

Section 106 Planning Obligations – Draft ‘Head’s of Terms’
(Without prejudice & subject to contract)

1. Introduction

S106 planning obligations are based upon a proposal of 3 x 1 bed apartments and 6 x 2 bed apartments

2. Affordable Housing

Commuted sum payments for affordable housing will normally be sought on developments of 3 to 9 dwellings within the defined settlement boundary. The site lies within the Housing Target Area of Newport West. Newport West requires the delivery of 30% affordable housing on new development. The equivalent commuted sum generated is £39,516

This sum is to be index linked to the RPI and paid prior to occupation of the third dwelling

3. Education

‘School Capacity’ is calculated taking account of: current school capacities; demand generated by extant permissions and/or Joint Housing Land Availability supply; and, future pupil number projections over the lifetime of the related planning permission;

School capacities and pupil numbers are subject to change and any planning obligation contribution will be assessed at the date of validation of any subsequent planning application

Primary

The development is served by St Woolos Primary School. Taking into account the scale and type of development and ‘School Capacity’, no contribution is currently required.

Secondary

The development is served by John Frost High School. Taking into account the scale and type of development and ‘School Capacity’, no contribution is required.

4. Leisure

NB: one bed dwellings are exempt from contributing towards ‘Equipped’ play

There is a deficit of ‘Equipped’ and ‘Formal’ outdoor play space provision in the Stow Hill ward. As such, the proposed development generates an indicative commuted sum of £28,362 to upgrade and maintain off-site play at Clifton Place and/or Belle Vue Park

This sum is to be index linked to the RPI and paid prior to occupation of the third dwelling

5. Fees

Administration Fee

In accordance with the Planning Obligations SPG (2020), a £1,358 administration fee is charged for monitoring the S106 agreement. This is to be paid upon signing of the legal agreement.

Legal Fees

Planning Obligations can be contained in Unilateral Undertakings or s.106 Agreements. Unilateral Undertakings are usually drafted by the developer's solicitors, whereas s.106 Agreements are usually drafted by the Council's in-house solicitors (but there is no general objection to developers arranging for their own solicitors to draft the s.106 Agreement with prior agreement). Either way the developers will be responsible for the Council's legal costs incurred in relation to the process of drafting, approving and completing the s.106 Agreement and Unilateral Undertakings, including costs of title investigation which is necessary to ensure the correct parties enter into the Deed. There is a minimum contribution to legal costs of £700, although more time-consuming and complex documents would require an increased contribution to legal costs.

6. Financial Viability

S106 planning obligations are normally required 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 an important material planning consideration on the potential scope and scale of planning obligations.

An 'open book' viability appraisal was undertaken. It concludes that, *"Given the information provided and the data from comparable evidence it is clear the scheme is unviable in terms of making a contribution to the section 106 payments"*.

7. Conclusion

Taking into account the above information, it is concluded that the S106 obligations should be waived