

Section 106 Agreements – Time For Review?

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Overview

Securing Planning Permission...

- Planning Policy Context
- Economic Context
- The Current Climate
- Renegotiation
- CIL
- On the horizon...
- Summary



Planning Policy Context

Principal Advantage: Flexibility

- *“...it is for the local authority and other public sector agencies to decide what is to be the balance of contributions made by developers...” (Circular 05/05)*
- *“...LPAs should recognise that all local economies are subject to change...” (PPS1)*
- *“...affordable housing targets should reflect an assessment of the likely economic viability of land for housing within the area...” (PPS3)*

Principle Disadvantage: Uncertainty

- *“...There are no hard and fast rules about the size or type of development that should attract obligations...” (Circular 05/05)*



Planning Policy Context

- Infrastructure Requirements
 - “...core strategies to include evidence of what infrastructure is needed to enable the amount of development proposed for the area, and should cover who will provide the infrastructure and when it will be provided...” (PPS12)
- No assessment of deliverability required



Economic Context – Principles of Development Viability

Development Appraisal –Residual Basics

Gross Sales Value (income) = £X

Cost of development: = £Y

- Construction Costs (*specification materials, labour, remediation*)
- Professional Fees (*architect, engineer*)
- S106 Obligations
- Cost of finance (*function of interest & time*)
- Promotion Costs (*marketing & incentives*)
- Developers Profit (*Risk*)

Land Value/Surplus= Viability = £X-Y

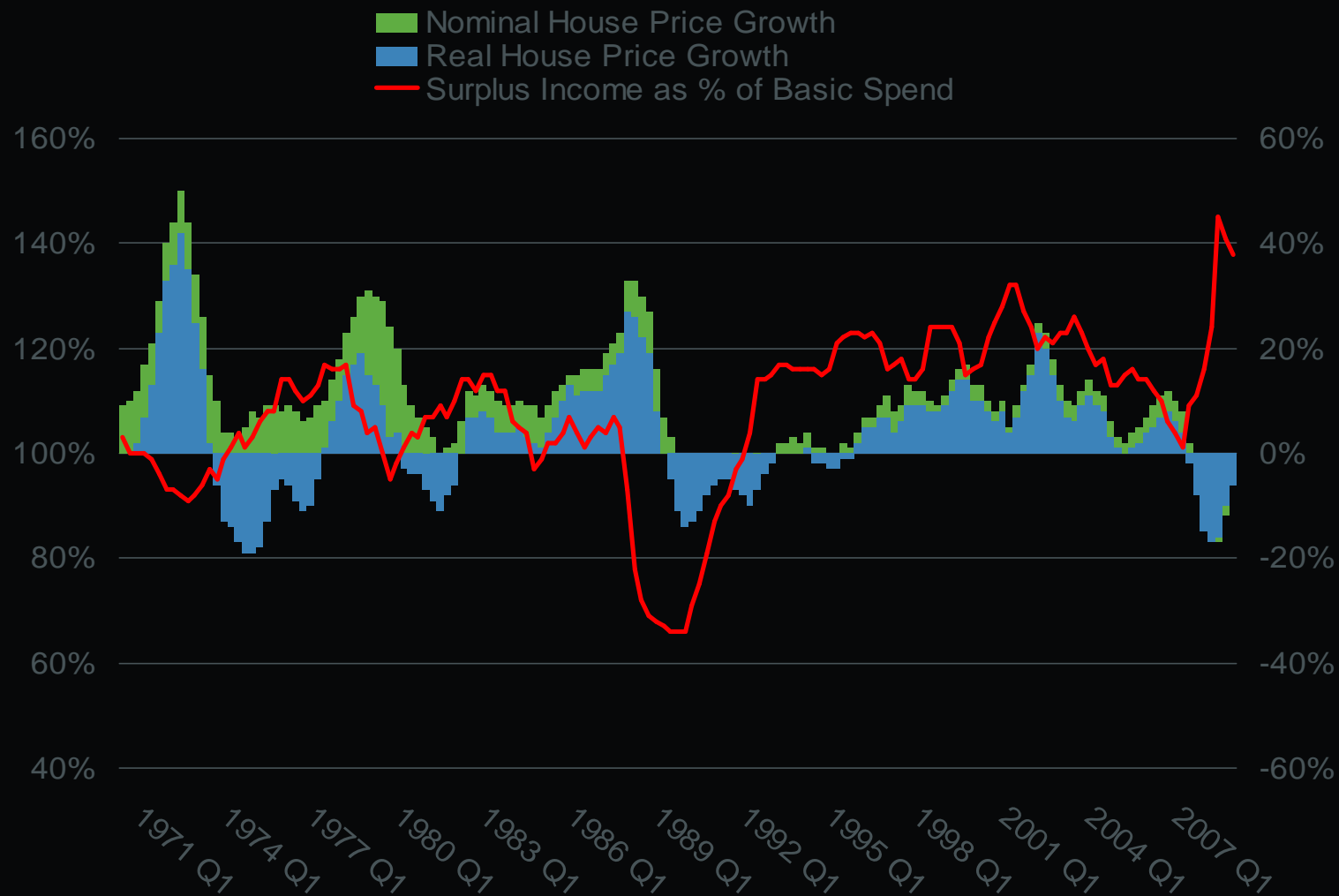
Economic Context – The Sensitivity of Land Value

Gross sales value 50 houses average sales price of £200k	= £10M
Less Total Development Cost	= £7M
Site value	= £3M

Reduction in sales values of 10% =
Reduction in site value of 30%



Economic Context – Sales Price Growth



Source: Savills

Economic Context – Future Prospects

“A combined view of realistic pricing of stock... ..high finance and holding costs together with a shift to lower density housing types to meet current consumer appetite is more appropriate. With lower house prices, and a lack of mortgage and developer finance, few development schemes are currently viable. Schemes where the developer requires a residual return equal to 2007 land values will not achieve viability for a very long period.”

UK Residential Land Briefing Note, Savills, January 2009



The Current Climate

Managing contributions in a falling market

- The Slow Down
- *“...now more than ever it is important to help LPAs ensure that existing permissions are built out...” (DCLG)*

Practical Measures

Viability

- Renegotiating Existing Consents
- Obligations on new consents



Viability – Renegotiating Existing Consents

- Smaller schemes assessed at point of consent
- Larger schemes might use overage agreements
- HCA Guidance
- Difficulties
- Dialogue



Policy Basis

- Core Strategy
- Evidence Base

Tariffs

**Viability –
Obligations on
new consents**



S106 in the context of CIL

The Future of S106?

- “...restrict in regulations the use of planning obligations to their original purpose...”

Practicality

- Timescales
- Funding Gaps
- Exceptions Policy
- Robustness



Practical Issues

- Grampian Conditions
- Major Schemes
- S106 & Target Dates - PPAs

On the horizon...

- Tax Increment Financing
- The Tory 'Localist' Agenda



Summary

Strategic Level

- Engagement with service providers
- Spatial Planning as Business Planning

Local Level

- Dialogue
- Discretion
- The Role of S106

