

ISLE OF ANGLESEY COUNTY COUNCIL	
Report to:	Executive Committee
Date:	17th March 2014
Subject:	Community Benefit Contributions Strategy
Portfolio Holder(s):	Councillor Aled Morris Jones
Head of Service:	Dylan J. Williams
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Local Members:	Relevant to all Members

A –Recommendation/s and reason/s
<p>To support and formally adopt the draft Community Benefit Contributions (CBC) Strategy.</p> <p>This will enable the Chief Executive, Leader, Economic Development Portfolio Holder and Head of Economic and Community Regeneration to consider and progress the delivery and implementation of the CBC's Strategy.</p>

B – What other options did you consider and why did you reject them and/or opt for this option?
<p>The proposed major developments on the island provide the County Council with a unique and unprecedented opportunity to contribute positively towards the socio-economic transformation of the island. The County Council wants to ensure that communities benefit directly from the use of their local resources and are compensated for the disruption and inconvenience during both the construction and operation (and ultimately decommissioning) of all major developments on the island.</p> <p>CBCs are essentially “goodwill” contributions voluntarily donated by a promoter/ developer for the benefit of communities hosting a development. They can be either monetary payments or activities upon which a value can be attributed for the improvement of communities affected by a development. CBCs provide a legitimate opportunity to pursue significant rewards from developers in recognition of the burden that their projects are imposing on the communities and locality hosting them. There is, however, no legal requirement upon a developer to offer CBCs i.e. they are discretionary/ non-statutory.</p>

Legal advice from Burges Salmon (provides of legal support to the County Council on all issues regarding the proposed major projects on the island) recommended the preparation of a Community Benefit Contributions Strategy to outline the Authority's approach to maximising the impact of CBCs to help achieve the realisation of the our legacy vision and aspirations; as well as support the island's sustainability and improve the quality of life for residents.

CBCs are distinct from, and should be kept separate from, payments or other mitigation secured through the statutory (Town and County) planning process. CBCs are not a mechanism to make a development acceptable in planning terms, and they are not taken in to account when determining an application for planning consent.

The CBC Strategy has been prepared to enable the County Council to establish and enforce a legally robust separation between all statutory and non-statutory functions, discussions, negotiations and decisions undertaken by the County Council. Processes have been established to ensure Members and Officers can deal with all non-statutory matters fairly and transparently, and without tainting any statutory discussions.

C – Why is this a decision for the Executive?

Discussing and negotiating CBCs is an executive function, and therefore adopting the draft CBC Strategy is the responsibility of the Executive Committee. Responsibility for progressing and negotiating CBCs has been delegated to the Chief Executive and the Leader in consultation with the Economic Development Portfolio Holder (ref: Previous Executive Committee decisions regarding the separation of statutory and non –statutory functions in relation to the proposed Nuclear New Build at Wylfa [19th November 2012] and Other Major Developments [14th January 2013]).

The Head of Economic and Community Regeneration has also received delegated authority to assist the Chief Executive and the Leader in relation to CBCs. To ensure that CBC discussions and negotiations are kept completely separate from the statutory planning process, the Head of Economic and Community Regeneration and relevant members of his Service will be dealing directly with the Chief Executive and others involved in CBC discussions/decisions.

CH – Is this decision consistent with policy approved by the full Council?

The County Council's ability to consider and progress provision for CBCs derives from Section 2 of the Local Government Act 2000, which enables the County Council to undertake any activity to the promote or improve of the economic, social or environmental well-being of the Island.

D – Is this decision within the budget approved by the Council?

All CBC activities are being undertaken in line with the Economic and Community Regeneration Service's core budget.

DD – Who did you consult?		What did they say?
1	Chief Executive / Strategic Leadership Team (SLT) (mandatory)	The Chief Executive has contributed heavily to the preparation of the draft Strategy to ensure that its purpose and focus are both realistic and achievable, whilst ensuring sufficient flexibility to ensure Anglesey's communities can fully capitalise upon all benefits from the proposed major projects.
2	Finance / Section 151 (mandatory)	No comments
3	Legal / Monitoring Officer (mandatory)	No comments
4	Human Resources (HR)	No comments
5	Property	No comments
6	Information Communication Technology (ICT)	No comments
7	Scrutiny	
8	Local Members	The draft CBC Strategy has been presented to an informal meeting of the Executive Committee and their comments on its content and scope (in particular in relation to the principles of CBCs and the need for the whole of Anglesey to be recognised as a major project host community) have been incorporated in the draft.
9	Any external bodies / other/s	<p>The draft Strategy has been consulted upon with all the promoters/ developers of major projects proposed on Anglesey. Their feedback has centered upon the affordability of CBCs; the need for robust and transparent CBC governance, as well as ensuring sufficient recognition for developers that provide CBCs.</p> <p>Consultation has also been undertaken with the Department for Energy and Climate Change and the Welsh Government to ensure synergy and alignment with emerging policies and guidance.</p> <p>Consultation with community orientated organisations on the island has shown support for the County Council to lead on CBC negotiations with developers.</p> <p>Consultation with Energy Island Programme's Advisory Board and Developers Forum has shown support for the preparation of the strategy.</p>

E – Risks and any mitigation (if relevant)		
1	Economic	The draft Strategy has been prepared with support from Burges Salmon to ensure it is sufficiently ambitious, robust and lawful so that appropriate benefits can be secured from the major project developers to contribute towards the island's socio-economic transformation.
2	Anti-poverty	The Strategy will ensure that the island's socio-economic interests and needs are adequately represented, with CBC funding being used to support activities to reduce poverty and improve quality of life.
3	Crime and Disorder	Improving community cohesion will be integral to the effective use of CBCs funds on Anglesey.
4	Environmental	CBCs are a legitimate mechanism to secure funding to compensate communities that will experience long-term impacts on their local environment. Any implications for the Council's statutory duties under the Countryside and Rights of Way (CRoW) Act, 2000 and the Natural Resources and Rural Communities (NERC) Act, 2006 will be considered as projects are developed.
5	Equalities	The County Council is committed to consistent, equitable and transparent approach to securing maximum CBCs from the major projects so that Anglesey's unique socio-economic needs and sensitivities can be addressed.
6	Outcome Agreements	
7	Other	A glossary of CBC terminology is being prepared to ensure common understanding between all stakeholders.

F - Appendices:
Draft Isle of Anglesey County Council Community Benefit Contributions Strategy

FF - Background papers (please contact the author of the Report for any further information):

Executive Committee Report (19th November 2012) – Separation of functions in relation to proposed nuclear new build development at Wylfa
<http://democracy.anglesey.gov.uk/ieListDocuments.aspx?CId=134&MId=2137&Ver=4&LLL=0>

Executive Committee Report (14th January 2013) – Separation of statutory and non-statutory functions (Other Major Developments)
<http://democracy.anglesey.gov.uk/ieListDocuments.aspx?CId=134&MId=2196&Ver=4&LLL=0>



**Isle of Anglesey County Council's
Community Benefit Contributions Strategy**

**February 2014
Economic & Community Regeneration**

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Foreword

To be completed once draft document approved/ endorsed

1) Introduction

The Isle of Anglesey County Council (IACC) is committed to securing Community Benefit Contributions (CBCs) for Anglesey's communities and citizens from all major developments on the island.

It is the County Council's intention to seek funding and/or in-kind contributions from all developers whose projects will have a long-term impact on the local environment.

This Strategy has been prepared to outline the IACC's approach to maximising the impact of CBCs to help achieve the realisation of the County Council's legacy vision and aspirations. The Strategy will also provide guidance for the island's communities and developers about the IACC's expectations in relation to CBCs. Our Strategy will be applicable to CBCs secured from both the public and private sectors.

The proposed major developments on the island provide the IACC with a unique and unprecedented opportunity to contribute positively towards the socio-economic transformation of the island. Major developments are large-scale projects that have the potential to bring significant benefits and impacts to Anglesey and its communities for a number of years.

The proposed major projects on the island currently include:

- Horizon Nuclear Power's new nuclear build at Wylfa;
- Celtic Array offshore wind farm;
- Upgrading of National Grid's electricity transmission network;
- Land & Lakes' leisure and housing development in Holyhead;
- Lateral Power's biomass plant in Holyhead;
- Decommissioning of Wylfa nuclear power station (Magnox);
- Marine Current Turbines' tidal array off the North West coast of Anglesey.

The IACC wishes to ensure that communities benefit directly from the use of their local resources and are compensated for the disruption and inconvenience during both the construction and operation (and ultimately decommissioning) of all major developments on the island.

The County Council is determined to enable and assist the island's communities to fully capitalise upon all benefits associated with the proposed major projects on Anglesey; as well as counter any negative socio-economic effects arising from sustained demands on the island's resources.

The IACC will be proactive, consistent and transparent in its approach to CBCs and this Strategy will apply to all major projects on Anglesey. This approach will ensure that all opportunities to secure improvements to the Island's quality of life from the proposed private sector investment are fully capitalised.

2) What are Community Benefit Contributions?

CBCs are essentially “goodwill” contributions voluntarily donated by a developer for the benefit of communities hosting a development which will have a long-term impact on local resources and/ or the local environment. They can be either monetary payments or activities upon which a value can be attributed for the improvement of communities affected by a development (during their operation, construction and decommissioning).

CBCs are often made by developers of major projects - in particular renewable energy proposals. For example, in Scotland it is common practice for CBCs to be negotiated with offshore wind developers (consisting of an annual payment based on a levy on each kilowatt hour of electricity generated over the lifetime of the project).

The UK Government has recently announced proposals in relation to CBCs for sites that are to host new nuclear power stations. The IACC is currently engaging with the Department of Energy & Climate Change and Welsh Government to ensure appropriate benefits are secured for communities on Anglesey in recognition of the role they are to play in future national power generation. The IACC does not believe that these proposals represent the totality of the CBCs for Anglesey from the new nuclear power station, and we expect the developer/ promoter to create additional benefits for the island during the lifetime of their major project.

Given the scale, significance (national in some instances) and potential impacts of the proposed major projects on the island, the IACC will seek to secure CBCs from all promoters/ developers. CBCs provide an opportunity for the IACC to maximise local benefits and impacts from major developments **to support the long term sustainability, quality of life and wellbeing of the island and its communities.**

There is no legal requirement upon a developer to offer CBCs i.e. they are voluntary/ non-statutory. As a result, the IACC has no powers of enforcement if a developer is unwilling to make a contribution.

Given that CBCs are discretionary, the IACC readily acknowledges that that they must be seen by developers to be affordable in terms of the overall costs and profits of their projects over their lifetime. Therefore the timing of any negotiations, and the securing of any CBCs, will be critical to the successful implementation of this Strategy.

3) The role of the Isle of Anglesey County Council in securing Community Benefit Contributions

In carrying out its function of community leadership, the IACC can lead, influence and support all organisations and stakeholders to work towards common goals to support the island's sustainability, improve the quality of life, contribute towards socio-economic transformation and ensure local community interests are fully understood and recognised by all developers of major projects.

To meet its strategic priority of “**regenerating its communities and developing the economy**”, the IACC will lead upon the negotiation of CBCs with developers on behalf of the island's communities and residents, to meet the particular and unique needs and sensitivities of Anglesey. The County Council will not be responsible for the distribution of the CBCs – See Section 8.

The IACC's ability to consider, negotiate and enter into arrangements making provision for CBCs derives from Section 2 of the Local Government Act 2000, which enables the County Council to undertake any activity it considers achieves the promotion or improvement of the economic, social or environmental well-being of the Island.

The IACC is eager to maintain a positive and long term relationship with all promoters of major developments on Anglesey - during the development, construction and operation of their projects. We believe that we are the most appropriate organisation to conduct CBC discussions and negotiations on behalf of the island given that:

- We can capitalise upon existing relationships with developers to secure appropriate CBC packages;
- We fully appreciate and understand the nature and scale of the island's social, economic and environmental needs and aspirations;
- We have existing links with the island's communities which can be utilised to effectively distribute CBCs to maximise positive impacts and benefits;
- We have a thorough understanding of all the proposed major projects (i.e. their scope and likely operational timescales) to determine when best to approach developers given the potential commercial sensitivities of CBCs;
- We possess the required capability, knowledge, mechanisms and resources to enter into (potentially lengthy) CBC negotiations and secure appropriate agreements with developers, as well as administer robust and effective CBC delivery structures;
- We can emphasise to developers the relationship between CBCs and their corporate social responsibilities.

It is important to note that all discussions with the IACC relating to CBCs are completely separate and distinct from all statutory discussions and decision making, in particular the Town and Country Planning process. The County Council will establish and enforce internal processes to ensure a legally robust separation between all statutory and non-statutory discussions, negotiations and decisions. A summary of these arrangements are outlined in our Community Benefit Contributions External Protocol (See **Annex A**).

CBCs are not a mechanism to make a development acceptable in planning terms, and they are not taken in to account when determining an application for planning consent. No Councillor or Officer involved in any discussions or negotiations in respect of a CBC will be permitted to participate in the land use planning (decision making) process that corresponds to that development.

CBCs are an evolving area of work for local government within the UK, and the IACC is committed to learning and benefitting from experiences elsewhere to ensure that the island and its communities fully capitalise upon all opportunities associated with the proposed major projects.

The IACC's CBC activities will be undertaken in line with its Non-Statutory Community Benefit Routemap (**Annex B**).

4) A Summary of Anglesey's Socio-Economic Needs

The IACC has collated evidence of Anglesey's socio-economic needs and sensitivities in order to demonstrate how CBCs can add significant value to existing activities and interventions. The County Council believes that the process of securing CBCs will require an appropriate depth of evidence to demonstrate to developers how they can contribute towards achieving the IACC's emerging legacy framework and meet the specific requirements of Anglesey and its communities. CBCs can make a significant contribution to the IACC achieving its aspiration of ensuring that all major projects have a positive and transformational legacy effect on Anglesey.

Anglesey has long suffered from a fragile, peripheral and declining economy, with significant pockets of socio-economic deprivation, which has resulted in:

- Declining levels of GVA (60.5% of the national UK average);
- High levels of youth unemployment (10.7% of 18-24 year olds);
- High levels of economic inactivity (22.7% of the working age population)
- High levels of youth out-migration and an ageing local population;
- A high percentage of the working population receiving incapacity benefits;
- A continued low level of new business formation (6.5% in comparison to the Welsh rate of 7.8%);
- An over reliance on public sector employment opportunities;
- Significant numbers of children living in poverty (19.5%);
- A high prevalence of health inequalities;
- High levels of private households living in fuel poverty (34.9%);
- Variations in the number of people who speak Welsh in the communities on Anglesey (with over 70% located in the centrally located communities whilst the coastal communities have only 40% Welsh speakers).

The recently completed *'Economic overview of the Isle of Anglesey – A data analysis of the Island'* (Local Government Data Unit Wales, May 2013) outlines the nature of the island's specific needs and challenges in greater detail.

The Isle of Anglesey Single Integrated Plan 2013-2025 identifies the following issues as having the greatest effect on the island's communities:

- Improving economic performance and skills to create/ and sustain jobs;
- Enabling communities and individuals to maintain and develop their independence;
- Ensuring opportunities exist for young people to remain on the Island to live and work;
- Meeting the needs of individuals and communities with less available public money;
- Reducing poverty and providing effective services that meet the needs of vulnerable groups;
- Promoting and sustaining our environment and rich culture.

5) Anglesey's Community Benefit Contribution Priorities

The IACC is committed to ensuring that all communities benefit directly from the use of their local resources and environment by all major projects on Anglesey.

It is the County Council's intention for all CBCs secured from developers of major projects to be used to maximise long term benefits for Anglesey's communities – through supporting the island's sustainability, improving the quality of life and contributing towards socio-economic transformation. In order to meet local needs, the IACC anticipates that the funds will be utilised for initiatives which improve the well-being of citizens and which support thriving and prosperous communities. Indicative actions include:

- Investing in young people by promoting skills development and apprenticeship opportunities;
- Supporting services which improve community cohesion and the quality of life;
- Making investments which contribute to sustainable development;
- Promoting and enhancing local identity, distinctiveness and culture;
- Providing resources for citizens to pursue the low Carbon agenda through community based energy efficiency measures;
- Meeting present and future socio economic challenges by piloting innovative interventions;
- Providing means of alleviating disadvantageous circumstances amongst aspiring individuals and groups.

These priorities have been identified based upon an analysis of the island's requirements and sensitivities (see Section 6), and the administration of CBCs will be based upon a clear demonstration of need.

In recognising the importance of CBCs to the future sustainability of the island, the IACC is determined that they should be seen as additional to, rather than a substitute for, existing financial public sector support for the Authority and the island (and will not be used to offset any decrease in the Authority's future budgets).

The CBC Strategy and Policy will be applicable to CBCs secured from both the public and private sectors.

The IACC will also consider all opportunities to apply its CBC policy to attract and lever in appropriate match funding from European Union, United Kingdom and Welsh Government funding programmes.

6) Coverage of Community Benefit Contributions on Anglesey

Given the number, scale and significance of the proposed major projects, together with the unique geographical characteristics of the island, the whole of Anglesey is considered by the IACC to be a major project host community. In this context, local is therefore defined as island-wide, and any CBCs we secure will be available for distribution across Anglesey.

By adopting this approach to the coverage of CBCs, the IACC is attempting to overcome potential difficulties in distributing funds with regard to potential physical, environmental and social constraints and circumstances.

The IACC is fully committed to a transparent, flexible and equitable approach to CBCs, and recognises the need for CBCs to support activities that can deliver tangible and sustainable benefits for the whole of the island (whilst recognising that some projects may impact some parts of Anglesey more than others). The IACC acknowledges that some developers may expect the distribution of CBCS to adopt a proximity principle to reflect potential localised impacts and ensure that any community funds are targeted at the area impacted (e.g. within a specific distance from a major project). The IACC, in consultation with relevant stakeholders, will consider these requests if and when they arise.

7) The County Council's 'Community Benefit Contributions' Policy

The Isle of Anglesey County Council will endeavour to secure appropriate Community Benefit Contributions from all developers of major projects that will have a long-term impact on the island's communities, resources and/ or the environment.

Community Benefit Contributions provide a legitimate opportunity to pursue significant rewards (be it financial and/or in-kind contributions) from developers in recognition of the burden that their projects are imposing on the communities and locality hosting them.

Community Benefit Contributions will be used to maximise positive benefits and impacts from all major projects on the island to contribute towards socio-economic transformation, together with an improvement in the quality of life and sustainability of its communities and residents.

The whole of Anglesey is considered to be a major project host community, and any CBCs secured by the IACC will be available for distribution across the island.

The distribution of CBCs will be based upon clear evidence of need within the local community, together with a demonstration of how the CBCs will contribute to local requirements being met.

In applying this policy, the IACC will:

- Demonstrate a commitment to securing significant benefits for Anglesey as a host for a number of major developments;
- Improve and maintain positive and long term relationships with each major project developer to maximise positive social, economic and environmental impacts;
- Encourage and sustain a positive and long term relationship with all promoters of major developments on Anglesey
- Observe a consistent, equitable and transparent approach to securing CBCs from all major project developers and ensure all CBC negotiations and decisions are robust and lawful;
- Encourage developers to recognise our Policy regarding CBCs and encourage them to negotiate directly with us to secure the greatest level of benefits possible for the improvement of the island;
- Ensure that the island's community interests and needs are adequately represented;
- Highlight the links between CBCs and each developer's corporate social responsibilities;
- Capitalise upon all opportunities for CBCs to contribute towards a long lasting, positive legacy from all major developments.

This policy has been developed to ensure the IACC follows a consistent approach to CBCs for the benefit of both communities and major project developers. In terms of the island's communities, the Policy will enable the IACC to seek and secure maximum benefits to contribute towards positive and meaningful social, economic and environmental improvements. Communities should be assured that CBCs will be sought in relation to their needs and requirements, whilst they will also not be required to enter into direct negotiations, on their own behalf, with developers. The policy should also provide communities with reassurance that the principles of CBCs will be applied and distributed fairly, with CBCs shared appropriately across the island.

With regard to developers, the Policy removes any uncertainty regarding the IACC's approach to CBCs, as well as any requirement for entering into any protracted CBC negotiations with communities. Developers should be confident that all the IACC's CBC decisions will be transparent and lawful, and that the County Council has appropriate governance structures to co-ordinate the distribution of CBCs on behalf of the island's communities and residents.

The County Council acknowledges the need to apply its policy in a manner that recognises that securing CBCs from the proposed major projects may only occur once they become operational; whilst some projects may be of a research and experimental nature only and CBCs may only become applicable once the technology becomes commercially viable.

8) Administration and Distribution of Community Benefit Contributions

The County Council will establish (with appropriate stakeholders) an appropriately constituted 'Community Benefit Contribution Fund Holding Body' to distribute and allocate all CBCs across Anglesey.

The exact nature and scale of the CBC Fund Holding Body will need to be agreed following discussions with all relevant stakeholders (both internally and externally). However the IACC does not anticipate that it will be alone responsible for the distribution of CBCs and we recognise that the Fund Holding Body will consist of an element of independent operation separate from the County Council.

The IACC intends to work with relevant community focussed organisations to ensure that CBCs are allocated to the right communities to support appropriate activities (based upon a clear evidence of need).

The IACC anticipates that it will need to formally engage with stakeholders and the local community on its preferred CBC distribution processes and mechanisms.

The IACC is committed to ensuring that all CBC allocations will be based upon the principles of local accountability and transparent, equitable decision making.

To reflect the robust separation of the IACC's statutory and non-statutory activities, the Authority's Chief Executive and Leader have been delegated authority to enter into discussions and conduct negotiations with developers regarding CBCs. The Economic Development Portfolio Holder and the Head of Economic and Community Regeneration will provide assistance and support to them, when required.


The IACC fully recognises that the successful implementation of this Strategy will require support from the major project promoters/ developers. The IACC will seek to agree CBC Memorandums of Understanding with each major project developer as part of their discussions and negotiations. Integral to the Memorandums of Understanding will be the need to ensure sufficient recognition for developers of any CBCs that are provided/ secured; to demonstrate the robustness of all CBC governance arrangements and to complement each developer's corporate social responsibilities.

All CBC activities will be undertaken in line with the IACC's CBC External Protocol and Non-Statutory Route Map (**Annexes A and B**).


The IACC's involvement in the process of administrating CBCs funds on Anglesey will be reviewed regularly to ensure that the Authority is contributing towards the island's socio-economic transformation; supporting the island's sustainability and improving the island's quality of life.

9) Community Benefit Contributions – County Council Point of Contact

Any person who considers that it would be appropriate to discuss CBCs with the County Council should contact the Head of Economic and Community Regeneration, Dylan Williams, in the first instance:

 Dylan J. Williams
Head of Economic and Community Regeneration
Isle of Anglesey County Council
Anglesey Business Centre
Bryn Cefni Business Park
Llangefni
LL77 7XA

 DylanJWilliams@anglesey.gov.uk

 01248 752435

All CBC communication with developers, communities and stakeholders will be undertaken in line with the IACC's Community Benefit Contributions External Protocol (**Annex A**).

Annex A

Isle of Anglesey County Council Community Benefit Contributions External Protocol

1 Introduction

- 1.1 The Council has put in place internal arrangements to ensure that it is able to deal separately with:
- (a) applications falling within the statutory planning process; and
 - (b) any discussions or negotiations that it may enter into with developers promoting such applications in relation to Community Benefit Contributions (CBCs),
- 1.2 Officers and Members of the Council are familiar with the arrangements which have been put in place. The purpose of this Protocol is to ensure that any person considering bringing forward development proposals in the Council's area, or offshore development adjacent to that area, are aware of why these arrangements are necessary and how they might impact on them.

2 What is the difference?

The Statutory Planning Process

- 2.1 The Statutory planning process effectively covers the legal framework through which projects are given planning consent. Within that process, mitigation related to the environmental, community and economic impacts of a proposed development (which may include monetary contributions) may be given. These will either be to address the direct mitigation of impacts of the development or they will comprise other benefits where there is an identifiable link with the development. These benefits would be secured through the use of planning conditions and planning obligations under the Town and Country Planning Act 1990 and related legislation.

Community Benefit Contributions

- 2.2 CBCs are monetary payments or other actions that might have a value attached to them by a developer for the benefit of communities hosting a development (such contributions are often made by developers in the energy sector). CBCs are separate and distinct from the planning process. They are not a material consideration which can be taken into account in determining whether to grant consent or to respond positively or otherwise to a consultation request. Any payment made is not designed to cover the direct effects of the development and they cannot properly be judged to be necessary to make a development acceptable in planning terms.
- 2.3 The Council is able to consider, negotiate and enter into arrangements making provision for Community Benefit Contributions. However, they are distinct from and should be kept separate from payments or other mitigation secured through the statutory planning process.

3 Why is this distinction important?

- 3.1 The Council anticipates that a number of applications for development consent under the Planning Act 2008 for development comprising Nationally Significant Infrastructure Projects (NSIPs) will be made in and around Anglesey. Such applications will be made to the Secretary of State (who is the determining body for such applications). However, given that such developments would be located primarily in (or adjacent to) the area for which the Council is the local planning authority, the Council will be an important consultee in respect of such applications.
- 3.2 Additionally, the Council may receive applications for planning permission for other development proposals associated with, but not integral to, any proposed NSIP application. As with any other application for planning permission, the Council would be the consenting body in relation to those applications.
- 3.3 Submissions of planning applications to the Council (whether or not such applications are associated with an NSIP application), and / or the submission of a development consent application to the Secretary of State, will give rise to the consideration of planning issues by the Council as part of the statutory planning application / development consent process. These will include consideration of any planning obligations that a developer may be required to enter into in relation to the development proposed within a section 106 (of the Town and Country Planning Act 1990) agreement or unilateral undertaking.
- 3.4 Any such application may also give rise to discussions in relation to payments which, whilst related to the delivery of the proposed development, will be unconnected to the statutory planning process (Community Benefit Contributions). In order to be able to deal with these matters fairly and transparently and without one process tainting the other, it is important for each to be dealt with separately.
- 3.5 Further guidance in this area is available in the two documents available from the Council, entitled *The Statutory Community Benefits Routemap* and *The Non-Statutory Benefits Routemap*.

Expectations of developers

- 3.6 The Routemaps referred to above give greater guidance on how the area of community benefits is intended to operate and the role that Developers are anticipated to play within it. This includes descriptions of the sort of material that will be looked for by the Council to support any proposal made by a developer in respect of community benefits of any type.
- 3.7 This protocol is intended to give guidance to Developers on the approach they should adopt in terms of who they should expect to be communicating with on either type of community benefit.

Expectations of other stakeholders, including the public

- 3.8 Where stakeholders outside of the Council and Developer wish to participate in the process this protocol similarly gives guidance on who they should expect to be in communication with.

Availability of information

- 3.9 For any party, developer or other stakeholder, the expectation of what information will be available on any on-going process relating to community benefit discussions, it should be assumed that disclosure by the Council will be guided by
- (a) Written reports to the committees referred to below, intended to be available for public inspection, being made available as and when it appears appropriate to the officers and members to do so (in accordance with the Local Government Act, any Committee consideration made with the public excluded will only occur when the justified by the nature of the material to be considered)
 - (b) And in all other respects as regulated by the Council's duties under the Freedom of Information Act.

4 Dealing with community benefit?

Who deals with Community Benefit Contributions?

- 4.1 The function of discussing and negotiating CBC is an executive function and therefore the responsibility of the Executive. The function of discussing and negotiating CBCs has been delegated to the Chief Executive and the Leader in consultation with the Economic Development portfolio holder.
- 4.2 The Head of Economic & Community Regeneration has received delegated authority to assist the Chief Executive and the Leader in relation to this function.
- 4.3 Any person who considers that it would be appropriate to discuss CBCs with the Council should contact the Head of Economic & Community Regeneration, Dylan Williams, in the first instance.

Who oversees the Council's CBC functions?

- 4.4 CBC is an Executive function and therefore decisions fall to the Executive.
- 4.5 The Partnership and Regeneration Scrutiny Committee is the scrutiny committee for those decisions.

5 Dealing with statutory planning processes

Who deals with the Statutory Planning Process?

- 5.1 Decisions made in connection with planning applications are the responsibility of the Director of Sustainable Development and take place within the Sustainable Development Directorate.
- 5.2 The statutory planning process includes any involvement with planning applications made to the Council (including pre-application advice), whether in determining those applications or discussing planning obligations (section 106 obligations) in relation to such applications.

- 5.3 The statutory planning process also includes any involvement by the Council in relation to an application which is to be made (or has been made) to the Secretary of State for development consent for a NSIP. The Council may submit consultation responses and other written submissions before and during the examination of any such application. All such responses will be part of the statutory planning process.
- 5.4 Key Officers involved in the planning process include:
- (a) the Head of Planning and Public Protection;
 - (b) the Chief Planning Officer;
 - (c) and the Head of Environment & Technical Services
- 5.5 All Officers within teams supporting these key Officers are also involved in the statutory planning process.

Who oversees the Council's planning functions?

- 5.6 The Planning and Orders Committee is responsible for decision taking in connection with development consent and planning applications for development in or adjacent to Anglesey.
- 5.7 The scrutiny of those decisions falls within the remit of the Corporate Scrutiny Committee.

6 What does this mean for me?

- 6.1 The arrangements which have been put in place ensure that any Member or Officer of the Council involved in the statutory planning process is not able to discuss the subject of CBCs with anyone proposing such contributions or vice versa.
- 6.2 If you are involved in any development proposals where both the statutory planning process with CBCs are likely to be relevant and you consider that it would be appropriate to discuss CBCs with the Council, you should contact the Head of Economic & Community Regeneration, Dylan Williams, in the first instance.

Annex B

Isle of Anglesey County Council Non-Statutory Community Benefit Routemap

1 The purpose of the non-statutory legacy routemap

- 1.1 This document attempts to distil elements of good practice in relation to Community Benefit Contributions ("CBC's"). It is not intended as a policy document to be adopted by the Council, but rather to guide officers, members and stakeholders in the development process outside of the Council in how best to approach the issue of CBCs.
- 1.2 Inevitably this document requires some definition of terms, but it is not intended to provide a full commentary on the law and practice relating to CBCs and to offer only sufficient contextual material to allow the good practice principles it identifies to be clearly understood.

2 CBC defined

- 2.1 For the purposes of this guidance, statutory community benefit is that which is a material consideration in the development consent decision process and non-statutory community benefit are offers that are not material in that process. In this guidance non-statutory benefits are being addressed and referred to as CBCs
- 2.2 In the statutory context a developer may conclude that an offer of community benefit is a means by which something that would otherwise be a legitimate planning objection to a grant of development consent could be overcome.
- 2.3 In the statutory context a developer may also offer community benefit where, although the offer is not directly needed to overcome what would otherwise be a legitimate objection, there is still a sufficient link between the offer and the development to enable the decision maker to attach such weight as they see fit to that offer of community benefit.
- 2.4 Outside these classes, where the decision maker will not take into account that offer when deciding on the grant of the development consent it will be for the developer to consider whether it sees any reasons for making such an offer but those reasons may include the creation of a more positive environment in which its development aspirations could be achieved or in addressing a need within a local community as a proxy for addressing some impact from its development that is incapable of fully effective mitigation. These are offered only as examples and not intended as a complete list of reasons developers may have.
- 2.5 In no case can a determining authority, be it the Secretary of State for a Nationally Significant Infrastructure Project or local planning authority under the Town and Country Planning Act require that any offer of community benefit is made either in a statutory or non-statutory context but at the instigation of a developer there can be a role for both types of community benefit in infrastructure planning.

Securing mechanisms

- 2.6 In this sphere reference is often made to mechanisms such as section 106 planning obligations (either bilateral agreements or unilateral undertakings), to planning

conditions and to other forms of binding contractual arrangements not necessarily within formal planning legislation.

- 2.7 Reference to these mechanisms are to means by which an offer of community benefit, be it statutory or non-statutory, can be put into a form where it is legally enforceable at some future time. These securing mechanisms do not of themselves offer any justification for the use of such a mechanism or for the extent of works or payments that may be secured under them.

Administrative mechanisms

- 2.8 Should an offer of community benefit be taken up, both developer and representatives of the local community will want assurance that any resources being committed to community benefit objectives will be administered in an open, transparent and legitimate way that allows those objectives to be linked closely into the mechanisms that will be used to administer the benefits.
- 2.9 Here, simple securing mechanisms, such as planning conditions, will often not go far enough to provide sufficient control processes to respond to unforeseen events or allow for the management of funds required, either in holding substantial sums of money or in supervising the distribution of them. The high level of transparency needed in the administration of these funds, requires clearly understood and reliable mechanisms to ensure that transparency.
- 2.10 Structures such as community interest companies and asset locking provisions are examples of means by which practical connection is made between those resources and the distribution of the resources to achieve the community benefit objectives intended and certainty over future management of funds can be assured.

3 Justification for the use of community benefit contributions (CBCs)

- 3.1 A common theme of successful community benefit structures is that they tap in, effectively, to some element of need in the communities that they serve. Where there is a genuine need for assistance within a community an offer which effectively delivers a solution in whole or in part to that need is very likely to be valued by both the community and by community representatives who need to administer that community benefit.
- 3.2 In that way, whether an offer of community benefit is prefaced by a developer identifying a need within a community or the community representatives itself setting need within its community and clearly articulating in a report tied to an appropriate evidential base that clear identification of need will be of assistance to both developer and community representatives.

The dividing line between statutory and non-statutory benefit

- 3.3 Attempts in practice to apply very rigid distinction between statutory community benefit and non-statutory community benefit before any discussion on the issue can commence often serve neither the interests of a developer or of a local community. Demand that either a developer or decision maker or statutory consultee "proves" that community benefit is required will often lead to an inability of a decision maker to present a conclusive argument to that end but at the same time for a developer to similarly be unable to conclusively prove that no harm will arise from this development.

- 3.4 Ultimately the decision of allocation of a community benefit offer between statutory or non-statutory community benefit may be more directed by a risk analysis of where the available supporting information most likely suggests the benefit should be taken account of, than it will be by the ability conclusively to show where such an offer should be considered.
- 3.5 Developers have latitude over where they offer community benefit and it is fundamentally in the hands of a developer whether they opt to go beyond the heading of statutory community benefit. In doing a developer is far more likely to be inclined to do so if it is appraised of good evidence on need within the local community and constructive proposals to achieve effective meeting of that need.
- 3.6 There are existing structures relating to the formal identification of need such as the evidence gathering to support charging structures for community infrastructure levy. Authorities are not limited to developing need evidence by those statutory processes and can look to wider initiatives to provide that source material for assessment of need, either from within the authority itself, from prospective developers or from other agencies or interest groups.
- 3.7 It may be possible to approach the identification of that need by an extension of the socio-economic impact appraisal that is looked for in the statutory planning process, which might be represented this way :
- (a) Identification of sensitivities and needs in the local population/area
 - (b) assessment of the positive or negative effects of the proposed development on those sensitivities and needs
 - (c) assessment of the inward investment effects of the proposed development
 - (d) invitation of developer initiatives to target CBC towards alleviating local need not otherwise addressed by the development itself or to supplement and make more robust the delivery of anticipated benefits from the development.
- 3.8 In the above analysis items 1 to 3 fall mainly within the scope of the statutory planning process, but item 4 will be more the ambit of CBC, outside of the statutory process.
- 3.9 The importance of IACC fully understanding its socio-economic needs and sensitivities cannot be over-stressed here, in terms of substance that will add to the whole process described above. Initiatives within the Council, self-funded or developer-funded that increase the quality of the baseline knowledge in this field should be viewed in the light of the value they could add to identifying CBC initiatives that achieve the highest returns for both community and developer.
- 3.10 The assessment of impacts of any development proposal should include a recognition of the contributory effects it may have with other major developments in the future. This might be an area upon which consideration from a CBC perspective leads to a different result to the consideration of cumulative impacts within the statutory planning process. The latter tends to be limited to a relatively narrow definition focussed around the definition of "the scheme" for the purpose of environmental assessment. In the CBC context there is more scope for recognition of the part that a development could play in the longer term future of the Island, even if the future scenarios being considered are beyond what would be considered under environmental impact assessment.

- 3.11 The interest in establishing a "lifelong relationship" between IACC and any development in respect of which CBC is being contemplated should be stressed. "Lifelong" in this context means at all stages of the involvement of IACC, pre-planning consent, pre-development commencing, during construction and during operation. Changes in use anticipated during the life of the development may be of particular importance. Decommissioning may also be important, although in some cases possibly considered to be so remote as to be of lesser importance.
- 3.12 It follows that the statutory determination timescale of any planning applications, whilst notable as a milestone in the life cycle of the development, does not have central importance to CBC negotiation, which will be managed and considered by IACC to a separate timescale.

Avoiding unintended or unsustainable results from CBCs

- 3.13 Developers may be particularly concerned in respect of CBC funds, over which there is inadequate future control to avoid unintended adverse consequences arising from the offer of the community benefit. A number of examples exist of very specific restraints on how community benefit funds may be distributed. These have included the imposition of the developers own socio-economic policies (where they have them) such that the operation of the community benefit fund broadly complies with the objectives of the organisation that is funding the community benefits.
- 3.14 The better the research underlying the offer of community benefit and the better it has been negotiated with community representatives to deal with specific need within the community, the less practical need there will be for restrictive policies preventing the use of funds for inappropriate purposes.
- 3.15 Similarly, the clearer the objectives set at the heart of the community benefit proposal the less likely that the funds will prove ineffective, for example by remaining unused, or by being allocated to short term or unsustainable projects or proposals which fail to achieve real improvement in conditions for the local population or result in community initiatives that are not self-sustaining but instead require constant economic support from a central capital fund.

4 Quantum

- 4.1 Community benefit can be looked at in simple terms of previous examples of quantum of payments and mechanisms for the management of payments that have arisen in different forms of development across the UK and wider.
- 4.2 Previous examples range from relatively small scale to multi-million pound payments.
- 4.3 There are trends within on-shore wind farm developments to offer annual payments calculated at a level of up to £5,000 per megawatt of installed capacity to be paid into some community administered fund (that have generally been treated as non-statutory benefits).
- 4.4 There are examples in the nuclear sector of (that have been treated as statutory community benefits) of between £20m and £50m arising from development proposals for e.g. preparatory works for new nuclear build, development of new nuclear build and extension of low level waste facilities.

- 4.5 Even greater payments have resulted in the oil and gas sector particularly related to North Sea offshore development.
- 4.6 Analysis of these figures is very unlikely to result in any form of rigid mathematical formula that allows an assessment in advance of the "right" amount of community benefit for any given infrastructure development. Offers of CBCs have generally not been made in the expectation that they will be treated as binding precedent for future developments. CBCs are rarely accompanied by any meaningful breakdown of how they were arrived at, making comparison with other development situations difficult.
- 4.7 What may be appropriate for one community by way of CBC may easily not be for another given the very different social and economic conditions experienced in different parts of the country.

Different means of adding value to CBCs

- 4.8 Rigid mathematical formulae directed solely at financial payments are also likely to miss the opportunities offered by other more creative means that a well thought out energy benefit proposal can offer which is addressing specific need within a community.
- 4.9 These wider, more creative, areas of consideration include the shaping of development proposal to include legacy benefits by design within the project. They may also include co-ownership proposals with community groups or partnership with local authorities or other stake holders who have valuable assets that can be legitimately incorporated into a development proposal with value being created for the asset owners and ultimately the local community through that means.
- 4.10 Again, quantification of the value of CBCs offered, whilst helpful to enable an accurate description to be made of them, does not lend itself to any tariff by which an appropriate level of community benefit through partnership can be required at an early stage in development proposal. In contrast, an open and engaging stance by the developer and Local Authority to the potential for such value creation is more likely to yield such opportunities which in the absence of the catalyst of the wider infrastructure development might simply never have occurred.
- 4.11 Again, early and effective negotiation between developer and community representatives is likely to be the best means to identify such opportunities and maximise value creation from within a project which may well be able to be structured to reduce the upfront of carrying cost of such benefit to the developer.

5 Community Benefit Route Map Guidance Principles

- 5.1 The following principles attempt to identify some themes from the above paper and from the wider consideration of CBCs generally. They are not intended to be a finite list, or to be read alone, but may assist as a synopsis of what is a complicated and intricate body of past and existing practice in community benefits as well as present legislation and policy.

5.2 These principles, would include the following:-

Process considerations

- (a) Community benefit can encompass both statutory and non-statutory (voluntary) CBC.
- (b) In any decision making context clarity should be given whether an offer has been treated as statutory or non-statutory.
- (c) The allocation between statutory and non-statutory benefits ought to be able to be agreed between a developer and decision making body, but there may be the need to accommodate any strongly held opinions of either party over whether the offer should be treated as a particular type of benefit.
- (d) The separation between CBC and the statutory determination process should be made clear.
- (e) Developers should know early on that IACC is serious about securing appropriate CBC in relation to particular types of development.
- (f) The legitimacy of what is being pursued should be made clear from the outset, with IACC willing to explain both to developer and any other interested party what is proposed.
- (g) Linkage of CBC to a "lifelong relationship" between IACC and a development means that the statutory determination timescale of a planning application, whilst notable as a milestone in the life cycle of a development, does not have primary relevance to CBC negotiation, which will be managed and considered separately by IACC.

Quantum considerations

- (h) CBC should wherever possible be specifically negotiated by reference to local conditions and directed to the needs of a community or area.
- (i) Wherever possible CBC should be tied to specific evidence of local need with clear objective on how the community benefit is intended to be directed to meeting that need.
- (j) The importance of initiatives, Council-funded or developer-funded that assist IACC fully understanding its socio-economic needs and sensitivities cannot be over-stressed here, in terms of substance that will add to the whole CBC process.
- (k) The expectation is that the developer will constructively engage with this process and be a main contributor to the evidence supporting this process as well as formulation of CBC proposals.
- (l) Clearly identified objectives at the outset should minimise the need for restrictions on the use of CBC funds.
- (m) Pre-determined formulae for the calculation of CBC are unlikely to achieve favour with either developer or local authority and close and collaborative negotiation are better means of achieving results which all parties find acceptable.

- (n) A premium should be set on directing CBC towards efficiency and sustainability in economic terms and the creation of further economic benefits that reduce the instances of funds being committed to, or eaten up by, projects which have no reasonable prospect of achieving economic self-sufficiency without on-going reliance on external funding.
- (o) CBC should be seen as more than just financial contribution and can take account of factors such as design changes that create local value, tangible steps to maximise local benefit from supply chain for projects and partnership with local authorities and other bodies to share benefits that result from development.
- (p) CBCs may have a particular focus towards alleviating local need not otherwise addressed by the development itself via the statutory benefits process or to supplement and make more robust the delivery of anticipated benefits from the development.

CBCs offer greater opportunity to recognise and act upon the contributory effects a proposal may have with other major developments in the future than is the case for the consideration of cumulative impacts within the statutory planning process.