

WELSH GOVERNMENT

Examination Hearing Statement

NEWPORT
Local Development Plan Examination

Hearing Sessions 6
Transport; Other Infrastructure;
Community Facilities

Wednesday 09th April 2014

(Session 6): Transport; Other Infrastructure; Community Facilities

1. Infrastructure funding and delivery; SP13 Planning Obligations

Does policy SP13 and its supporting text provide sufficient clarity and certainty as regards where development proposals will be subject to S106 obligations relating to infrastructure provision and where subject to Community Infrastructure Levy (CIL) (including timescale for adoption of a CIL charging schedule)? By what other means (if any) does SP13 intend that contributions will be sought?

No, the policy and supporting text are not sufficiently clear. We note that the authority intend to produce a CIL charge. It would not be prudent at this point in time to pre-empt a CIL charge (as set out in Policy SP13) due to the necessity to demonstrate there is a funding gap initially which provides the rationale for a CIL charge (if applicable), supported by the CIL Regulations. The essential point is to ensure that no 'double charging' takes place. The policy should be reworded to remove the reference to CIL as it is a statement of intent and not policy.

Both the policy and supporting text create confusion to both applicants and developers, what is meant by the statement 'variety of means' is unclear. In addition, there are no references to the relevant guidance in this matter, such as PPW (2014, Section 3.7) and the tests set out in CIL Regulation 122, or is there sufficient explanation within the policy or reasoned justification of both how and when the CIL charge will operate. It is not appropriate to decant all policy detail, guidance references and implementation mechanisms into to SPG. This is more prudent where the relevant SPG will not be in place when the plan is adopted, as is the case in Newport. The Welsh Government considers that the policy and supporting text should be amended to improve the coherence and effectiveness of the plan. We elaborate further on this matter below.

Does policy SP13 make sufficiently clear the range of matters that s106 obligations may be expected to cover; how development viability considerations will be taken into account; and how the LPA will prioritise between competing infrastructure considerations?

No. Viability should be a key consideration in determining delivery of the plan. Where funding for related infrastructure is to be sought through planning obligations, the Plan should specify the both the Council's priorities and approach to inform the provision of infrastructure/mitigation and avoid a scheme development being unviable. Where infrastructure is sought it should clearly relate to the objectives of the plan and address the key issues. Policy SP13 is completely silent on this matter. Evidence supporting the plan should demonstrate that broadly what is being sought can be realised and delivered. This will give certainty to developers. This should include prioritising those elements being sought through the tests set out in Reg 122, after regulations,

direct mitigation and affordable housing. The local authority should be able to explain such priorities, delivering against the key issues of the plan.

The implementation of the policy relies on SPG which is “to be prepared”. The current Draft SPG: Planning Obligations (June 2012) is based on the UDP. It will not be sufficient to use this document in the interim given it is not linked to LDP policy or the objectives of the plan. What are the timescales for updating this guidance? It is not appropriate to decant all policy detail, guidance references and implementation mechanisms into to SPG, especially if this will not be available when the plan is adopted.

In addition to our above concerns the Welsh Government considers that the ‘suggested change’ (page 3 of Doc SD6) does not go far enough to address our Deposit comments in this matter. What does the statement ‘if development sites are proven to be unviable the Council will need to decide what the priorities are on a site by site basis’ mean? Where infrastructure is sought it should clearly relate to the objectives of the plan and address the key issues. The authority should be able to articulate what these are. Another matter that needs clarification is what is required from the developer in viability negotiations? While we note there is some detail in the current Draft Planning Obligations SPG (UDP), some explanation should be included in the plan of what is expected from developers in order to improve the clarity of the plan.

The Council would benefit from looking at other adopted plans in order to improve the clarity and content of the policy. The Welsh Government considers that the recently adopted Bridgend LDP (pages 67 and 68) would be a good starting point. The Bridgend LDP is clear in terms of the key priorities in what planning obligations will be required, including the scope of S106 and CIL and when and how they will be applied. There is also clarity in terms on the Councils approach to negotiations in respect of viability.

Is the operation of policies CF2 and CF13 sufficiently clear? Are these policies intended to apply to all housing developments, including single dwelling applications? In the absence of CIL, how will this be operate in relation to s106 obligations, in the light of CIL Regulation 123?

Policy CF2: Outdoor Play Space Requirements

Paragraph 9.2.24 (PPW) states that development plans should include clear development management policies to guide the determination of applications, including guidance on open space provision. The policy is unclear as to what threshold it would apply to. As worded the policy could apply to all ‘new housing development’ which could include conversions, subdivisions and extensions? Is this the intention of the policy?

The authority has chosen an open space requirement of 2.4ha per 1000 population for new development. This is explained in para 9.12 of the plan. If the open space requirement is 2.4ha then this should be stated clearly in the policy, not the supporting text, this would add to the clarity of the plan and ensure compliance with national policy.

Whilst the Welsh Government does not disagree with application of the FIT standard, it is unclear how this relates to the Council's assessment of open space provision, demand and supply. PPW does not prescribe particular standards of open space provision. Detailed guidance in this respect is set out in TAN 16. Paragraph 2.7 (TAN16) states that locally generated standards should be based on robust evidence derived from the Open Space Assessment. This should include qualitative elements (whether new provision is needed for the area) qualitative component (measuring need) and an accessibility component.

How will the authority determine what open space requirements will be sought where planning applications are submitted in areas of under/over provision? How will the authority implement the policy in light of the pooling limitations under CIL regulation 123?

In summary, the Councils approach to open space provision and how this relates to CIL regulations 122 and 123 is a matter that would benefit from clarification.

Policy CF13 School Sites

No the policy is unclear as to how and to what it will apply to. This policy is not implementable due to the CIL reference "once in place" in Policy SP13 and should be re-worded.

The CIL regulations (Regulation 122) set out in legislation three tests which direct mitigation for development through a S106 must comply with. All other S106 agreements should accord with Circular 13/07. The authority should confirm that new school provision can still be delivered in the absence of a CIL charge, including pooling limitations (Reg 123) from 01st April 2015 (2014 Amendment Regulations). The policy needs to reflect this approach.

What evidence demonstrates that the key elements of infrastructure needed to successfully deliver the Plan can realistically be delivered through known public funding programmes together with infrastructure contributions through the development process?

This is for the authority to justify. The authority has produced a Delivery and Implementation Paper which sets out delivery, phasing and funding mechanisms. There appears to be a heavy reliance on private sector delivery and funding through planning obligations.

The CIL Regulations (Regulation 122) set out in legislation three tests which direct mitigation for development through a S106 must comply with. The implications for development arising from an inability to 'pool' future S106 agreements beyond 06th April 2015 (Regulation 123 as amended by the 2014 CIL Regulations) and any CIL charging schedule preparation timetable should also be considered. All other S106 agreements should accord with Circular 13/07. The policy needs to reflect this approach.

2. SP16 Major road schemes - timing/delivery and safeguarding

What evidence demonstrates that the major road schemes listed in policy SP16 will all be delivered within the lifetime of the Plan? Is funding assured for all of the schemes identified?

This is for the authority to answer.

Is there a sound rationale for the proposed north-south link within the Eastern Expansion Area (SP16(v)? Would the suggested alternative of a pedestrian/cycle link more appropriately meet the needs of the area? How would the north-south link be funded and delivered (and within what timescale)?

This is for the authority to answer.

3.T1 Rail proposals – deliverability and funding

What evidence demonstrates that the rail proposals listed in policy T1 will all be delivered within the lifetime of the Plan? Is funding assured for all of the schemes identified?

This is for the authority to answer.

4. Other matters

Does policy SP12 Community Facilities need to explicitly state that in appropriate circumstances community facilities could be accommodated outside the settlement boundary?

No comment.

What certainty exists that all of the measures listed in SP15 Integrated Transport will be implemented within the Plan period? Should the policy say that integrated transport will be “pursued”, rather than “implemented”, given the extent of control over these matters?

No comment.

Is the wording of policy T4 Parking sufficiently detailed to stand as a land use policy? Does it provide an adequate level of clarity and certainty to prospective developers?

No, this is not a policy. It is not appropriate to decant policy to SPG. Has this SPG been updated/produced? What is the Councils parking policy? The policy should be reworded accordingly.

In the light of policy T8, should the All Wales Coast Path be identified on the LDP Proposals Map?

Yes. LDP Wales (paragraph 2.2.4) states that policies that have a spatial component in the plan should be defined on the proposals map.

Is proviso ii) of policy CF1 (protection of recreational facilities) sufficiently clear? Whose long term requirements does this refer to and how is this determined?

This is for the authority to answer.

