

Viability Guidance Note – The Borough Council of King’s Lynn & West Norfolk

Background

This guidance note has been produced to assist developers, planning agents and applicants on the submission of viability and financial appraisals. This note sets out the Local Planning Authority’s approach and should be considered before any appraisal is submitted.

When is viability considered?

In the context of national planning guidance, Paragraph 58 of the National Planning Policy Framework (NPPG) provides the following advice:

“Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.”

Therefore, in accordance with Paragraph 58, viability will only be considered as part of a planning application where the applicant has provided sufficient justification that it is necessary.

Any Viability Assessment must be submitted at the planning application stage and should be in accordance with The Viability National Planning Policy Guidance (NPPG). This includes using standardised inputs based on and referring to assumptions within the Local Plan Viability Study with evidence provided of what has changed since then.

The relevant study for King’s Lynn & West Norfolk is the Local Plan Review – Viability Update (April 2021). Any Viability Assessment submitted to the Council must use the standardised inputs and should be based upon one of the typologies taken from the Viability Update.

Where an applicant submits a viability appraisal with a planning application and the planning officer is satisfied that the appraisal complies with NPPG, the appraisal will be reviewed by an independent consultant appointed by the Council. The cost of the review will be met by the applicant. Once the appraisal has been reviewed by the consultant, the Planning Officer will decide how much weight the appraisal should be given.

Paragraph 008 of the NPPG states *“The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and viability evidence underpinning the plan is up to date, and site circumstances including any changes since the plan was brought into force, and the transparency of assumptions behind evidence submitted as part of the viability assessment.”*

Therefore, viability will not be considered in isolation, it is for the Planning Officer to determine the weight that viability evidence should be given.

Reviewing viability during the lifetime of a development

Paragraph 009 of the NPPG provides the following guidance: *“Where contributions are reduced below the requirements set out in policies to provide flexibility in the early stages of a development, there should be a clear agreement of how policy compliance can be achieved over time.”*

Where Affordable Housing has been reduced due to viability, the applicant will need to enter into a Section 106 agreement which will include a late stage review. The mechanism will allow the development's viability to be reassessed over its lifetime. It will make sure the greatest benefit to the public is secured over the period of the development.

The agreement would also secure the appointment of an independent assessor. The assessor would be funded by the developer. The assessor will monitor the scheme on an open-book basis against the late-stage review provisions.

Reviewing viability on commenced sites

In accordance with Paragraph 009 - *“realisation of risk does not in itself necessitate further viability assessment or trigger a review mechanism. Review mechanisms are not a tool to protect a return to the developer, but to strengthen local authorities’ ability to seek compliance with relevant policies”*

Therefore, viability will not ordinarily be considered during the lifetime of a development (after development has commenced) except on larger, strategic sites.

Consequently, in line with both the NPPF & NPPG, a Viability Appraisal should be submitted alongside a planning application. Any appraisals submitted after development has commenced on site (except in the case of strategic sites) will not be considered by the Local Planning Authority.

Contact

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Last updated April 25