Information
Viability Guidance Notes 2

Using viability appraisals in planning

This Guidance Note has been prepared to explain how viability appraisals submitted with planning applications will be used to inform negotiations. It should be noted that this information is provided for guidance only. Each scheme will be considered on its merits.

A separate Guidance Note has been prepared which sets out the information needed to support viability negotiations. This suggests that, in most cases a Residual Land Valuation (RLV) is likely to be the most appropriate.

What is Viability?

The national Planning Practice Guidance states that “a site is viable if the value generated by its development exceeds the costs of developing it and also provides sufficient incentive for the land to come forward and the development to be undertaken.”

When should viability discussions take place?

Ideally, viability negotiations should form part of pre-application discussions. Reviewing information submitted to identify potential viability issues at an early stage, allows the greatest scope for resolving the issues, helping to minimize delays in processing and determining your subsequent planning application(s).

Viability and the wider Policy Context

It is important to remember that viability discussions do not take place in isolation. As a planning authority we have to deliver sustainable development, and consider any applications in line with the policies in the adopted plan and any other material considerations.
The policies in the plan need to be taken together and the plan must be read as a whole. The policies in the plan have been through various stages of consultation and a public examination by a Planning Inspector. The policies are supported by evidence, and this evidence, and the policies it supports, has been scrutinized through the plan-making process.

In terms of viability, it is important to note that the policies and supporting evidence already:

- assume a reasonable level of profit for the developer
- assume a reasonable return for the landowner
- understand and allow for consideration of risk
- include buffers and allowances for uncertainty
- are mindful of the economic cycle
- have taken account of financing costs
- assumes no grant is available
- reflect local circumstances

Therefore, as the National Planning Practice Guidance acknowledges “Decision-taking on individual applications does not normally require consideration of viability.”

Local Plan Affordable Housing Targets and Viability

Strategy 34: Affordable Housing Targets, in the adopted Local Plan (2016) states that where a proposal does not meet the affordable housing target it will be necessary to submit evidence to demonstrate why provision is not viable or otherwise appropriate.

Roles and Responsibilities of EDDC

The Local Plan, including its policies on Affordable Housing, has recently been found sound and adopted. The whole purpose of the plan is to provide certainty for applicants, communities, individuals, infrastructure providers and others as to where new development will occur and what that development will entail. We are aiming to deliver the right development in the right place at the right time.
The Council also has a role in its capacity as Housing Authority, in relation to maximizing the opportunities for providing affordable housing. There are therefore many reasons in relation to good planning and our wider role, to work with applicants to try and improve the viability of any proposal. Ideally, we should work together to find a way to deliver a scheme that meets the affordable housing targets. However, as government guidance and Strategy 34 clearly acknowledge this may not always be the case. In such circumstances the aim will be to get as close to the affordable housing target as possible, by securing as much as is viable.

How are viability issues identified, and what can be done about them?

At a very simple level a site specific viability assessment looks at the values and costs of a particular proposal. By deducting the costs from the values you get an outcome, the 'residual', which in our suggested approach would be how much is left to contribute to s106 contributions. Therefore, by definition, reducing costs, and or increasing values, will improve the viability of a particular scheme.

One of the benefits of using an RLV, is that this method of calculation offers a simply way to model the financial outcomes of different schemes. For example, by trying out different numbers, and/or a different mix of size and types of housing it will be possible to see if viability can be improved.

What happens once I have provided my RLV?

Once an RLV and the supporting information are submitted, the costs, values and outputs in the RLV will be reviewed. They will be tested to ensure they are clearly evidenced and reasonable. Areas where further clarification is needed may be identified and further information may be requested.

If the viability assessment and supporting information is submitted as part of pre-application discussions, any issues can be picked up and discussed during the pre-application meeting. At this meeting a way forward will be agreed, including a timetable for further written information if needed.
If these discussions take place once as application has already been submitted, feedback will be in written form. It is for the applicant to satisfactorily demonstrate that the scheme is unviable. Incomplete, inaccurate or confusing information is unlikely to be able to do this.

For larger or more complex schemes, advice may be sought from the District Valuer. This will be at the applicant’s expense.

What issues may be identified?

Issues may be identified in relation to any element of the RLV. Essentially, costs should be reasonable and values should be realistic. RLVs include allowances for reasonable developer profits and a suitable value for the land. It is important to remember that on-site affordable housing, has a value, which should also be accounted for, albeit not full market value. CIL charges should be included as a cost and the sums for how they were calculated included in the supporting text of the viability appraisal.

Where there is a clearly identified viability issue, the next stage of discussion will be to see if anything could be done that would reduce costs and/or increase values. Redesigning the scheme, including considering changes to the mix, size, type and tenure of the units may also be considered, where this would improve the viability of the scheme.

This approach is in line with the national Planning Practice Guidance which indicates that where the deliverability of the development may be compromised by the scale of planning obligations and other costs, a viability assessment may be necessary. This should be informed by the particular circumstances of the site and the proposed development in question. Assessing the viability of a particular site requires more detailed analysis than at plan level.

What if the scheme is still not viable?

Having considered efforts to improve the viability of the scheme, if an applicant has clearly demonstrated that providing the target amount of affordable housing and other requirements on a particular site is currently not viable we may agree to accept a lower level of affordable housing.
Where a less than policy compliant amount of affordable housing is accepted an overage clause will be applied. Overage only becomes payable where a scheme is found to have made additional profit over and above that initially anticipated in the viability appraisal used to justify the reduced affordable housing contribution. This is established through the submission of a development account once the scheme has been completed. The East Devon approach to overage clauses is to seek to recover 50% of any additional profit made, up to the amount that would have been required for a policy compliant scheme.

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