

ANNEX 2: HIGHWAYS AND TRANSPORT

Sustainable communities rely on an effective transportation network to enable access to employment, shopping, leisure and other facilities. The fundamental basis of national and local policy is to reduce the need for travel and to encourage greater use of walking, cycling and public transport as alternatives to the private car. The National Sustainable Placemaking Outcomes set out within Planning Policy Wales 11 refer to the need for accessibility by means of active travel and public transport, development not being car dependent, minimising the need to travel and convenient access to goods and services. Safe and sustainable connections including active travel networks within and between developments should be secured. As such, the Council will seek planning obligations for highways infrastructure and sustainable transport improvements where appropriate.

2.1 Policy and Guidance

The following policies and guidance are specifically relevant. The Torfaen Local Development Plan policies are set out in full in Part One to this SPG:

- Future Wales: The National Plan 2040 Policies 11 (National Connectivity) and 12 (Regional Connectivity) promote active and low carbon modes of transport, requiring new development to contribute towards improvement and connection to the National Cycle Network. *“Where routes within Active Travel Networks and the National Cycle Network will provide part of the supporting infrastructure for new developments, planning authorities must seek to secure their provision or improvement as part of developments through the planning process, using planning obligations where necessary”.*

Planning Policy Wales 11th Edition (2021): paragraphs 3.12-13, 4.1.11, 4.1.33 and 4.1.39. Paragraph 4.1.33 states *“New development should be integrated with active travel networks and contribute to their expansion and improvement, through the inclusion of well-designed routes and facilities as part of the schemes and financial contributions to pay for off site connections.”*

- Technical Advice Note 18: Transport (2007): paragraphs 4.4, 4.12, 4.14 - 15, 9.5, 9.10, 9.18, and 9.20 - 9.24.

Paragraph 9.20 states that *“planning authorities may use planning obligations to secure improvements in roads, walking, cycling and public transport, whether as a result of the proposal on its own or cumulatively with other proposals and where such improvements would be likely to influence travel patterns either on their own or as part of a package of measures”.*

Paragraph 9.23 makes clear that the objective of using planning obligations in relation to transport should be to *“secure satisfactory accessibility to sites by all modes with the greatest degree of access being achieved by public transport, walking and cycling”.*

- Welsh Office Circular 13/97: Planning Obligations: paragraphs B2, B7, B10 and B14.
- Welsh Government Circular 016/2014 The Use of Planning Conditions for Development Management: paragraphs 3.10 and 4.21 - 22.
- The Community Infrastructure Levy Regulations 2010 (as amended): Regulations 122 & 123.
- Torfaen Local Development Plan (2013) Policies: S2 (Sustainable Development), S5 (Planning Obligations); BW1 (General Policy - Development Proposals); T1 (Transport Improvements); T2 (Safeguarding Former Transport Routes); and T3 (Walking and Cycling Routes).
- TCBC Supplementary Planning Guidance - CSS Wales / CSS Cymru - Wales Parking Standards 2014 (adopted September 2016).

- Active Travel Wales Act 2013 - makes walking and cycling the preferred option for shorter everyday journeys and requires Local Authorities to identify walking and cycling routes to create fully integrated networks to access work, education, services and facilities.

2.2 Circumstances in which Obligations will be Sought

A planning obligation relating to highways and transport may apply to any scale and any type of development, according to the specific characteristics of the proposed site and the potential impact from the proposed development. Sites will be considered on a case by case basis. There is no standard threshold or trigger and as such, discussion with the Council as to the likelihood of such an obligation is recommended at the earliest point. Where a proposed development may impact upon a trunk road, it is advisable to also consult with the Welsh Government at the earliest opportunity.

Planning obligations will be sought in respect of all proposals whereby highways and transport measures are necessary to enable a development to function efficiently in transport terms and these cannot be secured by way of a planning condition. These measures will normally, but not exclusively, be provided within the immediate vicinity of the site.

2.3 Nature and Scale of Obligation

The Council's approach to addressing the growing demand for transport is to ensure that all new developments minimise demand for access by car while maximising opportunities for access by sustainable transport modes, especially walking, cycling and public transport. As such, obligations will contain an emphasis on maximising opportunities for additional trips to be made by public transport, walking or cycling as well as ensuring that the highway network is capable of accommodating road traffic movements associated with a development in a safe and efficient manner.

Transport Statements

The nature and extent of obligations for highways and transport will be informed, where relevant, by a Transport Statement submitted to accompany a planning application. The Transport Statement should include an evidence based estimate of the modal split of trips to be generated by the development expressed as the percentage of journeys by private car transport and the percentage of travel by other modes, namely public transport, walking and cycling.

Account will be taken with regard to the trips generated by existing land uses / operations on a proposed development site to ensure that any obligation fairly reflects the additional trip impact arising from the development proposal. For the purposes of this SPG, sites that have been vacant for three years or more will not have an existing trip 'allowance'.

Highways and Transport Works

Highways and transport facilities will generally comprise local interventions specific to the site (i.e. within the site, adjacent to it or within its immediate environs). Some facilities will be incorporated within the design and layout of the development site and can be secured by way of planning conditions. Other facilities, beyond the site boundary which cannot be secured by Grampian conditions, will be secured by way of a Section 106 legal agreement. Where specific works to the highway infrastructure are required, the Council will also require agreement under Section 278 of the Highways Act 1980.

Developers will be expected to provide parking and access, including any works to the highway necessary to construct access to the site and connection with any adjacent footway. Development will also be required to include pedestrian and cycle access, in addition to any principal access where these would provide more direct and convenient routes to and from the development for cyclists and people on foot. This will include providing network links to existing footways and cycleways including the National Cycle Route and making access to nearby transport stops and

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other local facilities as convenient as possible. Wherever possible, obligations will be sought towards specific measures within the immediate vicinity of the site that may be required to enhance access to local facilities by sustainable modes.

In designing for the provision of parking, developers will need to have regard to the Council's 'CSS Wales / CSS Cymru - Wales Parking Standards 2014' SPG (adopted September 2016) (and any subsequent replacement document adopted as SPG); which is a material consideration for all planning proposals with parking implications.

Examples of highway and transport obligations include:

- Highway measures e.g. junction upgrades, signalisation of junctions, highway transport infrastructure, modification to waiting / parking restrictions, traffic management schemes
- Funding for improved public transport facilities / infrastructure serving a site
- Funding for additional or improved bus services linking the site with local facilities (usually at least three years' worth of subsidy required)
- Funding for provision or promotion of public transport information and ticket availability
- Funding for creation and / or improvement of pedestrian and cycle routes to serve the site including links to the National Cycle Route, secure cycle parking, signage and enhancement of public rights of way
- Funding of mitigation measures such as off-site car parking where this complements local strategies
- Funding towards operation of a car club where car parking is limited
- Road safety schemes and controlled parking zones
- Maintenance of special structures e.g. retaining walls, culverts and bridges
- Travel plan initiatives and provision for safe routes in communities.

Proposed obligations should demonstrate that such provision mitigates the effect of the development and provides sufficient transport capacity / improvements to the network to accommodate movement generated by the development.

Delivery of Works

The Council's expectation is that highways and transportation works should be delivered directly by the developer in accordance with details and specification to be agreed with the Council. The developer would be required to fund the development of the detailed scheme and carry out the works to the appropriate standard.

In exceptional circumstances, a financial sum to contribute towards off site facilities / features may be acceptable in principle. In such cases, the developer will be required to provide a detailed scheme for the works accompanied by full costings. The scheme should be submitted for agreement with the Council and upon agreement, the corresponding payment made. The Council will then use the payment to undertake the works in accordance with the agreed scheme.

In addition, improvements could comprise the transfer of land, works by the developer or a financial sum for a third party to undertake the capital and maintenance works on their land. For example, work to the Monmouthshire and Brecon Canal are likely to involve Glandŵr Cymru; in which case the Council would liaise with the third party to agree a detailed scheme / costs for the required works and who carries them out.

Maintenance of Works

In all circumstances, highways and transportation works undertaken as part of a planning obligation will be required to be maintained appropriately, provision for which will be secured by way of an appropriate Highways Agreement. For extraordinary maintenance of retaining walls, culverts and other structures that are not in accord with Torfaen County Borough Council Design Guidance, the legal agreement would provide for a commuted sum to cover the extraordinary

maintenance. Alternatively, the developer may choose to redesign a scheme to avoid the need for the extraordinary maintenance.

For maintenance of areas of land that will be within highway limits but will not form part of the public highway, the developer can either choose to establish a management company to operate in perpetuity secured by legal agreement or can dedicate the land to the Council and provide a commuted sum for maintenance of the land.

Where land forms part of the public highway and there is an extraordinary maintenance liability, a planning obligation will require the transfer of the land to the Council as part of an appropriate Highways Agreement accompanied by a commuted sum for the extraordinary maintenance. The Highway Agreement will oblige the Council to maintain the land as public highway for as long as it is public highway and the maintenance contribution will be based on the extraordinary maintenance liability for a period of 20 years.

2.4 Standard Heads of Terms

The following definitions and clauses are suggested for use as appropriate in Section 106 legal agreements and unilateral undertakings where a highways and transport obligation is required.

Definitions

“Highways Agreement” means an agreement to under specific works within the public highway under Section 278 of the Highways Act 1980

“Highways Infrastructure Land” means the land hatched on Plan [] annexed to this Agreement

“Highways Infrastructure Obligation” means a planning obligation to be determined at the time of submission of full details of the Development (or any subsequent full application) to be secured by the Council in accordance with the adopted Planning Obligations SPG current at the time the submission or application is made to provide for Highways Infrastructure Works required to meet the needs of the Development

“Highways Infrastructure Payment” means the sum of £ (pounds) (£..) increased (but not decreased) by RPI from the date of the resolution to grant the Planning Permission to the date of payment

“Highways Infrastructure Works” means [the works to the public highway] at [specify site] which are required to ensure the occupiers of the Development can move safely and efficiently

“Highways Infrastructure Works Scheme” means a detailed specification of works to provide the Highways Infrastructure Works

“Sustainable Transport Land” means the land hatched on Plan [] attached to this Agreement

“Sustainable Transport Obligation” means a planning obligation to be determined at the time of submission of full details of the development (or any subsequent full application) to be secured by the Council in accordance with the adopted Planning Obligations SPG current at the time the submission or application is made to provide for sustainable transport measures required to meet the needs of the Development

“Sustainable Transport Payment” means the sum of £....pounds (£...) increased (but not decreased) by RPI from the date of the resolution to grant Planning Permission to the date of payment

“Sustainable Transport Works” means [the works to the sustainable transport network] at [specify site] which are required to provide realistic sustainable transport options to and from the site

“Sustainable Transport Works Scheme” means a detailed specification of works to provide the Sustainable Transport Works

“Travel Plan” means a plan setting out targets for modal shift and mechanisms for achieving the targets including costs and with a designated budget for implementation of £... pounds

Example Clauses

Payment

1. Prior to the Commencement of Development the Owner / Developer shall pay to the Council the Highways Infrastructure Payment / Sustainable Transport Payment
2. The Council shall use the Highways Infrastructure Payment / Sustainable Transport Payment to provide the Highways Infrastructure Works / Sustainable Transport Works

Provision of Infrastructure Works / Sustainable Transport Works

3. Prior to the Commencement of Development the Owner / Developer shall submit the Highways Infrastructure Works Scheme / Sustainable Transport Scheme to the Council for the Council’s approval such approval shall not be unreasonably withheld or delayed
4. The Owner / Developer shall provide the Highways Infrastructure Works / Sustainable Transport Works in accordance with the approved Highways Infrastructure Works Scheme / Sustainable Transport Scheme
5. The Owner / Developer shall provide the Sustainable Transport Works which shall be completed prior to the Occupation of the (.th) Dwelling comprised within the Development
6. No Occupation of the Development shall take place until the Highways Infrastructure Works are completed
7. The Highway Infrastructure Works will be maintained by the Owner / Developer for a minimum period of 12 months following Completion on elapse of the period of 12 months and subject to the Owner/ Developer remedying any defects to the satisfaction of the Council the Owner / Developer shall transfer to the Council the Highways Infrastructure Land

Land Transfer

8. Prior to the Commencement of Development the Owner / Developer shall transfer to the Council the Highways Infrastructure Land / Sustainable Transport Land Fully Serviced (as appropriate) with all associated rights of access at no cost
9. The Council shall use the Highways Infrastructure Land / Sustainable Transport Land for the provision of the Highways Infrastructure Works / Sustainable Transport Works and for no other purpose

Outline Permission

10. The Owner / Developer shall enter into a further legal agreement to secure obligations with regard highways infrastructure / sustainable transport as appropriate when the full details of the proposal are submitted as Reserved Matters or a full planning application

Travel Plan

11. Prior to the beneficial Occupation of the Development the Owner / Developer shall submit to the Council for the Council’s approval such approval not to be unreasonably withheld or delayed the Travel Plan
12. The Owner / Developer shall implement the approved Travel Plan