

Viability PPG

Briefing Note

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The Ministry for Housing, Communities & Local Government (MHCLG) has published a revised National Planning Policy Framework (the 'Framework') for consultation. This draft document incorporates policy proposals previously set out within both the Housing White Paper and the Planning for the Right Homes in the Right Places consultation.

In support, also, additional consultation is underway in respect of the Draft Planning Practice Guidance (PPG) for **Viability, Draft Housing Delivery Test Measurement Rule Book and Supporting Housing Delivery through Developer Contributions**. This Briefing Note focuses on the implications of the guidance set out in the draft PPG on Viability.

When can viability be considered?

The Viability PPG seeks to assist in the application of paragraphs 173-177 of the Framework, ensuring that local plans are clear about the levels/types of planning contributions expected in association with development. The current PPG section on viability allows applicants to negotiate planning contributions based on the submission of a **viability assessment**. However, the position is proposed to be markedly changed with the revised Guidance **placing a clear obligation on plan-makers to now test the viability of local plan policies in order to ensure that a plan is found to be sound**.

Where plans are found to be sound, based on this assessment, **the ability to reassess viability as part of individual planning applications will be strictly limited**.

Only in exceptional circumstances, for example where extraordinary infrastructure costs are demonstrated, or, where there is a significant change in economic circumstances, **will the level of contributions sought from a scheme be reconsidered through site specific viability assessment**.

How will plan-makers assess viability?

Under the emerging guidance, **local planning authorities will need to assess the viability of draft policies including those relating to planning contributions**. The guidance suggests that this exercise is undertaken **based on a range of development typologies rather than on a site by site basis**. The values and costs assumed within the assessment will be based on a set of assumptions, except in the case of strategic development sites. The guidance is clear that in order to ensure an accurate assessment of strategic sites, **land owners/developers must contribute to the process via the submission of costs information. If such evidence is not put forward to provide certainty in respect of the deliverability of the site, it may not be allocated for development**.

The revised guidance does seek to provide clarity regarding a number of inputs into appraisals that have previously been the subject of much debate, as follows:

- **Developer Profit** – a profit of 20% of Gross Development Value (GDV) is considered a suitable return to developers in order to establish viability of the plan policies.
- **Build Costs** – as an industry standard source of information **the Building Cost Information Service (BCIS) is considered to be an acceptable basis for build costs**.
- **Benchmark Land Values** - to be calculated **based on the existing use value (EUV) of the land, plus a premium for the landowner (EUV+)**.

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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. **Where recent transactions are used to inform assessment of benchmark land value there should be evidence that these transactions were based on policy compliant development.** Existing use value is not the price paid and should disregard hope value. **Determining EUV to be based on assuming that no future planning consents will be obtained.**

The guidance indicates that developers/other parties buying land must 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 considered to be relevant justification for failing to accord with relevant policies in the plan.**

What will decision-takers consider when viability assessments are accepted at application stage?

In circumstances where a further assessment of viability is required at the application stage, the Guidance states that the appraisal inputs must be based on, and refer back to, the Local Plan viability assessment. The onus is on applicants to justify any departures from that approach.

The Guidance also sets out that **submitted viability assessments are to be made publicly available** other than in exceptional circumstances. Such circumstances should be clearly set out by the applicant at the outset (the PPG deems that information applied in viability assessment is not usually specific to that developer and thereby need not contain commercially sensitive data).

Implications for developers/landowners

The updated PPG is likely to replace existing guidance on viability **in July 2018**. After this time, plan makers will need to ensure that robust viability assessments are included within the evidence base for emerging local plans. However, the impact of these assessments is unlikely to be reflected in up to date local plans for several years.

In the interim period, we expect local authorities to continue to accept viability assessments as part of planning applications. However, these assessments will be expected to reflect the guidance set out above on value and cost assumptions, and may be published for consultee review.

It is anticipated that the approach to benchmark land values will continue to give rise to issues surrounding viability, particularly where land deals were negotiated prior to the guidance being updated. The current consultation process offers the opportunity to submit comments in this regard.

The PPG on Viability consultation runs until the 10th May 2018. If you require any further advice regarding the above, please do not hesitate to contact the office listed below.