

Sunderland City Council

Post Consultation / Pre-submission Viability Note

June 2018

Introduction

- 1.1 This brief note has been prepared by HDH Planning and Development Ltd (the authors of *Whole Plan Viability Assessment, with CIL Scoping (HDH 1st August 2017)*), following the Regulation 19 consultation¹ on the July 2017 iteration of the *Core Strategy and Development Plan (the Plan)*, covering the period 2015 to 2033.
- 1.2 The new Plan sets out planning policies for the SCC area. The 2017 Viability Assessment assesses and tests the policies contained within the draft Plan. A range of comments were made that relate to viability. This brief note has been produced to:
- a. consider the changes to national policy that have taken place since August 2017 Viability assessment was published.
 - b. consider the changes to the emerging Plan.
 - c. consider the comments received.

National Consultation on changes to the NPPF, PPG

- 2.1 In March 2018 the Government launched a consultation into a redrafted NPPF and revisions to the PPG. These changes include alterations to the viability sections of the PPG and to CIL and future workings of the s106 regime. If the changes are introduced transitional arrangements are proposed that will mean the alterations will not be applied to plans submitted within 6 months of the publication of the revised NPPF. Whilst SCC anticipate submitting the Plan well before this time it is appropriate to review the changes now.

Draft Planning Practice Guidance for Viability, (MHCLG, March 2018)

- 2.2 The proposed viability guidance will replace the viability sections of the PPG. The broad impact will be to reduce the scope of viability assessments at the development management stage, by insuring that viability is properly examined at the plan-making stage. The following points are important:

A range of other sector led guidance on viability is widely available which practitioners may wish to refer to. The National Planning Policy Framework, supported by this National Planning Guidance, sets out the Government's recommended approach to viability assessment for planning.

¹ The consultation ran to October 2017.

- 2.3 The 2017 Viability Assessment follows the RICS Guidance and the Harman Guidance. It has been prepared to be fully compliant with both requirements of the NPPF and PPG.

... consistency between the approach to viability assessment for plan making, decision making, section 106 planning obligations and CIL is required.

- 2.4 The 2017 Viability Assessment covers both plan-making and CIL (although there is not currently scope to bring CIL forward due to the viability constraints).

The role for viability assessment is primarily at the plan making stage. Drafting of plan policies should be iterative and informed by engagement with landowners, developers, infrastructure and affordable housing providers. Plans should be informed by evidence of infrastructure and affordable housing need and an assessment of viability that takes into account all relevant policies, local, and national standards including for developer contributions. Viability assessment should not compromise the quality of development but should ensure that policies are realistic and the total cumulative cost of all relevant policies is not of a scale that that will make development unviable.

- 2.5 This wording is new, but the requirements are not. The 2017 Viability Assessment takes into account all relevant policies, local, and national standards including for developer contributions as required.

To assess the viability of proposed site allocations site typologies may be used to assess viability in plan making. A typology approach is where sites are grouped by shared characteristics such as the location, current and proposed use (including whether brownfield or greenfield), or size of site. The characteristics used to group sites should reflect the nature of sites proposed for allocation in the plan.

- 2.6 The modelling in the 2017 Viability Assessment had regard to nature of the planned development.

Average costs and values can be used to make assumptions about how the viability of each type of site would be affected by all relevant policies. Comparing data from comparable case study sites will help ensure that the assumptions of costs and values are realistic and broadly accurate. In using comparable data having regard to outliers (very high or very low values that skew the average) is important to provide an accurate base from which to apply typologies.

- 2.7 A range of data sources has been used as suggested.

It is important to consider the specific circumstances of strategic sites. Plan makers can undertake individual site specific viability assessment for sites that are critical to delivering the strategic priorities of the plan, which could include, for example, large sites, sites that provide a significant proportion of planned supply, sites that enable or unlock other development sites or sites within priority regeneration areas.

- 2.8 The strategic sites are considered separately.

Plan makers should engage with landowners, developers, infrastructure and affordable housing providers to secure evidence on costs and values to inform viability assessment at the plan making stage. In the absence of this evidence the site should not be allocated. Plan makers should indicate in plans where further evidence and viability assessment may be required.

It is important for developers and other parties buying (or interested in buying) land to have regard to the total cumulative cost of all relevant policies when agreeing a price for the land. The price paid for land is not a relevant justification for failing to accord with relevant policies in the plan.

2.9 Consultation formed an important part of the preparation of the 2017 Viability Assessment. The Council will continue to engage with relevant land owners when refining the Plan and in the run up to the examination. They will only be selecting sites that are clearly deliverable (based on the evidence in this report and wider evidence) when finalising the Plan².

2.10 In the decision making section, the draft sets out various costs to be included:

- *build costs based on appropriate data, for example that of the Building Cost Information Service;*
- *abnormal costs, including those associated with treatment for contaminated sites or listed buildings, or costs associated with brownfield, phased or complex sites. These costs should be taken into account when defining benchmark land value;*
- *site-specific infrastructure costs, which might include access roads, sustainable drainage systems, green infrastructure, connection to utilities and decentralised energy. These costs should be taken into account when defining benchmark land value;*
- *the total cost of all relevant policy requirements including contributions towards affordable housing and infrastructure, Community Infrastructure Levy charges, and any other relevant policies or standards. These costs should be taken into account when defining benchmark land value;*
- *general finance costs including those incurred through loans;*
- *professional, project management, sales, marketing and legal costs incorporating organisational overheads. Any professional site fees should also be taken into account when defining benchmark land value; and*
- *explicit reference to project contingency costs should be included in circumstances where scheme specific assessment is deemed necessary, with a justification for contingency relative to project risk and developers return.*

2.11 These costs were covered (see Chapter 7 of the 2017 Viability Assessment).

To define land value for any viability assessment, a benchmark land value should be calculated on the basis of the existing use value (EUV) of the land, plus a premium for the landowner. The premium for the landowner should reflect the minimum price at which it is

considered a rational landowner would be willing to sell their land. This approach is often called 'Existing Use Value Plus' (EUV+).

In order to establish benchmark land value, plan makers, landowners, developers, infrastructure and affordable housing providers should engage with and provide robust and open evidence to inform this process.

In all cases, benchmark land value should:

² In this context footnotes 11 of the extant NPPF is:

¹¹ *To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans.*

- *fully reflect the total cost of all relevant policy requirements including planning obligations and, where applicable, any Community Infrastructure Levy charge;*
- *fully reflect the total cost of abnormal costs; site-specific infrastructure costs; and professional site fees;*
- *allow for a premium to landowners (including equity resulting from those building their own homes); and*
- *be informed by comparable market evidence of current uses, costs and values wherever possible. Where recent market transactions are used to inform assessment of benchmark land value there should be evidence that these transactions were based on policy compliant development. This is so that previous prices based on non-policy compliant developments are not used to inflate values over time.*

2.12 This has been taken into account in the methodology adopted and discussed above and in Chapter 3 of the 2017 Viability Assessment.

How should the premium to the landowner be defined for viability assessment?

An appropriate premium to the landowner above existing use value (EUV) should be determined by plan makers in consultation with developers and landowners for the purpose of assessing the viability of plans.

When undertaking any viability assessment, an appropriate minimum premium to the landowner can be established by looking at data from comparable sites of the same site type that have recently been granted planning consent in accordance with relevant policies. The EUV of those comparable sites should then be established.

The price paid for those comparable sites should then be established, having regard to outliers in market transactions, the quality of land, expectations of local landowners and different site scales. This evidence of the price paid on top of existing use value should then be used to inform a judgement on an appropriate minimum premium to the landowner.

Proposed development that accords with all the relevant policies in an up-to-date plan should be assumed to be viable, without need for adjustment to benchmark land values established in the plan making viability assessment. Where a viability assessment does accompany a planning application the price paid for land is not relevant justification for failing to accord with relevant policies in the plan.

2.13 Regard has been given to recent land transactions when establishing the Viability Thresholds.

2.14 Unlike the extant PPG the draft contains clear advice on developers return:

How should a return to developers be defined for the purpose of viability assessment?

For the purpose of plan making an assumption of 20% of Gross Development Value (GDV) may be considered a suitable return to developers in order to establish viability of the plan policies. A lower figure of 6% of GDV may be more appropriate in consideration of delivery of affordable housing in circumstances where this guarantees an end sale at a known value and reduces the risk. Alternative figures may be appropriate for different development types e.g. build to rent. Plan makers may choose to apply alternative figures where there is evidence to support this according to the type, scale and risk profile of planned development.

Where proposals for development accord with all the relevant policies in an up-to-date development plan no viability assessment should be required to accompany the application. Where a viability assessment is submitted to accompany a planning application this should be based upon and refer back to the viability assessment that informed the plan; and the applicant should provide evidence of what has changed since then. Potential risk is accounted for in the assumed return for developers at the plan making stage. It is the role of developers, not plan makers or decision makers, to mitigate

these risks. The cost of complying with policy requirements should be accounted for in benchmark land value.

- 2.15 In the 2017 Viability Assessment, developer's return was taken as 20% of GDV. This will give a greater cost and thus less good results than if the new guidance had been followed.
- 2.16 In addition to the above the guidance sets out a requirement to set out the Council's s106 track record. This is being collated outside this report.

National Consultation on changes to the CIL

Supporting housing delivery through developer contributions – Reforming developer contributions to affordable housing and infrastructure, (MHCLG, March 2018)

- 2.17 This is a broad consultation that will continue the reform of developer contributions with an aim of making the system more effective. For this situation the following points are relevant (with the paragraph numbers from the consultation shown in brackets):
- a. Streamlining of the evidence and consultations required for CIL setting with plan-making (50, 51).
 - b. Lifting the pooling restrictions on s106 contributions set out in CIL Regulation 123 where in areas (58):
 - that have adopted CIL;
 - where authorities fall under a threshold based on the tenth percentile of average new build house prices, meaning CIL cannot feasibly be charged;
 - or where development is planned on several strategic sites³.At present, none of these apply to SCC adding pressure to introduce CIL.
 - c. Improve viability assessment in plan making and ensure that where a proposed development accords with all relevant policies in the local development plan (e.g. provision of affordable housing) there is no need for a viability assessment to accompany the planning application (61).

³ Paragraph 106 of the consultation says:

The Government proposes to remove the restriction in areas where significant development is planned on several large strategic sites. The Government would welcome views on two alternative approaches that could be taken:

- a) remove the pooling restriction in a limited number of authorities, and across the whole authority area, when a set percentage of homes, set out in a plan, are being delivered through a limited number of large strategic sites. For example, where a plan is reliant on ten sites or fewer to deliver 50% or more of their homes;
- b) amend the restriction across England but only for large strategic sites (identified in plans) so that all planning obligations from a strategic site count as one planning obligation. It may be necessary to define large strategic sites in legislation.

The aim of this is to reduce scope for delays and protracted negotiations at the planning application stage.

- d. To allow CIL charging schedules to be set based on the existing use of land, rather than just use, geography (zone) and scale. This has been considered.
- e. To simplify the charging of CIL on complex sites, by (71):
 - encouraging the use of specific rates for large strategic sites (i.e. with a single rate set for the entire site)
 - charging on the basis of the majority use where 80% of the site is in a single existing use, or where the site is particularly small; and
 - other complex sites could be charged at a generic rate, set without reference to the existing use of the land, or have charges apportioned between the different existing uses.

The strategic sites are considered separately in this report.

- 2.18 Having considered CIL in the 2017 Viability Assessment it was decided, on the grounds of viability, that there was not sufficient scope to introduce the Levy.
- 2.19 It is important to note that the above are proposals, albeit proposals that have been developed through several rounds of consultation. It would not be appropriate to assume that they will be introduced unchanged.
- 2.20 On balance these proposed changes do not impact on the 2017 Viability Assessment.

SCC Policy Changes

- 2.21 Since the publication of the *Core Strategy and Development Plan (the Plan)*, covering the period 2015 to 2033 the Council is seeking to include several policy changes that may impact on viability.

Building Regulations M4 (2) Category 2

- 2.22 In Policy H1, the requirement for 10% of dwellings on developments of 10 dwellings or more to meet Building Regulations M4 (2) Category 2 – accessible and adaptable dwellings has been confirmed. At the time of the 2017 viability assessment the policy was drafted asking for 'Lifetime Homes'. The requirement is now for 10% accessible and adaptable standards. In terms of cost, these are not dissimilar to Lifetime Homes standards.
- 2.23 In the 2017 Viability Assessment the costs of meeting these standards are set out in Table 8.2. It is confirmed that these are built into the appraisals in the 2017 Viability Assessment and introducing this policy should not have an adverse impact on the viability and deliverability of individual sites and the overall plan.

Nationally Described Space Standards

- 2.24 At the time of the 2017 Viability Assessment the Council did not plan to introduce a policy requiring compliance with the Nationally Described Space Standards (NDSS) – as set out from paragraph 8.15. Having said this, the modelling in the 2017 viability assessment was based on local norms and most development in the SCC area has come forward over and above the NDSS (based upon analysis Energy Performance Certificates). It was therefore the decided to base the modelling on the NDSS.
- 2.25 It is confirmed that the modelling in the 2017 Viability Assessment is consistent with the NDSS and as such the inclusion of a policy in relation to NDSS would not adversely impact on the viability and deliverability of individual sites and the overall plan.

Affordable Housing Mix

- 2.26 At the time of the 2017 viability assessment the it was assumed that the preferred affordable housing mix would be 75% affordable housing for rent and 25% affordable housing to buy. The Council has altered this slightly (as informed by the SHMA) and the preferred affordable housing mix is now to be 80% affordable housing for rent and 20% affordable housing to buy.
- 2.27 In terms of value, affordable housing under the Affordable Rent tenure was assumed to have a value of £1,000/m² (paragraph 4.68), affordable housing under the Social Rent tenure was assumed to have a value of £910/m² (paragraph 4.54) and affordable housing to buy was assumed to have a value of 65% of market value (paragraph 4.71).
- 2.28 Paragraph 10.30 of the 2017 Viability Assessment concluded:

The results for the higher value Affordable Rent are better than for the lower value Social Rent. The introduction of intermediate housing to buy results in an increase in the Residual Values and therefore viability. Whilst it is recommended that the Council continues to specify the preferred mix, it should also recognise that some flexibility around the mix may be necessary on sites where viability is marginal or less good as a way of facilitating development.

- 2.29 Whilst the change in policy is small it is likely to have a small negative impact on viability.

Consultation Responses

- 3.1 The Council undertook a Regulation 19 consultation on the July 2017 iteration of the Plan that concluded in October 2017.
- 3.2 A range of comments were received that relate to viability. On the whole, the points raised were in connection with the use of the evidence, rather than the evidence itself. The main responses are summarised below:
- a) *Health Impact Assessments are an additional burden on residential development.* It is acknowledged that there is a cost to meeting the requirements of this policy. The 2017 Viability Assessment includes an allowance for professional fees that is adequate to cover this.

- b) *Lifetimes Homes has been superseded by the Enhanced Building Regulations.* This is accepted. As set out in section 2 above this has been considered in the 2017 Viability Assessment.
- c) *The affordable housing policy is not always deliverable, particularly when the alternative viability thresholds are used (as per the analysis from paragraph 10.19).* This is accepted.

The analysis in the 2017 Viability Assessment only forms part of the Council's evidence base. The experience on the ground is that development is coming forward and is delivering affordable housing.

At least in part, the difference between the results in the viability assessment and the experience on the ground can be explained by the cautious assumptions used through each step of the 2017 Viability Assessment that perhaps understate the viability.

The PPG (10-015) clearly points towards use of the EUV plus approach saying the 'price will need to provide an incentive for the land owner to sell in comparison with the other options available'. The viability threshold used in the principle analysis is in line with the PPG (10-014) that says it should be informed 'by comparable, market-based evidence wherever possible. Where transacted bids are significantly above the market norm, they should not be used as part of this exercise'. This approach is consistent with that set out in the Harman Guidance and is specifically referred to in March 2018 consultation on changes to the viability sections of the PPG.

The alternative viability thresholds were not supported by evidence so should be given little weight.

The Council acknowledges that not all sites will be able to bear the affordable housing requirements, however there is a need for affordable housing and the Council needs to work towards meeting the need. The approach to this policy is cautious and appropriate.

- d) *NDSS would adversely impact on viability.* As set out in Chapter 2 above, the modelling in the 2017 Viability Assessment is based on the NDSS.
- e) *The Housing Mix being based on the SHMA may prejudice development.* As set out in Table 8.1 of the 2017 Viability Assessment the modelling used follows the SHMA mix. There is not a viability reason to not pursue the SHMA mix.
- f) *Concern was expressed about the meaning of 'highest standards of sustainability and design' in relation to the SSGA and whether this has not been tested.* It is accepted that this wording is not precise and the Council have clarified the policy.

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12th June 2018