), which is equivalent to 39.9% of its population. According to the 2021 census data, there are 538,300 Welsh speakers who compose 17.8% of the population of Wales. Carmarthenshire is the county with the fourth highest percentage of Welsh speakers in the country.
- 10.2 Between 2011 and 2021, census data shows that the percentage of Welsh speakers in Carmarthenshire fell from 43.9% to 39.9%. This is the largest drop in percentage points of any local authority area in Wales for the second consecutive census. It should be noted, however, that this drop is smaller than in the last census (a 6.4% drop was reported between the 2001 and 2011 censuses). This decline is not unique to Carmarthenshire, and it is the case that most local authorities in Wales were subject to similar decreases. Increases in the percentage of Welsh speakers were recorded in only four local authority areas (Cardiff, Vale of Glamorgan, Rhondda Cynon Taf and Merthyr Tydfil). Other parts of 'Y Fro Gymraeg' (the Welsh speaking heartlands) also saw reductions in the percentage and numbers of Welsh speakers. Various agencies including Welsh Government have raised concerns about the future of the Welsh language in these areas where the language has traditionally been at its strongest.
- 10.3 New development can potentially have both beneficial as well as harmful effects and consequences on the Welsh language and communities. Beneficial effects/consequences can occur if development encourages Welsh speakers to remain in their communities by providing housing opportunities (both market and affordable), by providing employment opportunities (particularly employment which requires Welsh language skills), and also in instances where it supports the viability of community facilities, such as schools. Harmful effects/consequences can occur when a disproportionate number of non-Welsh speakers move into a community which can often have cumulative effects by reducing the use of the Welsh language among Welsh speakers. It is the impact of development on the community, rather than on particular individuals, that is relevant to the planning system.

- 10.4 Section 31 of the Planning (Wales) Act 2015 amends section 70 of the Town and Country Planning Act 1990 by adding the following clause: "any considerations relating to the use of the Welsh language, so far as material to the application." This means that it is incumbent when making a decision on a planning application to include considerations in relation to the Welsh language, where it is relevant to that application. From 1 April 2016, local planning authorities must demonstrate, for each planning application determined, they have considered how the application complies with the Well-being of Future Generations Act 2015. This means working towards achieving the seven well-being goals including the well-Being Goal of "a vibrant culture and thriving Welsh language". However, the development plan where relevant to the application and other relevant material considerations remain the primary considerations when determining applications.
- 10.5 The legislative position is supported by national policy through Planning Policy Wales (edition 12) and Technical Advice Note 20: Planning and the Welsh Language which provides further guidance on considering the Welsh language in the planning process. The rLDP supports development proposals which safeguard, promote and enhance the interests of the Welsh language and culture in the County and specific guidance is set out within Policies SP8 Welsh Language and Culture and WL1 Welsh Language and New Developments which require additional information and assessment of development proposals under specific circumstances. These policies are further supplemented by SPG on the Welsh Language.
- 10.6 Applicants are expected to liaise with competent officers within the Authority and with the Mentrau Iaith as soon as possible during the process of preparing a planning application to discuss mitigation and enhancement measures. Each proposal will be different and will be considered on its own merits. The impacts of the development will depend on the scale, character and location of the development as well as the linguistic characteristics of the area. Therefore, any mitigation which may be required is likely to vary from one application to the next and will depend on the outcome of further assessment undertaken as part of the planning application, but may include some of the following, where appropriate:
- Affordable housing provision
 - Phasing of housing proposals
 - Education provision and places
 - Employment initiatives and training

- Contribution to community facilities and groups
- Funding for Welsh courses

Deliverability and prioritisation of Planning Obligations

10.7 The planning obligations required will be considered on a case-by-case basis subject to the nature of the proposal and the requirements emerging from it. There may be instances where all required obligations cannot be secured due to their impact upon the scheme's financial viability. In such cases, the infrastructural priorities for that site will need to be identified. Whilst the priorities can vary according to the specific needs of each site and their communities it should be noted that the requirements of Policy NE4 Development within the CMM Project Area will be prioritised above other contributions in respect of sites within the CMM Project Area. This is due to the requirements placed upon the Council as the Competent Authority under the Conservation of Habitats and Species Regulations 2010. In all other instances, it is generally considered that the priority for the Authority will be the provision of affordable housing and in most cases its provision will be prioritised above other contributions. Where an applicant seeks a reduction in the planning obligations required then this would need to be supported by viability evidence as set out above.

Appendix 1 Template Heads of Terms Form

APPENDIX 1 TO BE UPDATED TO REFLECT UPDATED PROCESSES AND REVISED LDP POLICIES FOLLOWING THE LDP EXAMINATION

HEADS OF TERMS

According to the relevant Council's Policies and Supplementary Planning Guidance Documents, the proposed development generates the need for planning obligations. Having regard to the particulars of this planning application, there is a requirement for planning obligations towards the following:

(delete as appropriate)

1. Affordable Housing
Any new residential unit being created, in accordance with Policy AHOM1 and Supplementary Planning Guidance Documents: Affordable Housing and Planning Obligations
2. Education
The proposals is for residential development of 10 or more dwellings and a financial contribution is required in accordance with Policy INF1 Planning Obligations and Supplementary Planning Guidance Document: Planning Obligations
3. Marsh Fritillary Butterflies (Ecology)
The site lies within the catchment area of the Caeau Mynydd Mawr Special Area of Conservation and a financial contribution towards ecology is required for any new residential unit being created and/or development resulting in land take in accordance with Policies INF1 Planning Obligations and NE4 Development within the Caeau Mynydd Mawr Project Area and Supplemntary Planning Guidance Documents: Caeau Mynydd Mawr SAC and Planning Obligations.
4. Open Space
The proposal is for residential development of 5 or more dwellings and a contribution is required in accordance with Policy PSD8 Provision of New Open Space and Policy INF1 Planning Obligations and Supplementary Planning Guidance Documents: Planning Obligations and Open Space.
5. Highways, Transport and Active Travel
The proposal is for _____ and a contribution is required in accordance with Policies TRA1 Transport and Highways Infrastructural Improvements, TRA2 Active Travel, TRA5 Highways and Access Standards in Development, INF1 Planning Obligations and Supplementary Planning Guidance Document: Planning Obligations.

6. Ecology

The proposal is for _____ and a contribution is required in accordance with Policies NE2 Biodiversity, NE3 Corridors, Networks and Features of Distinctiveness and INF1 Planning Obligations and Supplementary Planning Guidance Documents: Planning Obligations Nature Conservation and Biodiversity and Sites of Importance for Nature Conservation Value (SINCs).

7. The Welsh Language

The proposal is for _____ and a contribution is required in accordance with Policies WL1 Welsh Language and New Developments, INF1 Planning Obligations and Supplementary Planning Guidance Documents: Planning Obligations an Welsh Language and New Developments.

A legal agreement is required to secure the relevant contributions which will be based on the following Heads of Terms:

1. Affordable housing

Affordable Housing Action Area	£ / square metre

Outline applications: Since the precise floorspace of any dwelling(s) is not yet known, the legal agreement will simply agree to provide contributions based on the above formula

Full/Detailed applications: Please complete the following table specifying the total floorspace of each proposed dwelling. This will enable the total amount of contribution per plot to be checked and verified.

Plot Number	Total floorspace of Dwelling
1	

The payment of the contribution will need to be made as follows: **(Delete/Amend Accordingly)**

- 50% Prior to the commencement of construction of any part of the approved development
- 50% Prior to the beneficial occupation of the dwelling.

2. Education

A financial contribution is required in relation to _ number of dwellings.

The contribution requirement is as follows:

Early years 0.04 (pupil yield factor) x _____ (number of dwellings) = ____pupils

Primary 0.4 (pupil yield factor) x _____ (number of dwellings) = ____pupils

Secondary 0.2 (pupil yield factor) x _____ (number of dwellings) = ____pupils

The area is subject to the MEP proposals or there is no future capacity to accommodate additional pupils / There is capacity in the local schools to accommodate additional pupils **(Delete Accordingly)**

The contribution calculation is as follows (please follows the guidance set out in section 5 of this SPG):

The payment of the contribution will need to be made as follows: **(Delete/Amend Accordingly)**

- ____% Prior to the commencement of construction of any part of the approved development
- ____% Prior to the beneficial occupation / completion of the ____ dwelling

3. Caeau Mynydd Mawr

A financial contribution of _____ is required

The payment of the contribution will need to be made as follows:

- 100% Prior to the commencement of construction of any part of the approved development

4. Open Space

The provision of open space is required as part of the development / A financial contribution is required in relation to _ number of dwellings **(Delete/Amend Accordingly)**

The detail of the specification of the open space required is as follows / The contribution calculation is as follows (please follows the guidance set out in the Open Space SPG): **(Delete/Amend Accordingly)**

The open space should be provided and completed prior to the completion of the ____ dwelling /
The payment of the contribution will need to be made as follows: **(Delete/Amend Accordingly)**

- ____% Prior to the commencement of construction of any part of the approved development
- ____% Prior to the beneficial occupation / completion of the ____ dwelling

5. Other contributions (please add accordingly)

6. Legal Fee

In the event that planning permission is forthcoming, the Council's Legal Team will arrange for the legal agreement to be written but this will require a fee. Having consulted the Legal Officer, the fee is likely to be £_____ but it is subject to change depending on the nature and complexity of the scheme and the particulars of the legal agreement itself. Please confirm that the relevant legal fee will be paid prior to the commencement of legal work.

Appendix 2 – Process

