

CITY AND COUNTY OF SWANSEA

NOTICE OF MEETING

You are invited to attend a Meeting of the

DEVELOPMENT CABINET ADVISORY COMMITTEE

At: Committee Room 5, Guildhall, Swansea

On: Wednesday, 19 October 2016

Time: 3.00 pm

Chair: Councillor Philip Downing

Membership:

Councillors: C Anderson, C R Doyle, R D Lewis, P Lloyd, P M Matthews, P B Smith, G J Tanner, C Thomas and T M White

AGENDA

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| 1 | Apologies for Absence. | |
| 2 | Disclosures of Personal and Prejudicial Interests.
www.swansea.gov.uk/disclosuresofinterests | |
| 3 | Minutes.
To approve and sign the minutes of the previous meeting(s) as a correct record. | 1 - 4 |
| 4 | Tree Policy. | 5 - 16 |
| 5 | Guidance for Works on the Highway and the Adoption of new Infrastructure. | 17 - 34 |
| 6 | Chair's Update (verbal). | |
| 7 | Workplan. | 35 |

Next Meeting: Wednesday, 16 November 2016 at 3.00 pm



Huw Evans
Head of Democratic Services
Thursday, 13 October 2016

Contact: Democratic Services - (01792) 636923

CITY AND COUNTY OF SWANSEA

MINUTES OF THE DEVELOPMENT CABINET ADVISORY COMMITTEE

HELD AT COMMITTEE ROOM 5, GUILDHALL, SWANSEA ON
WEDNESDAY, 21 SEPTEMBER 2016 AT 3.00 PM

PRESENT: Councillor P Downing (Chair) Presided

Councillor(s)

R D Lewis
G J Tanner

Councillor(s)

P Lloyd
C Thomas

Councillor(s)

P B Smith

Officer(s)

Martin Bignell
Allison Lowe
Lisa Wells

Tree Services Manager
Democratic Services Officer
City Centre Manager

Apologies for Absence

Councillor(s): P M Matthews and T M White

28 **DISCLOSURES OF PERSONAL AND PREJUDICIAL INTERESTS.**

In accordance with the Code of Conduct adopted by the City & County of Swansea, no interests were declared.

29 **MINUTES.**

RESOLVED that the Minutes of the Development Cabinet Advisory Committee held on 17 August 2016 be approved and signed as a correct record.

30 **SWANSEA MARKET.**

The City Centre Manager provided an update to enable the Committee to consider its position regarding the provision of public toilet facilities in Swansea Market.

The report followed on from the presentation and verbal report provided on 16 March 2016 and the site meeting that subsequently took place on 18 April 2016.

She went on to highlight that the number of visitors from footfall data to be entering the Market per week is approximately 90,000. In recent months Markets across the UK are showing a declining pattern of footfall and this is reflected in the data returns for Swansea, however the Market had recently achieved "Best visitor experience" in the Swansea Life Awards.

She outlined the existing City Centre toilet facilities and the options regarding converting certain units within the Market, which had been viewed by Members during the site visit, however it was felt that none of the options provided a practical solution. Therefore the recommendation was to discount these options and seek to

develop toilet facilities as part of a wider master plan in relation to the Market Regeneration Strategy.

RESOLVED that:

- 1) Preliminary options to install toilet facilities in the Market over the short term are discounted;
- 2) The statistics in relation to footfall data across the UK be provided for the next meeting;
- 3) Information regarding the public conveniences that are available in the City Centre and across Swansea be updated on the Council website;
- 4) The Master Plan be presented and discussed at the next Development Cabinet Advisory Committee.

31 **PEDESTRIANISATION OF WIND STREET (VERBAL).**

The City Centre Manager provided a verbal update to the Committee as follows:

She explained that informal consultation had previously been undertaken by Swansea Business Improvement District (BID) with their members in relation to the pedestrianisation of Wind Street, the results of which had proved generally supportive of the proposal.

The City Centre Manager had subsequently been asked to assist in engaging with the business community to seek formal consultation in relation to the proposal.

As a result a survey was devised and hand-delivered by the City Centre Rangers to 213 properties (actual 284 delivered, although 71 were duplicates or for premises which turned out to be vacant), which included both business and residential properties in the area. The deadline for submission of completed questionnaires had been set for 5 September 2016, however due to a poor return rate, this was extended to 16 September 2016 to enable the Rangers to return to several outstanding businesses / properties in order to 'chase up' responses.

A total of 50 (23.5%) completed questionnaires were received, 41 from businesses and 9 from residents. As the deadline had been extended, a full analysis of the responses had not yet been undertaken, however a cursory examination had been made and in terms of the question "Do you support the principal of pedestrianising of Wind Street?", 66% had responded "Yes", 20% said "No", 10% answered "Don't know" and 4% failed to answer the question. Of the responses 68.2% of businesses were supportive of the proposal and of the residents who responded more were supportive than negative.

RESOLVED that:

- 1) The verbal update is noted;
- 2) A full analysis of the results be reported to the next meeting.

32 **TREE POLICY.**

The Tree Services Manager provided an introduction to the tree policy from a Parks perspective.

The introduction outlined:

1. What is a Tree Policy?
2. What are the aims of a Tree Policy?
3. Points to include within a policy within the Tree Services Unit remit.

A Tree Policy would require the input and agreement of all departments that have trees and woodlands on their land as well as other departments that are responsible for trees, woodlands, the environment and tree planting in order to have one policy to bring all of the information together. The policy would also need to be restrictive in order to protect our tree stock and would also inform the public what could and could not be done in relation to trees.

The Officer reiterated that a regular inspection regime was in place, details of which would also be included in the policy. He confirmed that he was also liaising with the Landscape Assistant (Arboriculturist) in Planning in relation to the recommendations made by the Tree Preservation Scrutiny Working Group.

The Chair thanked the Officer for providing the revised introduction to the Policy.

RESOLVED that:

- 1) The next meeting focus on the aims of the policy in more detail and they be expanded on;
- 2) A list of which departments have trees on their land also be provided for the next meeting.

33 **REVIEW OF FLYTIPPING.**

A list of monthly service request figures had been provided for the Committee by the Divisional Officer Waste Management and Team Leader Enforcement, Fly Tipping and Litter.

RESOLVED that:

- 1) The statistics be noted;
- 2) The Chair to report back to the Cabinet Member for Environment & Transportation.

34 **CHAIR'S UPDATE (VERBAL).**

There were no items to report.

35 **WORKPLAN.**

The Chair presented the Work Plan for 2016-2017.

RESOLVED that:

- 1) The Work Plan be noted;
- 2) Tree Policy, Swansea Market & Pedestrianisation of Wind Street be added to the agenda for the next meeting scheduled for 19 October 2016.
- 3) The Democratic Services Officer liaise with the relevant officer in relation to Housing Estates containing unadopted streets to be included on an agenda for a future meeting.

The meeting ended at 4.07 pm

CHAIR

DRAFT DOCUMENT

The aim of a tree policy (Council Tree Stock)

The aim of a tree policy is to ensure the safety, maintenance, care, protection and longevity of the authority's tree stock.

- The policy will describe how the authority proactively surveys and inspects its trees and will provide detail on the cycles and timings of surveys and inspections.
- The policy will describe all aspects of how the authority will manage trees on its land and detail its response to tree related enquiries including timescales wherever possible. The aim is for effectively communicating, educating and engaging with the general public with regard to trees and tree issues.
- The policy will provide detail on what types of tree work the authority will carry out and what types of tree work the authority will not carry out and provide detail and reasons for these decisions. This will both inform the public and help to manage the public's expectations
- The policy will help maintain and encourage biodiversity by recognising the importance of trees as valued habitat for wildlife. It will recognise the value of the tree stock and encourage the conservation, positive management and appropriate planting of new trees and woodlands including donated and memorial trees. This will help maintain and improve upon the percentage of tree cover within the authority creating the social benefits that accompany these improvements such as well-being and quality of life.
- The policy will help mitigate the effects of climate change. It can do this by being a catalyst for future tree and woodland planting programmes and tree replacement programmes. It can also recognise the importance of trees in relation to filtering air of harmful particulates, providing shelter from the elements, producing oxygen, lessening flood risks and locking up carbon.
- The policy can help maintain and improve the landscape across the county and improve the quality of life for both residents and visitors to the city by promoting the importance, selection, planting and good maintenance of trees, softening the hard landscape and promoting a pleasant, green setting in which to live and work. Links can also be made with other council initiatives and policies such as well-being, green initiatives and i-tree eco.

Departments with trees on their land

Parks = 12'691 plus 243 groups or woodlands. Initial surveys are still ongoing we expect approximately 20'000 trees and 400 groups or woodlands

Highways = 2521 plus 10 groups or woodlands. Initial surveys are still ongoing we expect approximately 4500 and 30 groups or woodlands

Education = 3842 plus 252 groups or woodlands Total.

Housing = 4797 plus 163 groups or woodlands Total (this does not include council house gardens)

Cemeteries = 2299 plus 14 groups or woodlands Total

Libraries and museums = unknown

Social services = unknown

Estates = unknown

Total at the time of writing 26'396 individual trees and 688 groups and woodlands

Other Departments that deal with trees and woodland issues

Planning Dept. Tree Preservation Orders, Conservation Areas and development sites.

Environment Dept. High Hedge enforcement. (Also previously dealt with dangerous trees on private land)

Planning Country Side Team; Conservation, woodland management, environmental and habitat management.

Highways; dangerous trees on private land threatening the highway

DRAFT DOCUMENT

Reactive tree work

Policy 5(2): Unsafe Trees - Requiring Immediate Action

If a Council owned tree is in such a condition that it poses a very high risk to people or property, the Council will attend the site as an emergency normally within **1 hour** and always within **2 hours**. If work cannot be completed, areas at risk will be cordoned off until resources are available.

5.11 A tree that is in immediate danger of failure or has already failed in a busy or built up area would likely constitute a very high risk. If a tree poses an immediate and present danger it will be made safe within **1 hour** (emergency). If the level of risk is lower, the tree will be made safe within **7 working days** (urgent).

5.11.1 Immediate work out of hours will be carried out by an on-call tree gang.

5.12 Signs to look for which may mean that a tree is in such condition to warrant immediate action include:

- a) tree is snapped or blown over;
- b) tree uprooted but held up by another tree or building;
- c) a large branch has broken off or is hanging off the tree;
- d) tree or branch is blocking the road or footpath;
- e) tree or branch is blocking access to property;
- f) tree has fallen onto house or car.

Policy 5(3): Trees - Not Requiring Immediate Action

Trees that are perceived as high risk but present no immediate risk to the public will be made safe depending on the level of risk identified at the time of inspection. Tree works judged as urgent will be made safe within **7 working days**.

Works on trees that are not considered high risk but where essential remedial work is required will be carried out within **one year** of inspection.

5.13 Signs to look out for which may mean that a tree is a risk to people or property but the risk does not require an emergency response:

- a) tree is dead;
- b) tree is dying - few leaves in summer or dieback in the crown;
- c) bark is loose and falling off;
- d) mushrooms or fungi growing on or near the tree;
- e) old splits and cracks in the trunk or large branches;
- f) smaller branches or twigs falling from the tree.

5.14. Trees can be made safe via pruning or felling. Typically we would employ the most cost effective approach. But, for certain high value trees we would consider other options to reduce risk to an acceptable level including options to reduce the likelihood of the tree failing or the likelihood of persons being close to the tree if it did fail.

DRAFT DOCUMENT

Tree work policies

Policy 5(4) Tree Felling

The Council will fell trees where:

- The tree is dead, dying or diseased
- A tree has been proven to be causing subsidence
- The removal of a tree would benefit surrounding trees
- It is the requirement of a management, regeneration or development plan

5.15 Tree removal is regrettable, but necessary under a number of circumstances. The decision to remove a tree is not taken lightly. Trees are usually felled because it is best option to reduce the risk of harm to an acceptable level (e.g. dead, dying or diseased trees).

Policy 5(5): Pruning

The Council will:

- Undertake work to trees owned or managed by the Council to maintain a minimum 5.5 metres height clearance over the carriageway (associated with a street, road or highway).
- Undertake work to trees owned or managed by the Council to maintain clear lines of sight for traffic and pedestrians at junctions and access points (associated with a street, road or highway).
- Undertake work to trees owned or managed by the Council to maintain clear lines of sight for traffic signals and street signage (associated with a street, road or highway).
- Undertake work to trees owned or managed by the Council to ensure that street lights are not unduly blocked by the presence of trees.
- Undertake work to trees owned or managed by the Council to maintain a minimum 2.1 metres height clearance over a footpath associated with a street, road or highway. Any works necessary to prevent an obstruction to the width of a footpath associated with the highway due to the presence of a Council owned tree will be considered on a case-by- case basis.
- Maintain pollarded street trees by re-pollarding every **two years**.
- Only create new pollards where there is no other viable management option

Policy 5(6): Stump grinding

The council will carry out stump grinding where necessary to enable trees to be planted or to remove a significant hazard

5.16 Stump grinding is the practice of removing a tree stump to below ground level by mechanical means. Where replacement replanting is desirable such as in highway verges, stumps will be ground out. Where stump removal is not necessary tree stumps will be removed close to ground level so not to leave a trip hazard.

Policy 5(?): Re-cycling

The Council will make the best use of arisings created from required tree work

- Cordwood will be sold?
- Chip will be stored for 3 months and then either sold or used in amenity planting areas?

Policy 5(7): Birds, bats and badgers

The council will:

- Carry out inspections of trees prior to tree works for nesting birds, taking particular care during the nesting period of March – August. Under the Wildlife and Countryside Act 1981 It is illegal to disturb nesting birds.
- Carry out inspections of trees for bat roosts or areas of land for badger sets, likely to be disturbed by tree or woodland works and seek expert advice from relevant organisations or the Council Ecologist

Birds

5.17 The Wildlife and Countryside Act 1981, amended by the Countryside and Rights of Way Act 2000, is the principle legislation protecting birds. The Acts make it an offence to kill, injure or take any wild bird and to take, damage or destroy any nest that is either in use or being built. To comply with the Acts the council's arboricultural services or contractors engaged by the council, will check trees for nesting birds during the nesting period (March – August) and take appropriate measures to prevent disturbance prior to the commencement of routine works. These measures may mean delaying the works until young birds have flown. If, despite best efforts, a nest is found after work has started, a buffer area around the nest will be created and the tree returned to once the young birds have flown.

Bats

5.18 All bats are protected under the Wildlife and Countryside Act (Schedule 5) and the EU Directive Conservation of Habitats and Species Regulations 2010. These make it illegal to intentionally or deliberately kill, injure or capture bats; deliberately disturb bats, whether in a roost or not; or to damage, destroy or obstruct a bat roost. Given that trees can be significant hosts to bat roosts inspections will precede works where bat roosts are suspected. This is likely but not exclusively to occur in park or woodland trees. Where necessary the Tree Services Unit will seek expert advice.

Badgers

5.19 Badgers are protected under the Protection of Badgers Act 1992 which makes it an offence to wilfully kill, injure or take a badger; to interfere with a sett by damaging or obstructing it or by disturbing a badger when it is occupying a sett, recklessly, or with intent. Where necessary the council will seek expert advice.

Policy 5(8): Ivy on trees

The council will seek to retain an acceptable level of ivy on trees where the inspection for decay or defects is not compromised

5.20 The council acknowledges the considerable value of ivy (*Hedera helix*) as a habitat and food source for wildlife. Unless ivy has established on young or weak trees, where it may compete for water and nutrients and restrict healthy growth, it causes little harm. However, where ivy has taken hold on mature trees, especially those close to roads and public areas, judgements must be made on its retention based on the health of the tree and the possibility of cavities or defects being hidden from view. In these situations removal of ivy may be deemed necessary for risk management purposes.

Policy 5(9): Tree Roots

The Council accepts that a reduced standard of regularity of surfacing may be acceptable. Where not acceptable the council will seek to explore engineering options to reduce trip hazards before root pruning or tree removal.

5.21 The Council will follow guidance published in “**Well-maintained Highways Code of Practice for Highway Maintenance Management**”. This guidance relates to trees and the highway and suggests that pavements are not required to have perfect surfaces:

“9.6.1: Trees are important for amenity and nature conservation reasons and should be preserved”

“9.6.4: Extensive root growth from larger trees can cause significant damage to the surface of footways, particularly in urban areas. A risk assessment should therefore be undertaken with specialist arboricultural advice on the most appropriate course of action, if possible to avoid harm to the tree. In these circumstances, it may be difficult for authorities to reconcile their responsibilities for surface regularity, with wider environmental considerations and a reduced standard of regularity may be acceptable.”

5.22 The roots of trees exploit the soil in various ways dependent on species and local conditions. Direct root action can deform the surfaces of footpaths, roads or other light structures. To constitute a trip hazard the deformation will be assessed by Highways. Where a hazard exists and is attributable to tree roots engineering options will be explored before root pruning or tree removal is undertaken.

5.23 Indirect root action is more often associated with the drying of clay subsoils during prolonged periods of dry weather and the subsequent downward movement of ground resulting in subsidence damage of buildings. However, subsidence can also be caused by leaking or collapsed drains, particularly if the subsoil under a building contains high proportions of sand, and or inadequate foundations for the soil type or proximity of vegetation, including trees. All insurance claims for suspected tree related subsidence will be dealt with in accordance with Policy 5.

Policies for the Local Environment

Policy 5(10): Tree Touching a Building

If a tree that is owned or managed by the Council is touching private property (dwelling, house, boundary wall, garage etc) the Council will take action to remove the nuisance.

5.24 In many cases the solution will be for the Council to prune the tree, but in some circumstances it may be more appropriate to fell the tree. If pruning is appropriate we will endeavour to undertake works to stop the problem re-occurring within **three** years.

Policy 5(11): Council Trees Overhanging Property

We will not prune or fell a tree that is owned or managed by the Council to alleviate the nuisance of branches overhanging private property.

5.25 The nuisance caused by overhanging branches may be considered as part of our general tree work programme, however this programme is discretionary and subject to the availability of funding.

Policy 5(12): Council Tree Roots and Drains

We will not prune, fell or cut the roots of a tree that is owned or managed by the Council to prevent roots entering private drains that are already broken or damaged.

5.26 Tree roots typically enter drains that are already broken or damaged. Trees themselves very rarely break or damage the drain in the first place. Tree roots found in a drain are usually symptomatic of an underlying problem requiring repair of the broken pipe. If you are concerned about the condition of your drains then you are advised to contact your water and sewerage company. Householders are usually responsible for the maintenance of the drains within or on their property.

Policy 5(13): Council Trees Blocking Natural Light

We will not prune or fell a tree owned or managed by the Council to improve natural light to private property.

5.27 Where trees within an urban environment are blocking light into a property there is no legal "right to light". The tree owner is not by law obliged or required to carry out work to the tree for the benefit of level of light.

Policy 5(14): Council Trees Blocking Views

We will not prune or fell a tree owned or managed by the Council to improve the view from private property.

Policy 5(15): Leaf Fall from Council Trees

We will not prune or fell a tree owned or managed by the Council to remove or reduce leaf fall or remove fallen leaves from private property.

5.28 The loss of leaves from trees in the autumn is part of the natural cycle and cannot be avoided by pruning.

5.29 For roads, streets or the highway, teams work in the autumn to clear fallen leaves.

5.30 In parks and greenspaces, paths or other areas of hard standing are regularly cleared of fallen leaves, but leaves on grass / shrub beds are generally left until the majority of leaves have fallen before they are removed (unless leaving them would damage the grass in which case the accumulated leaves would be removed sooner).

Policy 5(16): Sap from Council Trees

We will not prune or fell a tree owned or managed by the Council to prevent or

reduce honeydew or other sticky residue falling onto private property.

5.32 Honeydew is caused by greenfly (aphids) feeding on the sap from the leaves and excreting their sugary, sticky waste. This is often colonised by a mould which causes it to go black. Unfortunately there is little that can be done to remove the aphid which causes the problem and pruning the tree may only offer temporary relief and any re-growth is often more likely to be colonised by greenfly thereby potentially increasing the problem. Some trees, such as Limes, are more prone to attack by greenfly and in some years greenfly are more common especially following a mild winter. Honeydew is a natural and seasonal problem. Where new trees are planted we try to choose trees that are less likely to have this problem. Where honeydew affects cars, warm soapy water will remove the substance, particularly if washed as soon as possible.

Policy 5(17): Blossom from Council Trees

We will not prune or fell any tree owned or managed by the Council to remove or reduce blossom fall from trees or remove fallen blossom from private land.

5.33 Tree blossom usually heralds the start of Spring. Blossom is a natural occurrence, which cannot be avoided by pruning.

Policy 5(18): Bird Droppings from Council Trees

We will not prune or fell any tree owned or managed by the Council to remove or reduce bird droppings from the tree, or remove bird droppings from private land.

5.35 Bird droppings may be a nuisance but the problem is not considered a sufficient reason to prune or remove a tree. Nesting birds are protected under the Wildlife and Countryside Act 1981 (and other related wildlife law). Warm soapy water will usually be sufficient to remove the bird droppings.

Policy 5(19): Fruit, Berries & Nuts from Council Trees

We will not prune or fell any tree owned or managed by the Council to remove or reduce the nuisance of fruit, berries or nuts, or remove fallen fruit from private land.

5.36 Fruit trees such as apple, cherry and pear are welcomed in many locations with the added benefit of providing free food. But, there are some locations where fruit trees are less desirable, for example where soft fruit would make the pavement slippery or where anti-social behaviour could encourage fruit being thrown at houses or cars. When considering what tree to plant we do take account of the likelihood of

such problems. Equally, where fruit trees are established but there is a significant anti-social behaviour problem we may consider phased removal and replacement with more suitable species.

Policy 5(20): Wildlife and Insects in Council Trees

We will not prune or fell any tree owned or managed by the Council to remove or reduce incidence of bees, wasps and other insects or wild animals.

5.37 Bees are protected species and advice should be taken before considering their removal.

Policy 5(21): Satellite and Television Reception Blocked by Council Trees

We will not prune or fell any tree owned or managed by the Council to enable or ease installation or improve reception of satellite or television receivers.

5.38 It maybe that your satellite or TV provider will be able to suggest an alternative solution to the problem, for example relocating the aerial/dish or means to boost the signal. Swansea Council will not reimburse costs associated with relocating a TV aerial or satellite dish.

Policy 5(22): Solar Collectors and Panels Obscured by Council Trees

We will not prune or fell any tree owned or managed by the Council to improve the performance of Solar Water Heating Collectors or Solar Panels such as Photovoltaic Cells

5.39 Whilst the Council appreciates that there is a need to provide renewable energy resources. Trees have an important role in maintaining and improving local amenity, in addition to contributing to local and national targets in tackling climate change. The presence of trees must be fully appreciated when considering a suitable location for the placement of solar collectors and panels.

Policy 5(23): Telephone Wires and Council Trees

We will not fell any tree owned or managed by the Council to remove or reduce

interference with telephone wires. There may be instances where the Council will undertake works to prune trees and reduce interference where pruning would be an effective measure.

5.40 Your telephone service provider may be able to suggest an alternative solution to the problem.

Policy 5(24): Council Tree(s) Considered Too Large

We will not prune or fell any tree owned or managed by the Council because it is considered to be 'too big' or 'too tall'.

5.41 A tree is not dangerous just because it may be considered too big for its surroundings. Other problems would need to be present, such as those described in **Policy 5.2** for the Council to consider it to be dangerous.

Policy 5(25): Damage to council owned trees

The council will:

- Take acts of malicious damage to trees seriously and seek prosecution where appropriate.
- Aim to prevent and control the abuse of woodlands through rubbish dumping, vandalism and illegal access by consultation and education, or by taking appropriate legal action

5.42 Malicious damage to council owned trees and woodlands, as well as fly-tipping are criminal offences.

GUIDANCE FOR WORKS ON THE HIGHWAY AND THE ADOPTION OF NEW INFRASTRUCTURE

Purpose:	To provide information to developers on the highway aspects of pre-planning application guidance and introduce a sliding scale of fees for highway adoption agreements.
Policy Framework:	Corporate Plan 2015/17 : "Delivering For Swansea": Priority Three: Creating a vibrant and viable City and Economy .
Reason for Decision:	To support and promote development within the City & County of Swansea .
Consultation:	
Recommendation(s):	
Report Author:	Mark Thomas, Group Leader Traffic and Highway Network Management
Finance Officer:	
Legal Officer:	
Access to Services Officer:	

1.0 INTRODUCTION

- 1.1 In order to assist developers comply with the Highways Act, as part of planning and delivering their developments, it is considered helpful to provide a guidance document that explains the various considerations necessary, should their proposed development interact with the existing adopted highway or should the developer wish to offer their completed development for adoption by the Highway Authority.
- 1.2 The document, "Guidance For Works On The Highway And The Adoption Of New Infrastructure" (Appendix A), is intended to assist developers working through the pre-application / planning processes, to fully understand what are purely planning issues and which issues need to be addressed with the Highway Authority. Developers have previously expressed concerns that they were initially unaware of these commitments when submitting planning applications, and of the resultant financial implications.

2.0 HIGHWAYS AND DEVELOPMENT ISSUES

- 2.1 The document will address issues that have been a subject of discord with developers and seek to clarify processes, raise awareness of statutory requirements, under the Highways Act, that Developers must comply with, over and above those issues addressed within the Planning Permission process and the Town and Country Planning Act.
- 2.2 The guidance document will explain the benefits of Developers offering their sites for adoption (S38 process) and the process to be undertaken. This has been an issue with some developers who have not offered their sites for adoption and not informed their customers of this fact, when they have purchased their properties. There, are a number of reasons why developers have declined the opportunity to offer their sites for adoption,
- Level of commuted maintenance sums requested
 - Level of section 38 fees requested by the Authority.
- 2.3 The guidance document explains how commuted maintenance sums are calculated, enabling Developers to ascertain whole project costs and cost certainty at project feasibility stage. Previously, some Developers have claimed to be unaware of the requirement to pay commuted maintenance sums and have therefore declined to offer their sites for adoption, resulting in local residents having to pay an annual maintenance charge to a management company or, in some cases, having their streets and public lighting maintained to an unacceptable standard with irregular interventions by the Developer.
- 2.4 Welsh Authorities charge a section 38 fee of 8.5 percent of highway works costs to adopt a development. These costs cover technical

approval of the Developer's design, inspection to ensure that the site is constructed to an adoptable standard and legal fees. However, some of the larger Developers have raised concerns that for their larger sites the 8.5% charge is excessive and does not represent value for money. They have therefore, declined to enter into section 38 agreements resulting in residents suffering, as described in section 2.3 above. Therefore, the City & County of Swansea is the first authority in Wales to consider introducing a sliding scale, following benchmarking with English Authorities such as Bristol. It is envisaged that for more expensive projects the percentage charge will be less than 8.5%, but still sufficient to cover officer time and assist in making the service operate on a full cost recovery basis. Developers have welcomed this approach, following initial discussions and it is considered that such an approach will encourage greater uptake of the section 38 adoption process.

2.5 A summary of the sliding scale of fees is provided below

Value of works	Fees
Under £250,000	Minimum fee of £2k or 8.5% of works cost
Over 250,000	8% of works costs with a capped maximum fee of £28,750
Over £500,000	7.5% of works costs with a capped maximum fee of £45,000
Over £750,000	7% of works costs with a capped maximum fee of £58,750
Over £1,000,000	6.5% of works costs with a capped maximum fee of £70,000
Over £1,250,000	6% of works costs with a capped maximum of £75,000

2.6 It is proposed that, in order to undertake activities on/ from the public highway all Developers who's developments have the potential to cause disruption to the public highway, will submit a Construction Traffic Management Plan (CTMP) for approval by the Highway Authority, at no cost. The guidance document explains what is expected of a CTMP, that the approval of the document is a condition of the Planning Consent, and that if additional advice and assistance is required, then this service is available, but at a cost.

3.0 Equality and Engagement Implications

3.1 An EIA screening process has been undertaken and included as Appendix B.

4.0 Financial Implications

- 4.1 It is anticipated that advance notice of the requirement for Commuted Maintenance Sums and adoption of the proposed sliding scale of fees for Section 38 agreements will increase the number of sites being offered for adoption and result in increased fee income for the Authority.

5.0 Legal Implications

- 5.1 There are no legal implications associated with this report.

Background Papers: none

Appendices: Appendix A , "Guidance For Works On The Highway And Adoption Of New Infrastructure".
Appendix B – EIA Screening



CITY AND COUNTY OF SWANSEA

**Guidance for Works on the Highway and the Adoption of
new Infrastructure.**

DRAFT

Guidance for Works on the Highway and the Adoption of new Infrastructure.

1.0 Guidance Statement

2.0 Purpose and aim of the Guidance

3.0 Adoption Process

4.0 Agreements under Section 278

5.0 Agreements under Section 38

6.0 Agreements under Section 228

7.0 Advanced Payment Code (APC)

8.0 Private Street Works Code (PSC)

9.0 Temporary Access Agreement

10.0 Construction Traffic Management Plan (CTMP)

11.0 Commuted Maintenance Sums

12.0 Stopping Up of Highway

13.0 Fees

14.0 Drainage

Appendices:

Appendix 001: Section 278 Agreement Application Form – In House Design & Build

Appendix 002: Section 278 Agreement Application Form – Others Design

Appendix 003: Section 38 Agreement Application Form

Appendix 004: Typical APC Notice

Appendix 005: Typical Temporary Access Agreement

Appendix 006: Guidance: Construction Traffic Management Plan

Appendix 007: Notice of Inspection

Appendix 008: Commuted Maintenance Sum Rates

FOREWARD

City and County of Swansea, Highways.

The majority of new residential developments will require planning permission to be obtained from the Local Planning Authority.

As part of this process the Highways and Transportation Service will be formally consulted for Highways observations on the proposals.

Advice is willingly given at any stage of the development process and it is often the case that consultation prior to the formal submission of a planning application can lead to savings of time and help to avoid abortive works or misunderstandings.

Initial queries should be addressed to the Highways Management Team as detailed below:

Highways Management Team

networkmanagement@swansea.gov.uk

Address

Highways Management
City and County of Swansea,
c/o Civic Centre, Oystermouth Road, Swansea. SA1 3SN

Note:

In most cases, it will be a requirement that enquiries are undertaken with the Local Planning Authority in order that a coordinated and cross-discipline response is given.

1.0 Guidance Statement

This document sets out City & County of Swansea policy and guidance for works on the Highway and the adoption of new Infrastructure.

This guidance has been drawn up by the Highways Management Team In response to the objectives of the City and County of Swansea.

- To ensure planning applicants / developers are adequately informed of the highway Agreement process and its implications.
- To make the adoption process as efficient and economical as possible.

2.0 Purpose and aim of the Guidance

The purpose of this document is to guide developers through the process of establishing both a Section 278 Agreement and a Section 38 Agreement (S38) to ensure that highway works are delivered to the satisfaction of both parties.

The guidance outlines what developers and the City and County of Swansea can expect from each other and the options that are available to the planning applicant / developer.

Works required on the existing highway maintainable at public expense are managed under Section 278 Agreement, Highways Act 1980 (S278).

New estate roads and their associate drainage features have long been considered for adoption via a Section 38 Agreement, Highways Act 1980 (S38).

These agreements are normally reached by a legal consensus between the developer and the Highway Authority.

The implementation of the Advanced Payments Code Sections 219 - 225 of the Highways Act 1980 (APC) has also highlighted a need for revision and clarification of adoption policy and practice.

3.0 Adoption Process

Where the criteria for adoption are met and a suitable layout and design can be agreed planning applicants / developers will be invited to enter into an appropriate adoption agreement as soon as possible. The Highways Act 1980 details a number of methods by which the adoption of new roads, footways and paths may be secured and these are as follows:

4.0 Agreements under Section 278

Where developments require the alteration of the highway maintainable at public expense an agreement under this section of the Highway Act 1980 will be required.

A Section 278 Agreement (S278) provides a structured robust procedure for the technical approval of the works, regular inspections and also sets out the mechanisms by which the works are completed to Council requirements.

The City and County of Swansea is committed to working closely with planning applicants / developers to achieve:

- The highest quality development possible
- Efficient and effective delivery of projects for the benefit of all parties
- Development that is not a maintenance or financial burden or liability
- The delivery of works to adoptable standards
- Minimal disruption to the highway network during construction

Where the scope of the works are small in nature and involve minimal disruption to the highway, the use of Street Works licences may be considered in lieu of an agreement. Typically a Section 184 Licence Highways Act 1980 (S184), more informally referred to as a Vehicle Crossover License.

Where works are of a more substantial nature and there is a small associated element of Section 38 (S38), a combined agreement may be entered into as this minimises costs and streamlines the approval and construction processes.

However, where the extent of the proposed works is extensive and / or potentially disruptive to the expeditious movement of traffic, a separate Section 278 Agreement (S278) will be required.

Section 278 Agreements (S278) require the developer to submit a design for Technical Approval, details and specifications of which must be in accordance with the requirements of the design guidance set out on the Council's website.

The City & County of Swansea offers 'in house' delivery of Section 278 (S278) both design and construction options are available for consideration by the planning applicant / developer.

- The 'in house' design option provides the benefits of expediting the whole process and moreover secures a quality design and technical approval.
- The 'in house' construction option negates the requirement for the deposit of a bond / surety from the planning applicant / developer.
- The City and County of Swansea will be responsible for the works immediately which removes a maintenance period from the planning applicant / developer.

Nevertheless in some instances a different construction approach may be more appropriate whereby the planning applicant / developer may wish to undertake the Section 278 works themselves or by employing an approved and accredited (New Roads and Street Works Act 1991) contractor via a conventional and orthodox Section 278 Agreement (S278).

Options should be discussed with Highway Management in the first instance.

No works will be permitted on the highway maintainable at public expense without an appropriate agreement being in place.

Planning Consent is not consent to work on the Highway.

5.0 Agreements under Section 38

Where developments require the layout of new roads (off the highway maintainable at public expense) then an agreement under this section of the Highway Act 1980 can be considered by the planning applicant / developer and the City and County of Swansea.

A Section 38 Agreement (S38) provides a structured robust procedure for the technical approval of the works, regular inspections and also sets out the mechanisms by which the works are completed to Council requirements.

The City and County of Swansea is committed to working closely with planning applicants / developers to achieve and deliver:

- The highest quality development possible
- Efficient and effective delivery of projects for the benefit of all parties
- Development that is not a maintenance or financial burden or liability
- The delivery of works to adoptable standards
- Minimal disruption to the highway network during construction
- Consistent use of acceptable materials

Entering into a Section 38 Agreement (S38) is the preferred method of securing adoption and dedication of new highways.

It enables the City & County of Swansea to take over and maintain at public expense (adopt), roads, footways, footpaths, cycle lanes and street lighting constructed by a planning applicant / developer through legal agreement.

An Agreement under this section of the 1980 Act provides a structured robust procedure for the technical approval of the works, regular inspections and mechanisms through which the works are completed to an appropriate standard and other Council requirements.

The works are secured by an appropriate bond / surety which ensure that the road works can be completed in the event of the developer defaulting. The agreement requires a staged certificated release of the bond / surety subject to an agreed maintenance period.

The technical details and specifications for the works must be in accordance with the requirements of the design guidance.

The City and County of Swansea will not agree to the carrying out of inspections of works in the absence of real intent of the developer entering into an agreement.

Applications to enter into a Section 38 Agreement (S38) should be made to the City and County of Swansea as soon as practical during the development process, subject to the planning applicant / developer securing a Section 104 Agreement Water Industry Act 1991 with the respective Water Company.

If a Section 38 Agreement (S38) is entered into prior to site works commencing then this may negate the serving of an Advanced Payment Code notice. (Please refer to 7.0).

6.0 Agreements under Section 228

This section allows for the adoption of highways following works being executed in a private street by the posting an appropriate notice in the street.

After the posting of such a notice and on the expiry of one calendar month, during which time no valid objections have been received, the area of highway will become adopted and maintainable at the public expense.

This method is generally limited to be used only for small areas, and in regularising the Highway Network to the benefit of all the users of the highway.

7.0 Advanced Payment Code (APC)

The Advanced Payments Code (APC) Sections 219 to 225 Highways Act 1980.

These sections of the Highways Act 1980 make provision for the Highway Authority to secure a payment from a planning applicant / developer against the cost of future road works on a development (to ensure roads are built to an adoptable standard). This payment is used to complete outstanding Highway works should the planning

applicant / developer default and may be in addition to the Private Street Works Code.

The serving of a notice under the APC is triggered within 6 weeks of the deposit of Building Regulation plans, and this may be in advance of any Section 38 Agreement (S38) being signed.

The most appropriate use of the Advanced Payment Code (APC) is to encourage the adoption of highways which meet the criteria for adoption via a Section 38 agreement (S38).

The City and County of Swansea has little discretion to exclude any new residential roads from the provisions of the Advanced Payments Code (APC) even if the planning applicant / developer want to keep the roads private.

As a rule of thumb, Advanced Payments Code (APC) notices are generally not served on private streets serving 5 properties or less or on road layouts which do not meet adoptable standard criteria or otherwise qualify for exemption under the Act.

Highways on which APC notices are not served will not be considered for adoption and will remain private and the responsibility of the frontagers, either as a collective or as part of a management company set up by the developer.

In these situations the planning applicant / developer must make it clear to all prospective residents that the roads will remain privately maintained, in addition it should be made clear as to who will be responsible for the maintenance.

Where an Advanced Payment Code notice has been served it is an offence to start work, until the planning applicant / developer has satisfied the Notice or entered into a Section 38 Agreement (S38).

8.0 Private Street Works Code (PSC)

The Private Street Works Code (PSC) Sections 205 to 218 of the Highways Act 1980 sections of the Highways Act.

This makes provision for the Highway Authority to carry out works on private streets where it is of the opinion that works are required, and can recover the costs of works from the property owners fronting the street.

The Private Street Works Code (PSC) can be requested by frontagers in order to get their street adopted and is subject to a resolution being passed by the Council

The Private Street Works Code (PSC) can also be utilised in synergy with the Advanced Payments Code.

9.0 Temporary Access Agreement

Occasionally the planning applicant / developer may wish to proceed with works off the highway prior to entering into a Section 278 Agreement (S278) or indeed during the aforementioned process.

If there is no existing vehicular access present on the Highway, the planning applicant / developer is likely to only have rights to access land by foot only.

To facilitate the planning applicant / developer may approach the City & County of Swansea to consider temporary access.

Typically an application is only supported subject to a detailed Construction Traffic Management plan being provided and approved. It will be necessary for the planning applicant / developer to provide detailed design, pay the requisite fees and provide the appropriate level of insurance.

The appointed contractor will need to be duly accredited under the New Roads and Street Works Act 1991.

Details of requirements can be found in the appendices.

10.0 Construction Traffic Management Plan

The demolition, excavation and construction traffic generated by new development of all scales can have a serious impact on parking availability, traffic flow, road safety, residential amenity and pedestrian convenience if not properly managed.

For this reason the Council require all new developments that have the potential to cause disruption submit a Construction Traffic Management Plan (CTMP). Moreover this requirement is often conditioned within the Planning Consent

A typical Construction Traffic Management Plan should contain the following information:

- Routing of demolition, excavation and construction vehicles.
- Access arrangements to the site inclusive, of the management of pedestrians and other road users in order to cause minimal disruption to the highway network
- The estimated number of vehicles per day/week inclusive of swept path analysis.
- Details of the vehicle holding area
- Details of the vehicle call up procedure
- Estimates for the number and type of parking suspensions that will be required i.e. Temporary Traffic Regulation Orders.
- Details of any diversion, disruption or other abnormal use of the public highway during demolition, excavation and construction works.

- A strategy for coordinating the connection / diversion of services on site with any programmed work to utilities upon adjacent land / highway
- Work programme and/or timescale for each phase of the demolition, excavation and construction works
- Where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes, parking bay suspensions and remaining road width for vehicle movements
- Proposed Chapter 8 proposals and durations
- Quality (to scale) engineering drawings overlaid on the adopted highway network
- Road safety audit in regard to proposed arrangements and Temporary Access location.
- Copy of Public Liability Insurance
- Key personnel contact details and site organisation.

Where the CTMP is a condition of the Planning Consent - you will be in breach of your planning permission and liable to enforcement, if you commence works without a plan in place.

11.0 Commuted Maintenance Sums

Commuted Maintenance Sums are essential to cover the cost of additional maintenance and maybe required for both Section 278 Agreements (S278) and Section 38 Agreements (S38).

Generally Commuted Maintenance Sums will be required for additional areas of highway and assets on Section 278 works.

In regard to Section 38 works a Commuted Maintenance Sums will be required for nonstandard items, materials or items which are more expensive to maintain.

Typical values of Commuted Maintenance Sums are shown in the appendices and are related to the County Surveyors Society publication – Commuted Sums for Maintaining Infrastructure Assets and City and County of Swansea Policy.

12.0 Stopping Up of Highway

Occasionally the planning applicant / developer will have a requirement to remove the Highway Status from land to facilitate a new development.

In this instance the relevance of whether the highway is adopted or not is immaterial, a due process is required prior to any works.

Typically a planning applicant / developer will have already obtained Planning Consent and in this instance Stopping Up of Highway can be applied for under Section 247 of the Town and Country Planning Act 1990 directly with Welsh Government. The City and County of Swansea will fulfil its duties as in the consultation process as the local Highway Authority.

Stopping Up of small sections of Highway and Network anomalies can be facilitated under Section 116 of the Highways Act 1980 at the magistrates' court.

The applicant must be fully aware that Stopping Up of Highway is never guaranteed and both routes carry an element of risk and that it is an offence to interfere with the Highway.

13.0 Fees

The approval and supervision of new highway infrastructure is a complex and time consuming process.

It is therefore appropriate that such costs are borne by the developer. For the sake of clarity fees discussed below are also in the respective Agreement application forms that can be found in the appendices.

The value of the works will fundamentally be decided by the City & County of Swansea however the respective applications will ask the planning applicant / developer to provide estimates, these maybe used as a guide.

Section 278 Fees.	8.5% of the Council's estimated cost of the works or £2000 whichever is the greater.
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Section 38 Fees.	8.5% of the Council's estimated cost of the works or £2000 whichever is the greater.
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Section 38 Sliding Scale Fees.	Works with an estimated construction cost over £1,250,000 are eligible for a discount of 2.5% with a capped maximum fee of £75,000
	Works with an estimated construction cost over £1,000,000 are eligible for a discount of 2% with a capped maximum fee of £70,000
	Works with an estimated construction cost over £750,000 are eligible for a discount of 1.5% with a capped maximum fee of £58,750
	Works with an estimated construction cost over £500,000 are eligible for a discount of 1.0% with a capped maximum fee of £45,000
	Works with an estimated construction cost over £250,000 are eligible for a discount of 0.5% with a capped maximum fee of £28,750

Other Highway Fees:

- Temporary Access Agreement: £1,200
- Construction Traffic Management Plan, consultation a minimum Fee £1,200 this includes: (1 site visit, 1 assessment and 1 meeting post assessment). In complicated and more involved circumstances this fee will be increase on total cost recovery basis.
- Stopping Up' of Highway under Section 116 of the Highways Act 1980 guide estimated costs £6,000 (based on historical applications) however this can increase if objections are raised at the magistrates' court. The majority of fees are allocated to advertising the Order.
- Stopping Up' of Highway under Section 247 of the Town and Country Planning Act 1990: any fees may be managed on a time charge basis. This will be discussed in accordance of the process commencing.

In the event that the fee is surpassed then the City & County of Swansea will invoke powers of Total Cost Recovery against planning applicants / developers.

14.0 Drainage

The developer must make clear at the outset whether or not a surface water sewer is to be considered as part of the Section 38 Agreement or whether it is also proposed to enter into an Agreement under Section 104 of the Water Industry Act 1991.

In the event that it is proposed to connect highway drainage into sewers under a Section 104 Agreement then written supporting documentation from Dwr Cymru Welsh Water must be provided, to confirm that the sewers have been accepted for adoption as public sewers.

Section 38 Agreements (S38) will not be completed until the respective Section 104 agreement is in place.

In general roads will only be accepted for adoption if they are drained via a positive gravity fed system i.e. an existing public sewer, highway drain (for highway water) or watercourse – to be sanctioned by the respective Water Authority, Highway Authority or Natural Resources Wales – where applicable.

Where it is proposed the highway drainage outfalls into 3rd party systems, evidence of a right to discharge in perpetuity will be required in all cases. If this is offered for adoption then respective easements need to be secured.

In addition, for privately maintained features evidence of the proposed maintenance regime will be also required.

In circumstances where there is no appropriate outfall available then the Developer needs to be mindful that in general soakaways will not be permitted within any road offered for adoption.

Proposed soakaways intended for roof and yard drainage must be designed and located outside their zone of influence to any adopted road or road intended for dedication to the Highway Authority. In general this zone is 7m.

Acceptable methodology and construction specification of highway attenuation is encouraged to be thoroughly discussed at the earliest opportunity if being considered for adoption.

DRAFT

Agenda Item 7

DEVELOPMENT CAC – 19 October 2016

WORK PROGRAMME 2016-2017

Date	Subject Area	Lead Officers
15 June 2016	Pedestrianisation of Wind Street	Stuart Davies / Mark Thomas
15 June 2016	Fly Tipping Policy	Ian Whittleton / Frances Williams
15 June 2016	Waste Management – Re-Use shop	Keith Coxon
6 July 2016 (Special)	Open Spaces Strategy	Andrew McTaggart Mark Russ Ian Beynon Jackie Rees-Thomas
20 July 2016	Draft Fly Tipping Policy	Ian Whittleton / Frances Williams
20 July 2016	Tree Policy	Martin Bignell
17 August 2016	Open Spaces Strategy	Andrew McTaggart Mark Russ Ian Beynon Jackie Rees-Thomas / Stephen Cable
17 August 2016	Review of Fly Tipping	Ian Whittleton / Frances Williams
21 September 2016	Swansea Market (Provision of a Public Toilet)	Lisa Wells
21 September 2016	Pedestrianisation of Wind Street	Lisa Wells
21 September 2016	Tree Policy	Martin Bignell
19 October 2016	Guidance for Works on the Highway and the Adoption of new Infrastructure	Mark Thomas
19 October 2016	Tree Policy	Martin Bignell
16 November 2016	Pedestrianisation of Wind Street	Lisa Wells
16 November 2016	Swansea Market (Provision of a Public Toilet)	Lisa Wells
16 November 2016	Waste Management – Re-Use shop (Update)	Keith Coxon
16 November 2016	Tree Policy	Martin Bignell
TBC	Regional District Shopping Centres (2 nd site visit to Morriston)	Development CAC Members
TBC	Regional District Shopping Centres (site visit to Mumbles)	Development CAC Members
TBC	Civic Amenity Sites	