

## **Appendix 2: Response of Weymouth & Portland Borough Council to Consultation on Draft Planning Practice Guidance on Viability and Plan-making**

### **Response to the Overall Approach Suggested**

The process for assessing viability at planning application stage can result in lengthy negotiations with landowners / developers. The draft revised guidance is now suggesting that all the relevant policy requirements for any allocated site should be set out in a local plan, so that further viability assessment at the decision-making (i.e. planning application) stage should not be necessary.

This proposed approach is likely to be unworkable for a number of reasons. Requiring detailed site-based viability evidence to be available when a site is allocated in a local plan is unduly onerous and the amount of viability information required to justify the allocation of a site at the plan-making stage is excessive.

The draft revised guidance states that 'in the absence of this (viability) evidence the site should not be allocated'. This statement strongly suggests that the allocation of a site in a local plan without site-based viability evidence would not be supported by a local plan inspector. However, gathering all the necessary viability evidence on all potential allocations, including sites that may not be allocated in the long run, would be likely to significantly hold up the preparation of local plans.

Under this proposed approach developers, local authorities, highway authorities and other statutory consultees would need to have a much fuller understanding of the cost implications of developments at a much earlier stage in the process, which would be highly time consuming for everyone involved and, due to the need to assess potential options, would involve a significant amount of abortive work.

In terms of costs implications for this process, many local authorities do not pay for site specific viability assessments (West Dorset and Weymouth and Portland included), with developers currently paying for site specific assessments at the planning application stage. If a site specific approach is taken prior to allocation in the local plan the cost of undertaking viability assessments on 'option sites' would then fall to the local authority. This would involve either the local authority carrying out the assessment themselves or additional costs for consultants to carry out the work. This additional cost to carry out the viability work is likely to be significant and would have to be budgeted for if this guidance was to be adopted.

The draft revised guidance states that 'a masterplan approach can be helpful in creating sustainable locations, identifying cumulative infrastructure requirements of development across the area and assessing the impact on scheme viability'. At present, generally only the largest allocations would have masterplans carried out by a local authority and usually this would only occur

after an allocation is made or a 'preferred option' selected. The proposed approach suggests that local authorities would need to masterplan multiple 'option sites' to test viability which would be highly labour intensive and would be likely to result in a significant amount of abortive work, when some of those larger sites are not allocated or selected as a 'preferred option'.

A detailed viability assessment carried out at an early stage in the plan-making process is likely to have become out-of-date when the site comes forward for development several years later. In that time lapse, it is highly likely that major parameters affecting viability will have changed. It seems likely that this would require renegotiation by local authorities and developers at the planning application stage, despite the Government's aspiration that this will not be necessary.

The current approach is to prepare a 'whole plan viability assessment', which takes a broader-brush approach to assessing the overall viability of a local plan, usually at the examination stage. It would be more appropriate to build on this current approach, but maybe for national guidance to require the assessment process and any standardised figures for assessing viability to be negotiated with developers / landowners. The aim of national guidance could be for a local authority to try and agree a whole plan viability assessment (and the standard figures used in any assessment) with local developers. If developers / landowners were unable to agree with the assessment and / or standardised figures used, then they would be able to submit detailed evidence to the local plan examination, explaining their position.

The Government's intention to standardise the approach to assessing viability and to set this out in the national practice guidance is welcomed. The intention that viability assessments should be proportionate, simple, transparent and publicly available is also welcomed.

## **Responses to Specific Questions**

### **Question: Should every site be assessed for viability in plan making?**

*Text from the consultation: 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.*

*A masterplan approach can be helpful in creating sustainable locations, identifying cumulative infrastructure requirements of development across the area and assessing the impact on scheme viability.*

**Response:** The draft revised guidance proposes that most sites should be assessed based on average data across similar sites. Whilst this approach may be acceptable in a whole plan viability assessment at the local plan

stage, it would not give a realistic assessment of the viability for individual sites, which is a major concern if the aim is not to re-visit viability at the planning application stage. To get an accurate assessment of the viability of an individual site, its individual attributes, such as: site geology; potential contamination; specific infrastructure requirements; specific health / education requirements; and any wildlife / biodiversity mitigation measures required, would need to be known. A basic assessment using averages and case studies at local plan stage would not take these more detailed factors into account. If the issue of viability should not be revisited at planning application stage unless absolutely necessary, there will be pressure for viability to be fully assessed at the plan-making stage, requiring much more information much earlier in the development process.

The text from the consultation also states that a masterplan approach can be helpful in identifying specific requirements for sites. However master planning sites is a very labour intensive process. A major issue would be if a site was master planned out and then not allocated through the local plan due to viability issues or lack of community support. This would result in a significant amount of abortive master planning and viability work potentially making the plan-making process even longer.

**Question: How should site promoters engage in viability assessment in plan making?**

*Text from the consultation: 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.*

**Response:** Engaging with developers, landowners etc. during plan making to secure evidence on costs and values is a positive suggestion. However, if as stated in the guidance: a site should not be allocated in the absence of such information; and viability should not generally be revisited at planning application stage, the effect is likely to be that viability will be discussed in much more detail at local plan examinations.

Gathering and then testing viability evidence during plan-making would be likely to significantly slow down the production of local plans, especially where a local plan includes larger site allocations. To get an accurate assessment of the viability of a larger site, details such as: housing mixes; tenures; road layouts; and other community requirements; would need to be determined at an early stage. If multiple potential allocations needed to be master-planned and then tested for viability prior to allocation this is likely to involve a significant amount of abortive master planning and viability work, which would be both time consuming and expensive, especially if consultants were employed.

**Question: Should viability be assessed in decision making?**

**Text from the consultation:** *Plans should identify circumstances where further viability assessment may be required at the decision making stage. Where 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. Any viability assessment should reflect the Government's recommended approach to defining key inputs as set out in National Planning Guidance.*

**Response:** It would not be practical for a viability assessment submitted to accompany a planning application to be based upon and refer back to the viability assessment that informed the local plan, if that original assessment was based on average site values and comparable case studies. This is because any assessment at application stage would be prepared in a different way (i.e. based on site-specific information) and would not be directly comparable with the assessment produced at the plan-making stage.

If a developer has no option but to use a viability assessment produced at the plan-making stage as a basis for a subsequent assessment, they may decide to undertake a more detailed site-based assessment at the plan-making stage, to ensure that it would be directly comparable with any subsequent assessment.

It is likely that this will put additional pressure on local plan production, but would be unlikely to reduce the length of viability discussions at planning application stage. The time lapse between the allocation of a site and the submission of a planning application may be a matter of years, rather than months, when site-based parameters and the financial climate could change, resulting in the need for re-negotiation.

**Question: How should land value be defined for the purpose of viability assessment?**

**Text from the consultation:** *In all cases, benchmark land value should:*

- *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.*

**Response:** Land values are normally a key part of viability negotiations and basing land values on schemes that have been policy compliant, rather than non-compliant, is a positive step. However, finding sound, up-to-date comparable market evidence of current uses, costs and values on policy complaint sites may be an issue.

**Question: What is meant by existing use value in viability assessment?**

*Text from the consultation: Existing use value is not the price paid and should disregard hope value.*

**Response:** This is a positive statement, which makes the point that existing use value should reflect the value of land in its current use together with the value associated with the right to implement any extant planning consent. It should help to quicken land value discussions by making it clear in national guidance that for viability assessment purposes the existing land value is not the price paid for a site / hope value of a site (which may be achievable after planning permission is granted).

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

*Text from the consultation: 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.*

**Response:** It is a positive step to try and agree EUVs, but it would result in local authorities needing to undertake this type of assessment early in the plan-making process and would be labour intensive. This process, in addition to master planning and viability testing sites prior to allocation, would increase the timescale and cost of plan-making considerably (especially if consultants were employed to do the work). Early engagement with landowners and developers to try and agree EUVs and other parameters could be more beneficial than carrying out master planning and viability assessments on sites prior to allocation, which could potentially result in less negotiation at the planning application stage.

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

*Text from the consultation: 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.*

**Response:** This helpfully re-iterates the point that the price paid for land will not be an acceptable argument for a developer to run in seeking not to comply with relevant policies in an up-to-date plan.

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

***Text from the consultation:** 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.*

**Response:** The guidance suggests a profit level of 20%, although a number of recent appeals have supported a profit level closer to 17.5% (for example, appeal reference: APP/R4408/W/17/3170851 at Land off Lowfield Road, Bolton upon Dearne, Barnsley). The draft revised guidance indicates that a different figure (to the 20%) can be applied if there is the evidence to support it, however 20% profit levels in the current climate is quite high, especially if a site is allocated which lowers the risk level.

The text from the consultation re-iterates that any viability assessment at the planning application stage should refer back to the viability assessment which informed the local plan. As mentioned above, there is normally a time lapse of several years between sites being allocated and planning applications being submitted. Assumptions used in assessing viability (for example build costs etc.) can change rapidly and assessments undertaken at the plan-making stage can quickly become out-of-date. This may result in developers needing to submit large amounts of viability evidence at the planning application stage to explain the reasons for any changes that have occurred since the original assessment was undertaken, which may not speed up or simplify the process.

**Question: Should a viability assessment be publicly available?**

***Text from the consultation:*** Any viability assessment should be prepared on the basis that it will be made publicly available other than in exceptional circumstances. Circumstances where it is deemed that specific details of an assessment should be redacted or withheld should be clearly set out to the satisfaction of the decision maker. Information used in viability assessment is not usually specific to that developer and thereby need not contain commercially sensitive data.

The proposal in draft revised national guidance to make viability assessments publically available is supported. It is important that national guidance provides advice on how viability assessments should be prepared to ensure consistency. A standard approach nationally will reduce the need for local authorities to provide their own guidance on how assessments should be prepared. It would also increase transparency so that the public would be better able to understand the assumptions used and the evidence behind them.

A more open approach to assessing viability may result in more challenges to the results, both from members of the public and other developers. If local authorities need to prepare their own guidance on how viability assessments should be prepared, it would need to be supported by a strong evidence base. This would require considerable resources, and could result in inconsistency between districts leading to challenges to the results. For these reasons, the more open approach now being suggested should be supported by a national standardised approach to preparing viability assessments.

***Text from the consultation:*** As a minimum, the Government recommends that the executive summary sets out the gross development value, benchmark land value, costs and return to developer. Where a viability assessment is submitted to accompany a planning application, the executive summary should refer back to the viability assessment that informed the plan and summarise what has changed since then. It should also set out the proposed developer contributions and how this compares with policy requirements.

**Response:** Setting out in the guidance how viability reports should be presented is a positive step towards standardising the structure of viability reports, making it easier for the public and planning officers to understand them.