

## 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, 21 October 2015

**Time:** 5.00 pm

### AGENDA

	Page No.
<b>1 Apologies for Absence.</b>	
<b>2 Disclosures of Personal &amp; Prejudicial Interests.</b>	1 - 2
<b>3 Minutes.</b> To approve and sign as a correct record the minutes of the previous meeting.	3 - 5
<b>4 Report of the Head of Economic Regeneration and Planning.</b> Section 106 Agreements Audit – Action Plan.	6 - 18
<b>5 Updates from Chair. (Verbal)</b>	
<b>6 Feedback on Ffynone &amp; Uplands Conservation Area Review Task &amp; Finish Group. (Verbal)</b>	
<b>7 Feedback from Site Visits to Killay and Sketty District Shopping Centres. (Verbal)</b>	
<b>8 Workplan Discussion 2015-2016.</b>	

**Next Meeting - Wednesday, 18 November at 5pm.**



**Patrick Arran**  
Head of Legal, Democratic Services & Procurement  
Thursday, 15 October 2015

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**Contact: Democratic Services: - 01792 636923**

## DEVELOPMENT CABINET ADVISORY COMMITTEE

### Labour Councillors: 9

C A Anderson	P M Matthews
J C Bayliss (Vice Chair)	P B Smith
D W Cole	C Thomas
P Downing (Chair)	T M White
P Lloyd	

### Liberal Democrat Councillors: 2

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### Independent Councillor: 1

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### Conservative Councillor: 1

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### Officers and Relevant Cabinet Members:

Councillor Robert Francis - Davies	Cabinet Member for Enterprise Development and Regeneration (For Info)
Councillor David Hopkins	Cabinet Member for Environment & Transportation (For Info)
Phil Roberts	Director of Place
Phil Holmes	Head of Economic Regeneration & Planning
Ryan Thomas	Head of Planning
Lee Wenham	Head of Marketing, Communications & Scrutiny
Democratic Services	
Archives	

### Total Copies Needed:

20
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## CITY AND COUNTY OF SWANSEA

### MINUTES OF THE DEVELOPMENT CABINET ADVISORY COMMITTEE

HELD AT COMMITTEE ROOM 1, CIVIC CENTRE, SWANSEA ON  
WEDNESDAY, 16 SEPTEMBER 2015 AT 5.00 PM

**PRESENT:** Councillor P Downing (Chair) Presided

<b>Councillor(s)</b>	<b>Councillor(s)</b>	<b>Councillor(s)</b>
J C Bayliss	D W Cole	P M Matthews

1 **ELECTION OF VICE CHAIR FOR THE REMAINDER OF THE 2015-2016  
MUNICIPAL YEAR**

**RESOLVED** that Councillor JC Bayliss be elected Vice Chair of the Committee for the remainder of the Municipal Year.

2 **APOLOGIES FOR ABSENCE.**

Apologies for absence were received from Councillors P Lloyd, P B Smith and M Thomas.

3 **DISCLOSURES OF PERSONAL AND PREJUDICIAL INTERESTS**

In accordance with the Code of Conduct adopted by the City and County of Swansea, the following interest was declared:

Councillor J C Bayliss – Minute No.6 – Personal – Have discussed the Conservation Area Proposals with Officers previously.

4 **TERMS OF REFERENCE**

The Terms of Reference for the Committee were noted.

5 **VIEWS OF SWANSEA BID ON THE CUMULATIVE IMPACT POLICY.**

Mr Russel Greenslade, Chief Executive of Swansea Business Improvement (BID) District attended the Committee and gave the views of the BID on the current Cumulative Impact Policy, and its impact on attracting and maintaining businesses in the City Centre.

He outlined the history, background issues and incidents that led to the introduction of the policy.

He outlined the progress made in Wind Street relating to its "reputation" and particularly the Purple Flag Award, Health Pod, Drop Off/Pick up Points, and Taxi Marshalls.

He outlined the following areas and proposals that the BID have for further developing and improving Wind Street through Evening Pedestrianisation, Increased Seating Indoor and Outdoor, Move Away from Vertical Drinking, Significant Investment in Premises, Best Bar None Industry Award and Attracting "Big Name" Restaurants.

Members discussed the issues raised during the discussion and indicated that the Authority was heavily reliant on Police information and statistics when it initially developed the Policy.

The Chair thanked Mr Greenslade for his attendance, input and suggestions and indicated that he may seek the BIDs views again on future topic areas such as the Night Time Economy.

## 6 **PRESENTATION - FFYNONE AND UPLANDS CONSERVATION AREA REVIEW**

Stephen Smith, Design and Conservation Team Leader gave a detailed and informative presentation on the proposed revised Ffynone & Uplands Conservation Area (CA) Review Document.

The following areas were outlined and discussed:

- What is a C A.
- Increased Protection & Controls.
- What a CA wont do.
- Currently 31 CA's in City & County of Swansea.
- Background to Ffynone CA
- Existing Information available to Public.
- Reason for review.
- Proposed New Documents.
- Consultation Exercise Undertaken & Responses Received.
- 3 principle changes and outcomes of CA review.
  1. Maps of proposed expanded area of CA.
  2. Update character area information.
  3. Proposed Article 4 Direction to control external changes to selected unlisted houses.
- Next Steps and progress for adoption.

Members discussed the proposals and broadly welcomed the revised guidance subject to further detailed discussions with the Officer. Following these discussions and any potential amendments, the report would then progress via the Cabinet Member to Planning Committee for adoption.

**RESOLVED** that Chair convene a Task & Finish group prior to the next meeting of this Committee to further discuss in detail the proposals.

7 **SITE VISITS TO DISTRICT SHOPPING CENTRES.**

The Chair indicated that he will arrange the site visits to Killay, Morryston and Sketty District Shopping Centres following the committee membership changes at Council on 24 September.

He also indicated he would contact all the relevant Primary schools in the above areas to seek their views.

8 **WORK PLAN 2015-2016**

Members discussed the following areas that the Committee will look at in the near future:

District Shopping Area Site Visits

Task & Finish Group for Conservation Area

The Chair indicated he would chase progress on the Destination Management Plan report and discuss with the Cabinet Member if this Committee is the correct body to look at the suggested topic of the City Centre Regeneration and Bids for Civic Centre & St David's Sites.

**RESOLVED** that the next Committee scheduled for 21 October receive reports/presentations on the following issues:

- Feedback on Ffynone & Uplands Conservation Area Review Task & Finish Group.
- Update on Legal Hights.
- Section 106 Agreements.

The meeting ended at 6.05 pm

**CHAIR**

# Agenda Item 4

## Report of the Head of Economic Regeneration & Planning

Development Cabinet Advisory Committee – 21 October 2015

### S106 AGREEMENTS AUDIT - ACTION PLAN

<b>Purpose:</b>	To provide an update on the implementation of the recommendations of the Section 106 Agreements Audit – March 2015
<b>Policy Framework:</b>	City and County of Swansea Unitary Development Plan (November 2008)
<b>Reason for Decision:</b>	For information.
<b>Consultation:</b>	Legal, Finance and Access to Services
<b>Recommendation(s):</b>	It is recommended that: 1) The content of the report be noted.
<b>Report Author:</b>	Ryan Thomas
<b>Finance Officer:</b>	Paul Beynon
<b>Legal Officer:</b>	Tracey Meredith
<b>Access to Services Officer:</b>	Sherill Hopkins

#### 1. Introduction

- 1.1 An internal audit of the Planning Control Section was carried out in 2014/15 to assess the procedures and controls associated with Section 106 Agreements (Planning Obligations) within the Authority.
- 1.2 The final report published by the Internal Audit Section in March 2015 identified a “Limited” level of assurance mainly due to the absence of a robust monitoring system to ensure that all income due from Section 106 Agreements is collected and is spent in accordance with the terms of the Agreement.
- 1.3 The issue was highlighted at Audit Committee on 16<sup>th</sup> June 2015 and subsequently the Chair of Audit Committee wrote to the Cabinet Member for Enterprise, Development and Regeneration requesting an update at this meeting on the implementation of the recommendations of the Internal Audit Section.



- 1.4 This report, therefore, provides further background for Members together with an update on current progress in this respect with specific reference to the action plan which is reproduced as Appendix 1.

## **2. Background**

- 2.1 A mechanism for the receipt and payment of Section 106 contributions has been in place for many years and there is no evidence to indicate that this system has failed or that contributions have not been collected or spent in accordance with the terms of the relevant Agreements or otherwise accounted for.
- 2.2 Since May 2008 a total of 51 S106 agreements have been signed, 29 of which involve financial contributions to the sum of £4,835,136. To-date £2,877,558 has been paid to the Authority with £1,957,578 outstanding as trigger points have not been met or there are outstanding issues to be addressed.
- 2.3 This process, however, involves action at various stages from Planning Services, Legal Services, Finance and the relevant service area in receipt of the contribution be it Housing, Highways, Parks etc. At the time of the audit and in recognition of the need to secure a more robust monitoring process a central Housing Land Availability/Section106 (HLA/S106) Database had already been procured by Planning Services and was in the process of being populated.
- 2.4 This database has now been populated with data relating to all S106 Agreements secured since May 2008 and is in the process of being verified and tested. Moving forward this database includes robust mechanisms to monitor relevant S106 Agreements via completion rates agreed as part of the Joint Housing Land Availability Studies (JHLAS) carried out in accordance with the requirements of Welsh Government guidance provided in TAN1.

## **3. General Issues**

- 3.1 An action plan has been agreed with the Internal Audit Section and is reproduced at Appendix A detailing action to-date in terms of addressing the recommendations of the audit report. Commentary on each recommendation is provided below:

### **Section 106 Register**

- 3.2 The action plan recommended that a public register of Section 106 Agreements should be made available as soon as possible.
- 3.3 In this respect it should be recognised that all S106 Agreements are registered as local land charges and are already available for public inspection in accordance with the requirements of Welsh Office Circular 13/97.

- 3.4 Whilst there does not appear to be a statutory requirement to maintain a separate register, in line with best practice at a number of Local Planning Authorities in Wales a register of Section 106 Agreements signed since 2008 has been placed on the Planning Services element of the Council's public web site. It is recommended that this is updated on a quarterly basis.

### **Case Files**

- 3.5 At the time of the audit inspection it was not possible to locate one manual paper file and it was noted that there appeared to be no mechanism in place to record the movement of files.
- 3.6 Since the introduction of the Idox Documents Management System in September 2013 all documents associated with new applications have been held electronically. Planning applications received since 2008 together with decision notices are also held electronically with all associated documents also held in paper format. Approximately 50,000 historic paper files are held in archived storage with a combination of paper and microfiche for applications received between 1987 and 1948.
- 3.7 Whilst historic files are in the process of being back scanned this is resource intensive and will require a significant commitment to complete given the volume held.
- 3.8 All files are, however, currently retrieved from and returned to archive by staff in the Business Support Team and held by the relevant case officer. An Excel based system has, however, been set up and is in the process of being trialed to ensure that the location of historic archive files is recorded.

### **Database Records**

- 3.9 As detailed above the HLA/S106 data base has been populated for applications dating back to May 2008. A procedure has been drafted and the system is being trialed to ensure details are entered onto the database upon issue of the relevant planning permission following completion of the S106 Agreement and notification by Legal Services.
- 3.10 As part of the proposed procedure an independent check of the details will also be carried out on a quarterly basis when the online S106 Register is updated.

### **Financial Contributions and Trigger Points**

- 3.11 Many financial contributions are made at different stages in the course of a development with trigger points identified in the relevant S106 Agreement. These are recorded within the HLA/S106 Database and in this respect the auditor found that all contributions in the sample tested could be satisfactorily traced.

- 3.12 It was noted, however, that there was no unique reference number to link the HLA/S106 Database to the General Ledger. This issue has been discussed with finance colleagues and a mechanism to include the planning application number within the General Ledger identified. This will be trialed upon receipt of the next S106 payment.
- 3.13 An independent reconciliation will also be carried out on a quarterly basis when the online S106 Register is updated in line with the recommendations of the Internal Audit Section.

### **Monitoring of Agreements**

- 3.14 As stated above a mechanism for the receipt and payment of S106 contributions has been in place for many years, however, in recognition of the need to secure a more robust monitoring process a central HLA/S106 Database has been procured by Planning Services and has been populated with data relating to all S106 Agreement signed since 2008.
- 3.15 Against this background a process for the receipt and payment of contributions has been drafted and will be trialed upon receipt of the next S106 payment to monitor agreements. On this basis S106 contributions will be received by Planning Services, entered onto the S106 database with finance, legal and the relevant Service Area being notified. All requests for payment to Service Areas will be authorised by Planning Services, and entered onto the database and finance and legal notified.
- 3.16 Whilst Finance have previously operated a system to record the receipt and payment of S106 contributions the above process will, it is considered, provide a robust mechanism to monitor this process via the HLA/S106 Database.

### **Completion Reports**

- 3.17 The HLA/S106 Database has the capacity to facilitate the generation of completion report, which will be produced on a quarterly basis when the S106 Register is updated. In addition annual reports on the performance of the Planning Service are already presented to Planning Committee and will in future include an update for members on S106 issues.

### **IT Controls**

- 3.18 Whilst there is no mechanism to prevent amendments to the system the HLA/S106 Database is backed up as part of the Authority's corporate backup routines and is password protected, restricting access to authorised personnel only.

## **Community Infrastructure Levy (CIL)**

3.19 The introduction of the CIL will likely follow the adoption of the Local Development Plan post 2017. The Authority does not (under current legislation) have to produce a CIL Schedule although work is ongoing in this respect by the Authority's LDP Team. The HLA/S106 database does, however, have the capacity to monitor S106 Agreements and the CIL. It is anticipated, however, that additional resources will be required to monitor CIL contributions and S106 Agreements should a CIL Schedule be adopted by the Authority.

## **4.0 Equality and Engagement Implications**

4.1 There are no direct equality implications arising from this report.

## **5. Financial Implications**

5.1 There are no financial implications associated with this report.

## **6. Legal Implications**

6.1 There are no legal implications associated with this report.

## **Background Papers:**

City & County of Swansea Final Audit Report – Economic Regeneration & Planning: Section 106 Agreements 2014/15.

## **Appendices:**

Appendix A – Section 106 Agreements Management Action Plan 2014/15.

**FINANCE DEPARTMENT – INTERNAL AUDIT SECTION**  
**SECTION 106 AGREEMENTS**  
**MANAGEMENT ACTION PLAN 2014/15**

REPORT REF	RECOMMENDATION	CLASS (HR, MR,LR, GP)	AGREED ACTION/ COMMENTS	RESPONSIBILITY FOR IMPLEMENTATION	ACTION
2.1	<p><u>Policies and Procedures</u></p> <p>c) In line with planning obligations a public register of Section 106 Agreements should be made available as soon as possible.</p>	LR	Agreed – web based approach to be considered.	Ryan Thomas/Richard Jones	All S106 Agreements are registered as local land charges and are available for public inspection in accordance with the requirements of Welsh Office Circular 13/97. A register of Section 106 Agreements signed since May 2008 has been placed on the Planning Web Site. This will be updated quarterly.

REPORT REF	RECOMMENDATION	CLASS (HR, MR,LR, GP)	AGREED ACTION/ COMMENTS	RESPONSIBILITY FOR IMPLEMENTATION	ACTION
2.2  2.2.1	<p data-bbox="459 300 629 327"><u>Applications</u></p> <p data-bbox="459 368 607 395">Case Files</p> <p data-bbox="459 408 483 435">c)</p> <p data-bbox="555 443 907 1118">All files and records should be efficiently stored on the system. All details of the location of files should be adequately recorded by the system with records detailing who has had access to files and when. The records should also detail when a file has been returned to the main storage. Alternatively due to the efficiency of the IDOX system consideration should be given to the storage of all records and files on the system.</p>	HR	Agreed – all files are now stored electronically on IDOX. The section is also in the process of back-scanning documents going back 5 years.	Ryan Thomas/Richard Jones	c) Since the introduction of the Idox Documents Management System in August 2013 all documents associated with new applications have been held electronically. Planning applications received since 2007, and decision notices, are held electronically with all associated documents also held in paper format. Approximately 50,000 historic paper files are held in achieve storage with a combination of paper and microfiche for applications received between 1989 and 1948.

					<p>Historic files are in the process of being back scanned as resources allow.</p> <p>All files are retrieved and returned by staff in the Business Support Team. An Excel based system is being trialed to record the location of historic archive files.</p>
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REPORT REF	RECOMMENDATION	CLASS (HR, MR,LR, GP)	AGREED ACTION/ COMMENTS	RESPONSIBILITY FOR IMPLEMENTATION	INTENDED IMPLEMENTATION DATE
2.2 cont'd					
2.2.2	<p>Database Records</p> <p>b) In order to use the database to its full potential all details of Section 106 Agreements should be entered onto the database in good time.</p> <p>c) An independent check should be made periodically to confirm that the Section 106 database is up to date</p>	<p>MR</p> <p>MR</p>	<p>Agreed – internal procedures to be finalised.</p> <p>Agreed – as above</p>	<p>Richard Jones/Nathan Evans</p> <p>Richard Jones/Nathan Evans</p>	<p>b) The S106 data base has been populated for applications dating back to May 2008. A procedure has been drafted and the system is being trialed to ensure details are entered onto the database when the decision notice is issued following notification by Legal that S106 Agreement has been signed.</p> <p>c) An independent check of the details will be carried out on a quarterly basis when the online S106 Register is updated.</p>



REPORT REF	RECOMMENDATION	CLASS (HR, MR,LR, GP)	AGREED ACTION/ COMMENTS	RESPONSIBILITY FOR IMPLEMENTATION	INTENDED IMPLEMENTATION DATE
2.3 cont'd					
2.3.2	<p>Financial Contributions and Trigger Points</p> <p>b)</p> <p>iii. In order to enable the efficient cross checking of details between the Section 106 database and the General Ledger, a common reference should be used across both systems.</p> <p>c) In order to ensure compliance with Section 106 Agreement i.e. income contributions are received and expenditure is made in accordance with the agreements, a periodic reconciliation between the details held on the database and the Agreements should be carried out by the Planning Control Section. In order to ensure a segregation of duties the reconciliation should be carried out independently of the person inputting the information onto the database.</p>	<p>GP</p> <p>MR</p>	<p>Agreed – a process involving all relevant bodies i.e. Legal, Finance and Planning to be agreed.</p> <p>Agreed</p>	<p>Ryan Thomas/Richard Jones</p> <p>Ryan Thomas/Richard Jones</p>	<p>b) The application number will be referenced in the “optional description” field upon receipt of payment and will appear in the Ledger. This will be trialed upon receipt of the next S106 payment.</p> <p>c) An independent check of the details will be carried out on a quarterly basis when the online S106 Register is updated.</p>

REPORT REF	RECOMMENDATION	CLASS (HR, MR,LR, GP)	AGREED ACTION/ COMMENTS	RESPONSIBILITY FOR IMPLEMENTATION	INTENDED IMPLEMENTATION DATE
2.4	<p><u>Monitoring of Agreements</u></p> <p>A system should be put into place to ensure that the terms and conditions of Section 106 Agreements are complied with including the payment of contributions and any subsequent expenditure made. Ideally any monitoring of contributions and work carried out should be carried out by the Planning Control Section due to their familiarity with such Agreements. However, if this is not possible it should be ensured that the system provides for relevant and up to date information to be reported to the Planning Control Section in order for the information to be promptly recorded on the Section 106 database.</p>	HR	Agreed – internal procedures to be defined.	Ryan Thomas/Richard Jones	A process has been drafted and will be trialed upon receipt of the next S106 payment. S106 contributions will be received by Planning Services, entered onto the S106 database legal, finance and the relevant Service Area notified. All requests for payment to Service Areas will be authorised by Planning Services, entered onto the database, legal and finance notified.

REPORT REF	RECOMMENDATION	CLASS (HR, MR,LR, GP)	AGREED ACTION/ COMMENTS	RESPONSIBILITY FOR IMPLEMENTATION	INTENDED IMPLEMENTATION DATE
2.5	<p><u>Completion Reports</u></p> <p>In line with best practice post completion reports and an annual report for Planning Committee should be produced to gauge the effectiveness of the system.</p>	LR	Agreed – report format to be defined and agreed.	Ryan Thomas/Richard Jones	<p>The HLA/S106 database has the capacity to facilitate the production of post completion reports which will be completed on a quarterly basis when the online S106 Register is updated. Annual reports on the performance of the Planning Service are presented to Planning Committee and will include S106 issues.</p> <p>The database is password protected and backed up as part of the Authority's corporate backup routine.</p>
2.7	<p><u>I.T. Controls</u></p> <p>b) The database should be held in a mode which prevents any amendments to the system either intentional or otherwise.</p>	LR	Agreed – to approach the software supplier for further guidance.	Ryan Thomas/Richard Jones	

REPORT REF	RECOMMENDATION	CLASS (HR, MR,LR, GP)	AGREED ACTION/ COMMENTS	RESPONSIBILITY FOR IMPLEMENTATION	INTENDED IMPLEMENTATION DATE
2.8	<p><u>Community Infrastructure Levy</u></p> <p>a) In line with 2.4 above, any system introduced as part of the monitoring process for Section 106 Agreements should also take into account the forthcoming CIL levy to ensure that all contributions are collected and spent correctly.</p>	LR	Agreed	Ryan Thomas/Richard Jones	The S106 database has the capacity to monitor S106 Agreements and CIL. CIL cannot be introduced until after the adoption of the LDP in 2017.