

London Development Conference

Land Led Schemes vs S106

Ian Collins

Partner and Head of EA Services, Pellings

Control of Design and Quality

Land Led

- Work to clients brief and budget, instruct design team to stage 4?
- Options for MMC
- Health and safety – Principal Designer function (CDM)
- Shape sustainability requirements
- Design will reflect community consultation
- Control of ‘whole site’ and where/how differing tenures are sited
- BIM and intellectual property
- Reputational Risk/Rewards.



Control of Design and Quality

S106

- Design predetermined
- Able to 'agree' the specification; but only within the developers parameters
- Advantage of tried and tested house types/flat types
- May be tied into expensive services arrangements – ESCOs, district heating
- Construction detailing still underpinned by (NHBC) standards
- 'Annual' design improvements
- Developers (and their supply chain) will hold I.P.



Control of Programme

Land Led

- With clients, but carries risks of Planning, site construction and market fluctuations
- Needs financing from point of acquisition (or insuring if it's an existing/empty building)
- Is Design Team appointed at Day 1? – unlikely
- Control the construction programme through the Build contract
- Control of cashflow
- Ability to slow/stop for e.g. change of tenure.



Control of Programme

S106

- Minimal Control
- Development Agreement will have PC dates, but larger sites will be phased to give developer flexibility on Private Sale
- Long-stop dates
- Possibly set within the wider S.106 that Affordable Housing may need to be delivered by certain points
- Unlikely to be 'damages' clauses for example in Development Agreement.



Procurement and Funding

Land Led

- Land Purchase – VAT?
- Due diligence ahead of land purchase
'Caveat Emptor'
- Can control as much of the design as you want to
- Novation?
- Build contract
 - Choice of procurement vehicle/build contracts
 - Retentions and financial sureties
 - Control of phasing/programme
- Comparatively expensive £2500-3000m²
- Ability to control/benefit from tariffs
- Opportunity for Private Sales/PRS.



Procurement and Funding

S106

- Most procurement risk removed
- Land deposit
- ‘Golden Brick’ purchase – HMRC Notice
- Be clear on description of G.B. particularly if you’re not building ground level houses
- Risk of developer/contractor failure.



Procurement and Funding

S106

Development Agreement

- Will be prepared by solicitors
- May or may not have JCT (or similar) appended
- Often have DLP (rectification period) but no retention
- Stage payments rather than periodic
- EA must come to site within 5 days...
- Says what's out rather than what's in – e.g. list of deleterious materials.



Procurement and Funding

S106

- Advantages of bulk purchasing
 - Tried and tested house types
 - Bulk purchasing of boilers/windows
- Comparatively less expensive £2000/m² (but offset by land costs?)
- Grant available where Affordable provision exceeds minimum planning requirements
- Ready-made maintenance arrangements, but may be more expensive for residents.



Construction Quality and Risk

Land Led

- Contractor selection – ‘horses for courses’
- Repeat business
- Contractor used to being overseen
- Materials and workmanship thoroughly described
- Site Due Diligence
- All risks with the land purchaser/owner
 - Utilities
 - Legals
 - Party walls/boundaries
 - Contamination.



Construction Quality and Risk

S106

- Already partially built – services, roads, foundations and drainage
- Developers not used to being overseen
- Development Agreement more geared to the end product and performance standards rather than detailing
- June and December targets (larger Developers).



Summary

Land Led

- Control of Design, Procurement, Programme
- Greater Risk/Reward – financial and reputational
- Greater perception of adding to the community through planning/consultation process
- Ability to develop Private Sale.



Summary

S106

- Less Risk
- Gives flexibility for providers in context of wider programme
- Build costs are less expensive with possible access to grant, and VAT free land



So, what's not to like?

Thank you

Contact Us

Ian Collins

Partner and Head of EA Services

icollins@pellings.co.uk

www.pellings.co.uk