

Report

Planning Committee

Part 1

Date: 4 November 2015

Item No: 6

Subject **S106 Planning Obligations and City Centre Residential Development**

Purpose The purpose of this report is to inform Members of the progress of residential development within the city centre (with associated S106 planning obligation requirements).

Author Planning Contributions Manager

Ward All

Summary At present, very few residential developments (with associated S106 planning obligations) have been implemented in the city centre. Section 106 planning obligation requests are contributing to making development unviable. This is verified by both the Three Dragons Viability Toolkit and the Community Infrastructure Levy Viability Appraisal (April 2015).

Proposal To note the level of delivery of residential development in the city centre (with associated S106 planning obligation requirements).

Action by Planning Committee

Timetable Not applicable

This report was prepared after consultation with:

- Head of Law and Regulations – Monitoring Officer
- Head of Finance – Chief Finance Officer
- Head of People and Business Change

1. Background

- 1.1 The following report summarises the level of delivery of residential development within the city centre (with associated S106 obligations) and the reasons for any reduced S106 obligations
- 1.2 S106 legal agreements generally require developers to either carry out works or contribute financially towards measures that mitigate the impact of the development i.e. to make an unacceptable proposal acceptable in land use planning terms. However, economic viability is a key influence on the potential scope and scale of planning obligations. As such, viability becomes an important material consideration in S106 negotiations.
- 1.3 In recent years, it has not been possible for town centre residential developments to meet all the S106 planning obligation requirements and remain economically viable. Consequently, decisions on the level of S106 contributions have been based on reduced sums that can be demonstrated as reasonable.

2 Financial Summary:

- 2.1 'Value for money' is defined as the relative cost to the Council (from loss of S106 planning obligation contributions) against optimising the outcomes of town centre regeneration.
- 2.2 Historically, S106 planning obligation contributions for town centre developments have secured an average of £2,000 per dwelling (as opposed to a Newport-wide average of £5,000 per dwelling). It is considered that the 'added value' toward city centre regeneration would outweigh the benefits from these 'below average' commuted sums.

3. Risks:

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Loss of income from S106	L	H	<ul style="list-style-type: none">• 'Added value' toward city centre regeneration outweighs the benefits	Planning Contributions Manager

* Taking account of proposed mitigation measures

4. Links to Council Policies and Priorities

- 4.1 Planning obligations and city centre regeneration helps underpin the Council's Corporate Plan (2012-2017) and its five corporate aims:
 - Being a Caring City;
 - A Fairer City;
 - A Learning and Working City;
 - A Greener and Healthier City;
 - A Safer City.
- 4.2 Planning obligation contributions and city centre regeneration must also be determined in accordance with the adopted Local Development Plan (2011-2026) and the adopted Planning Obligations SPG (2015).

- 4.3 Redevelopment of the city centre, diversification of both the day and night time economy and the increase in the footfall within the city centre are priorities for both the Single Integrated Plan and the Corporate Plan
- 4.4 Viability is a material planning consideration. It is recognised that the scale of S106 provision can be reduced in order to accommodate a development's limited economic viability. As such, any assessment of economic viability should consider the level of provision, the amount of available grant subsidy and the total amount of planning obligations requested

5. S106 Planning Obligations

- 5.1 S106 planning obligations generally require developers to either carry out 'in kind' works or contribute financially towards measures that mitigate the impact of development i.e. to make an unacceptable proposal acceptable in land use planning terms.
- 5.2 Under current policy, planning permissions for the net creation of 5 or more residential units will potentially attract a request for leisure and education planning contributions. Additionally, on-site affordable housing provision is required on developments of 10 units and above, whilst affordable housing commuted sums are required on developments under 10 units.
- 5.3 The city centre falls within the Stow Hill ward where there is a surplus of informal play provision, but a deficit of formal and equipped play space. As such, leisure contributions are only sought towards formal and equipped play space, although one bed apartments are exempt from contributing towards equipped play. City centre apartments tend to generate few children and the demand for open space provision tends to be low
- 5.4 Education contributions depend upon school capacity within the catchment and would only apply to apartments and housing with two or more bedrooms. Development in the Stow Hill ward would feed into St Woolos Primary and Duffryn Comprehensive, both of which currently have deficit capacities. However, it is considered unlikely that city centre apartments will be a form of accommodation that is sought by a parent(s) with school age children. This becomes even more unlikely with regards to secondary school age children. Planning Officers, therefore, consider that the resulting demand for additional school places will be low.
- 5.5 Please note that the CIL regulations restrict the use of pooled contributions towards items that may be funded via the Community Infrastructure Levy. As such, no more may be collected in respect of a specific infrastructure project or a type of infrastructure through a section 106 agreement, if five or more obligations for that project or type of infrastructure have already been entered into since 6 April 2010, and it is a type of infrastructure that is capable of being funded by the levy. As a result, this will restrict the Councils ability to request future education and leisure planning obligations within the Stow Hill ward.
- 5.6 In recent years S106 planning obligations (along with other financial restrictions e.g. banking finance) have proved overly onerous for developers in the city centre, resulting in schemes 'stalling' or being 'mothballed'. As a consequence, only one (S106 associated) residential development within the city centre (without grant/loan funding) has been completed (please see Appendix 1). The limited viability of city centre development has been verified by the Council's Three Dragons Viability Toolkit, as well as being independently confirmed by the Community Infrastructure Levy Viability Appraisal (April 2015).
- 5.7 Whilst economic viability is an important material consideration in S106 negotiations, it is not a sufficient reason in itself for considering reduction in planning obligation contributions; there have to be other 'wider benefits' that 'outweigh' this loss e.g. city centre regeneration
- 5.8 The National Assembly's 'Regeneration Framework Report' (October 2012) states that "*vital, vibrant town centres are at the heart of our sustainable communities and they are core to a*

healthy and prosperous Welsh economy". However, unprecedented economic circumstances, budget constraints and the changing role of town centres present major challenges to city centre regeneration.

5.9 As highlighted by the Portas Report 2011 (An independent review into the future of our high streets), an integrated/holistic approach is required across Council functions, businesses and communities. Residential property investment (by the private sector), alongside Council initiatives, can help improve the level of economic activity, diversify town centre offer and bring vibrancy to previously empty properties.

5.10 The Council is actively seeking to improve the vitality and viability of the city centre, by encouraging its regeneration; both the 'Vibrant and Viable Places' and 'Houses into Homes' programmes provide significant steps towards achieving this desired outcome.

5.11 In order to encourage development in the city centre, the Council also drew-up a draft S106 Planning Obligation Moratorium SPG (2014). This encouraged development in the city centre by exempting development from S106 planning obligations, on the basis that development was implemented within a specified timeframe. The SPG was subsequently 'withdrawn' as it was felt that each development should be considered on its individual merits.

5.12 Current Council policy considers a number of factors when assessing reduced S106 planning obligations:

- Willingness of the applicant/developer to go 'open-book' with their figures;
- The scheme is proven to be economically unviable through the Three Dragons Toolkit;
- Regeneration benefits to the city centre outweigh the benefits of the planning obligation/s

5.13 It is considered that the loss S106 planning contributions, as set out above, would be off-set by the regeneration and economic benefits to the City. On this basis, it is considered to result in a net positive outcome.

5.14 Conclusion

5.15 When considering the requirement for S106 planning obligations, it is important to consider both the viability of the development and the wider benefits to the city centre and whether these issues outweigh the harm caused by the loss of S106 planning obligations

6. Options available

6.1 Not applicable.

7. Comments of Chief Financial Officer

7.1 As this document is for information only, there are no financial implications arising directly from this report.

8. Comments of Monitoring Officer

8.1 There are no specific legal issues arising from the report to Planning Committee as this is for information purposes only. Any strategic planning decisions relating to s106 contributions or CIL are executive matters for the Cabinet Member to consider. The Report highlights the need to balance issues of commercial viability with the wider economic regeneration benefits of City Centre developments. S106 contributions can only be secured where they address material planning considerations related to the impact of particular developments. The report sets out the

difficulties already encountered with securing leisure and educational contributions from City Centre developments, given the non-family nature of some of the accommodation and the current capacity within catchment areas schools. There are also practical difficulties with CIL contributions, given the restrictions on pooled contributions. However, if s106 contributions are required, then viability is a material consideration in terms of the amount of any contribution and reductions can be justified where there are wider economic and social benefits arising from City Centre regeneration.

9. Comments of Head of People and Business Change

- 9.1 There are no staffing implications as a result of this report. The report sets out the required considerations in regard to S106 planning obligations for city centre housing development and the balance to be struck between economic and regeneration benefits for the city centre and loss of S106 planning obligations.

10. Local issues

- 10.1 This would affect the City Centre.

11. Consultation

- 11.1 To date no consultation has been undertaken.

12. Background Papers

- 12.1 Appendix 1 - City Centre Residential S106 Schemes

City Centre Residential S106 Schemes

Site	Description	Funding	Date of S106 sign-off	Development Status	Notes
62-66 Cardiff Rd (14/0362)	Conversion of offices to 15 affordable apartments	Vibrant and Viable Places	08/01/15	Under Construction	
14 Cambrian Rd (14/0334)	Conversion of offices to 6 apartments	None	27/01/15	Not Started	Unimplemented historical permission since April 2014
Griffin Island (14/1285)	Conversion to 11 affordable apartments	Vibrant and Viable Places	02/04/15	Under Construction	Unimplemented historical permissions since 2004 (without funding)
Kings Hotel (14/0666)	30 apartments	Vibrant and Viable Places	10/11/14	Under Construction	Empty for the last 5 years
39 Commercial St (13/0451)	Conversion of upper floors to 5 apartments	None	17/04/14	Not Started	
93 Commercial St (12/1033)	Conversion of upper floors to 6 apartments	Houses Into Homes	06/09/13	Completed	Previous unimplemented permissions since 2007 (without funding)
Albany Chambers, Skinner St (07/0510)	Conversion of upper floors to 14 apartments	None	29/04/08	Not Started	Previous unimplemented permissions since 2008
28-30 Stow Hill (11/0269)	Conversion to 10 apartments	None	16/12/11	Complete	Applicant is contesting payment of the S106