

Full Council – 10 July 2018

Viability Assessment through Section 106 Agreements

Motion proposed by Councillor Habib Farbahi, seconded by Councillor Simon Coles

The Council notes:-

Viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it, with an acceptable level of financial return to a willing landowner.

This problem is exacerbated if the assessment is treated as confidential and detailed information is not available to the public and cannot be discussed by the Planning Committee.

The Local Planning Authority (LPA) in recent months has received viability assessments as part of the application submission with the Staplegrove development in October 2017 and has recently accepted a reduction of 7.5% in the levels of affordable housing for 2,000 homes at Comeytrove and Trull after the developer's submission and the original resolution to the grant of permission in Jan 2016.

Reducing the levels of affordable housing from 25% to 17.5% has provided the developers with an extra 150 open market homes at the expense of our struggling younger generation families in Taunton Deane who cannot get onto the housing ladder.

There were now more than 2,000 people on the housing waiting list and urgent action is needed to reduce these numbers, instead of allowing them to grow.

More than 70% of Councils do not believe the National Planning Policy Framework (NPPF) will meet the need for low-cost homes in their local area, according to a recent survey ⁴).

The Council should take note of Shelter's Chief Executive Officer's (Polly Neate) warning that the lack of affordable housing is the main cause of homelessness. The figures from the Department for Housing, Communities and Local Government show an increase of 16% of homeless people over the previous year. Indeed latest figures demonstrate that Taunton holds the record in the County for homelessness.

We have no doubt that the planning process has to be transparent with all the parameters and policies clear to both developers and this authority, to ensure that our Planning Committee can make an informed decision. Clarification of process and methodology during determination of the application is required.

At the moment important issues, for example the number / type / tenure and location of affordable units, are often not adequately considered at an early stage.

The local information requirements list, also known as the local validation list, needs to set out clearly the information that the Council will require to be able to register, assess and determine planning applications. The amount of information required will vary, depending upon the type and complexity of the proposed development, including any specific site constraints.

Any viability assessment should be supported by evidence informed by engagement with developers, landowners, infrastructure and affordable housing providers. Any viability assessment should follow the Government's recommended approach to assessing key factors as set out in the recently published draft National Planning Policy Guidance and be proportionate, simple, transparent and publicly available¹). This information should be available for public scrutiny and comment.³).

Applicants should also provide a summary of the financial viability assessment which outlines key findings, inputs, and conclusions to assist review by the LPA, and members of the public³).

It is important that developers are accountable to communities and that communities are able to easily see where contributions towards infrastructure and affordable housing have been secured and spent. Any taxpayers contributions towards enabling developments should be clawed back plus interest.

According to Shelter, "The damage being done by viability assessments is clear to see. Fortunately, there is a simple solution. By following through on plans to amend national planning rules in the planning for the right homes in the right places consultation, the Government can deliver thousands more affordable homes every year, increase overall housing supply and make sure communities get more of what they want from new housing schemes²).

We therefore recommend that:-

Generally the viability should be assessed through the plan-making process as set out in the new draft National Planning Policy Framework, and

- 1) Where viability factors in to development, viability assessments should be submitted at the validation stage. This will make for more complete and considered applications and will help streamline and speed up the decision making process;
- 2) All the facts and figures should be publically available wherever possible to enable an informed debate and decision to be made;

- 3) Wherever possible, the Council will seek to recover any taxpayer contribution to enable development such as Housing Infrastructure Fund (HIF) with interest at 3%; and
- 4) Where viability remains an issue, the Council will apply principles set out in the new draft National Planning Policy Guidance. Under these circumstances the council will insist on:-
 - (a) An open book procedure to ensure delivery of much needed housing; and
 - (b) The levels of contributions to be assessed during and after completion of developments. The Council must insist on the potential use of a claw back mechanism to maximize affordable housing contributions.

References:

- 1) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/687239/Draft_planning_practice_guidance.pdf
- 2) https://england.shelter.org.uk/_data/assets/pdf_file/0010/1434439/2017.11.01_Slipping_through_the_loophole.pdf
- 3) https://www.london.gov.uk/sites/default/files/ah_viability_spg_20170816.pdf
- 4) [https://www.planningresource.co.uk/article/1466133/councils-cool-revised-nppf-affordable-housing-definition?bulletin=planning-daily&utm_medium=EMAIL&utm_campaign=eNews%20Bulletin&utm_source=20180530&utm_content=Planning%20Resource%20Daily%20\(247\)::www_planningresource_co_u_6&email_hash=](https://www.planningresource.co.uk/article/1466133/councils-cool-revised-nppf-affordable-housing-definition?bulletin=planning-daily&utm_medium=EMAIL&utm_campaign=eNews%20Bulletin&utm_source=20180530&utm_content=Planning%20Resource%20Daily%20(247)::www_planningresource_co_u_6&email_hash=)

Taunton Deane Borough Council

Motions to Council – Assessment Form

On receipt of a Motion from a Councillor, the Democratic Services Manager will carry out an assessment as to its contents to establish whether there are likely to be significant consequences to the Council should the Motion be carried at the subsequent Full Council meeting.

The first question to be addressed will be:-

“Can the Motion, if approved, be implemented without the need for any resource (financial and otherwise) to be identified outside existing budgets or staffing capacity?”

If the answer is ‘yes’, then the Motion can proceed towards discussion and resolution.

An example of a Motion which would fall into the above category would be where the Council is being asked to lobby the Government, Somerset County Council or other body on a particular issue. If the motion is carried, the action required will usually involve no more than a letter being prepared and sent to the intended recipient.

However, as in the case of the recent Motion on ‘Legal Hights’, the answer to the above question would clearly be ‘no’.

In such circumstances, detailed analysis of the wording of the Motion will be required to identify what will be needed if the Motion – when it comes before Full Council – is carried.

Such analysis will include:-

- What additional resource would be required to ensure the Motion (if approved) could be implemented?
- What needs to be done to identify the level of resource necessary both in financial and staff terms?
- Are any approvals needed to provide these resources?
- Will this require reports to be submitted through Scrutiny and the Executive?
If a Supplementary Estimate is required, Full Council approval will be required too.

If such analysis is required, the Democratic Services Manager will arrange for the attached pro-forma to be completed and this will accompany the relevant Motion onto the agenda of the Full Council meeting so all Members are aware that further investigation will be required before the Motion – even if it is carried – can be implemented.

Motions to Council – Assessment Proforma

(To be used in circumstances where it appears the wording of a proposed Motion will commit the Council to providing further financial or staffing resources which cannot be met from existing budgets)

Brief Details of the Motion -

Motion

Recommending that:-

Generally the viability should be assessed through the plan-making process as set out in the new draft National Planning Policy Framework, and

- 1) Where viability factors in to development, viability assessments should be submitted at the validation stage. This will make for more complete and considered applications and will help streamline and speed up the decision making process;
- 2) All the facts and figures should be publically available wherever possible to enable an informed debate and decision to be made;
- 3) Wherever possible, the Council will seek to recover any taxpayer contribution to enable development such as Housing Infrastructure Fund (HIF) with interest at 3%; and
- 4) Where viability remains an issue, the Council will apply principles set out in the new draft National Planning Policy Guidance. Under these circumstances the council will insist on:-
 - (a) An open book procedure to ensure delivery of much needed housing; and
 - (b) The levels of contributions to be assessed during and after completion of developments. The Council must insist on the potential use of a claw back mechanism to maximize affordable housing contributions.

Questions to be addressed

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| <ul style="list-style-type: none">• <i>What additional resource would be required to ensure the Motion (if approved) could be implemented?</i> |
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| Answer – The motion (if approved) would require additional staff resource to prepare revised guidance and amendment to existing Affordable Housing SPD. |
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<i>What needs to be done to identify the level of resource necessary both in financial and staff terms?</i>
Answer – The work would need to be scoped and considered against the current workload of the Planning Policy team
<i>• Are any approvals needed to provide these resources?</i>
Answer –No specific approvals required
<i>• Will this require reports to be submitted through Scrutiny and the Executive? If a Supplementary Estimate is required, Full Council approval will be required too.</i>
Answer – Revised policy would need to be approved by Council

Likely timescale involved – N/A