

Development Viability

Supplementary Planning Document

January 2016



Currency in £

	Units	ft ²	Rate ft ²	Unit Price	Gross Sales
REVENUE					
Sales Valuation					33,750,000
Private	50	37,500	900.00	675,000	8,961,975
Affordable Housing	51	39,831	225.00	175,725	
Totals	101	77,331			<u>42,711,975</u>
NET REALISATION					
OUTLAY					
ACQUISITION COSTS					
Residualised Price (1.00 Acres 6,064,408.97 pAcre)				42,711,975	
Stamp Duty					6,064,409
Agent Fee			4.00%		242,576
Legal Fee			1.00%		60,644
			0.50%		30,322
CONSTRUCTION COSTS					
Construction	Units	Unit Amount		Cost	
	1 un	19,500,000		19,500,000	333,842
				500,000	19,500,000 ?

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1. Introduction

- 1.1. The economic viability of development has become an important consideration as part of the planning system, both in terms of plan-making and when determining planning applications.
- 1.2. The Islington Local Plan sets out the strategic vision for the development of the borough and policies to ensure that this is sustainable. This Development Viability Supplementary Planning Document (SPD) sets out guidance on how Islington Development Plan policies should be applied in relation to development viability when determining planning applications. This will provide greater clarity to applicants when preparing planning applications and help to avoid delays in the decision making process.
- 1.3. The SPD sets out how the council will consider viability in accordance with the National Planning Policy Framework, whilst ensuring that the principles of sustainable development form the basis for planning decisions.
- 1.4. The council has undertaken two stages of public consultation which have informed the SPD, comprising of a preliminary consultation on a Development Viability Discussion Paper and Questionnaire from 22 September to 20 October 2014 and a further public consultation on a draft version of the SPD for an eight week period from 10 July to 4 September 2015. A consultation statement has been produced summarising this process, as required by regulation 12(a) of the Town and Country Planning (Local Planning) (England) Regulations (as amended).
- 1.5. A Sustainability Appraisal (SA) / Strategic Environmental Assessment (SEA) Screening Statement and a Resident Impact Assessment have also been carried out for this guidance document.
- 1.6. The SPD does not form part of Islington's Development Plan or Local Plan but it is a material consideration dependent on the circumstances of individual applications.

2. Viability in the Planning Process

Islington Context

- 2.1. Islington is the most densely populated local authority in the country having accommodated extremely high levels of development in recent years. Despite being the second smallest local authority area in the country the borough has, for example, consistently seen one of the highest levels of residential development, far exceeding its housing targets¹. A large number of sites have been granted planning consent and there is a significant development pipeline².
- 2.2. The extent of delivery in Islington is indicative of a buoyant property market. Average residential values in Islington are extremely high and have increased very significantly over the last 20 years. At the time of writing, the average house price in Islington was £687,783³. Average house prices per square metre in Islington were the 5th highest nationally, having risen by 49% in 5 years to £6,868 per sq m in 2014⁴. Dips in residential values in Islington over the last 20 years have been relatively short lived, and have been more than offset by subsequent increases - the average Islington house price in October 2015 was more than 56% higher than at the peak of the market in December 2007⁵. Commercial and hotel rents and yields have also increased significantly in the last few years, although these tend to be more cyclical.
- 2.3. Islington is home to some of the most affluent areas in the country, but the borough is marked by significant inequalities and poverty is intensifying⁶. The gap between incomes and housing costs is rapidly widening, as is the difference between property prices in London and the rest of the country. There are high levels of affordable housing need with a large number of households on the borough's waiting list⁷ due to issues such as overcrowding and homelessness. For this reason the council is committed to increasing the delivery of affordable housing as set out in the Islington Corporate Plan and Islington Housing Strategy 2014-2019. This includes the objective of ensuring that there are decent, suitable and affordable homes for all.
- 2.4. Islington has an 'hourglass shaped' labour market, with a high proportion of lower and higher income earners and a lower proportion of middle income earners⁸. A fifth of Islington's population live in an income deprived household. Child poverty levels are the third highest in the country and poverty levels amongst older people are fifth highest in the country⁹.
- 2.5. High density urbanisation together with significant projected population and employment growth will put pressure on infrastructure over the plan period. This has the potential to exacerbate a number of environmental challenges in Islington such as increased surface water flood risk, higher temperatures, biodiversity deficiency and air and noise pollution, along with associated health impacts.

¹Islington has consistently exceeded its annualised overall housing targets set by the London Plan. Net completions figures for 2013/14, indicate a total of 1,537 units completed against a target of 1,170 units, or around 130% of target net (excluding vacant units returned to use). Looking ahead to the five year supply, from 2015/16 to 2019/20, the housing trajectory anticipates that the borough will meet 125% of the housing targets set out in the London Plan.

²Islington Housing Trajectory 2014 – Interim Report (July 2015) for past completion and anticipated delivery rates

³ Land Registry House Price Index (September 2015 as published 28 October 2015)

⁴ Halifax House Price Per Square Metre Survey (June 2015)

⁵ Land Registry Linked Open Data House Price Index (<http://landregistry.data.gov.uk/app/hpi/>)

⁶ Cripplegate Foundation, Distant Neighbours: Poverty and Inequality in Islington (2013)

⁷ At any one time between 8,500 and 9000 households are typically on the Islington housing register and are eligible for housing allocations due to factors such as homelessness and overcrowding.

⁸ The Islington Employment Commission, Working Better: The Final Report of the Islington Employment Commission (2014)

⁹ Indices of Multiple Deprivation (2015)

Policy Context

- 2.6. The purpose of the planning system is to secure sustainable development. This is defined in the **National Planning Policy Framework (NPPF)** as growth that ensures that “better lives for ourselves don’t mean worse lives for future generations.” The NPPF incorporates all three dimensions of sustainable development: economic, social and environmental and sets out a presumption in favour of sustainable development.
- 2.7. The NPPF further states that planning should contribute to building a strong, responsive and competitive economy including by coordinating development requirements such as the provision of infrastructure and by seeking to address potential barriers to investment, including a poor environment or any lack of infrastructure, services or housing¹⁰.
- 2.8. Planning should also support strong, vibrant and healthy communities, by providing accessible local services (and facilities) that reflect the community’s needs and support its health, social and cultural well-being¹¹.
- 2.9. In order to deliver an adequate range of high quality homes and create sustainable, mixed communities, the NPPF requires local authorities to plan for a mix of housing based on current and future demographic trends, including affordable housing.
- 2.10. Consistent with the statutory framework for planning, the NPPF stresses the importance of having a planning system that is genuinely plan led¹². Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise¹³.
- 2.11. The Islington Core Strategy (2011), Development Management Policies (2013), Finsbury Local Plan (2013) and Site Allocations (2013) form the adopted Islington Local Plan and together with the London Plan comprise the Statutory Development Plan for Islington. This sets out the level of planned development as well as particular areas of identified need such as infrastructure provision, employment space and housing delivery (including affordable housing), and environmental standards. The Development Plan provides the basis of decision taking in the borough and along with the council’s Community Infrastructure Levy (CIL) Charging Schedule, will help to ensure that the development of the borough is sustainable.
- 2.12. In the light of the borough and policy context as set out above, it is particularly crucial that development is delivered in accordance with the Development Plan to ensure that this is sustainable.

Plan Making and Delivery

- 2.13. The NPPF requires that the costs of planning policy requirements should allow for competitive returns to a willing land owner and willing developer to enable development to be deliverable¹⁴. Paragraph 174 further states that Local Planning Authorities should assess the likely cumulative impacts of policies and standards on development, which should not put implementation of the plan at serious risk, and should facilitate development throughout the economic cycle. These paragraphs should be read within the context of the NPPF as a whole and the overarching principle of ensuring the delivery of sustainable development through the plan-led system.

¹⁰ National Planning Policy Framework (NPPF) page 2 and Section 1

¹¹ NPPF page 2 and Sections 6 and 8

¹² NPPF Paragraph 17

¹³ NPPF Paragraph 196

¹⁴ NPPF Paragraph 173

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- 2.14. The council has fully considered the cumulative impact of its policy requirements on development viability as part of the Examination of its Local Plan and CIL Charging Schedule¹⁵. These were found to be sound by independent examiners following a process of Public Examination which followed extensive public consultation.
- 2.15. Whilst each proposal should be assessed having regard to its own distinct characteristics and circumstances, the high levels of development, buoyant property market and significant development pipeline, as referred to above, demonstrate the general viability of development in Islington. This gives a strong indication that requirements within the Development Plan have not threatened the viability of the sites and the scale of development identified within the Plan to date.

Decision Taking

- 2.16. Development viability is also relevant to the process of determining planning applications. **Planning Practice Guidance (PPG)** states that viability is an important consideration when local authorities negotiate planning obligations and affordable housing. The Guidance acknowledges that there is no single approach for assessing viability and that there is a range of methodologies available. It advocates for greater understanding of viability through evidence based judgement (informed by relevant available facts), collaboration (with transparency of evidence wherever possible) and consistency.
- 2.17. This is also expressed within the Development Plan. **London Plan** Policy 3.12 states that the maximum reasonable amount of affordable housing should be sought when negotiating on individual private residential and mixed use schemes. A number of factors should be considered including: current and future requirements identified and targets adopted for affordable housing, development viability, the need to encourage rather than restrain development, the resources of registered providers, and the implications of phased development as well as other scheme requirements when entering into negotiations.
- 2.18. The London Plan requires that developers provide development appraisals and appropriate evidence supporting assumptions to demonstrate that each scheme provides the maximum reasonable amount of affordable housing output. Boroughs should evaluate these appraisals rigorously, drawing on the GLA development control toolkit and other independent assessments which take account of the individual circumstances of a site, the availability of public subsidy and other scheme requirements¹⁶. The Mayor seeks to maximise affordable housing output and expects developers to make the most effective use of available affordable housing resources to achieve this¹⁷. Further details are provided in the Mayor's Housing Supplementary Planning Guidance (SPG)¹⁸.
- 2.19. **Islington Core Strategy** Policy CS12 requires that individual housing and mixed use developments should provide the maximum reasonable level of affordable housing that can be achieved, taking into account the borough wide target that 50% of new housing should be affordable. Development viability is a factor when determining this.
- 2.20. Viability is also relevant when establishing the extent and timing of other requirements. Policy DM9.2 in the **Islington Development Management Policies** establishes that the council will use

¹⁵ See Islington Local Plan Evidence Base:

http://www.islington.gov.uk/services/planning/planningpol/local_dev_frame/pol_evidence/Pages/default.aspx and CIL Evidence Base: http://www.islington.gov.uk/services/planning/planningpol/community_infrastructure_levy/Pages/CIL-Charging-Schedule---Submission-Document-List.aspx

¹⁶ London Plan, The spatial development strategy for London consolidated with alteration since 2011 (March 2015), Paragraph 3.71

¹⁷ London Plan Paragraph 3.72

¹⁸ <https://www.london.gov.uk/what-we-do/planning/implementing-london-plan/supplementary-planning-guidance>

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planning obligations to deliver sustainable development. Paragraph 9.12 states that in cases where applicants submit that financial viability issues do not allow for the full range of planning obligations to be met, applicants shall provide a financial appraisal and pay for an independent review of the appraisal by a suitably qualified expert appointed by the council. Only where financial viability is a demonstrable issue and where developments have over-riding planning benefits should consideration be given to a grant of planning permission.

Purpose of the Supplementary Planning Document (SPD)

- 2.21. The purpose of the SPD is to provide greater clarity to applicants by providing guidance on the application of planning policy. This applies to all classes of development where viability considerations are relevant. The SPD should thus help to minimise delays in determining any applications where viability is a factor. The guidance is intended primarily to inform applicants for major developments¹⁹. However, many of the principles will also be applicable when considering the viability of minor developments, particularly Sections 3, 4, 5 and 6.
- 2.22. The guidance in this SPD should also be applied in the event that development viability is a consideration in respect of any other Development Plan Policy, in addition to those policies referred to above. This could include Development Management Policy DM5.1A on New Business Floorspace, Finsbury Local Plan Policy BC8A on Achieving a Balanced Mix of Uses or Core Strategy Policy CS10A on Sustainable Design.
- 2.23. Despite viability becoming a central part of the planning process, there has been relatively wide scope and discretion for how viability matters are dealt with. The council's experience is that in some instances this has led to the use of inappropriate approaches to assessing viability and this has come into conflict with the principle of sustainable development and the plan-led system. The council's experience is mirrored by a number of other organisations that have expressed concerns with the operation of viability and consideration of the public interest within the planning system²⁰, which have also been acknowledged by the Mayor of London²¹.
- 2.24. As the Local Planning Authority, it is the council's role to determine the most appropriate approach to be taken in each viability case. The SPD sets out guidance on the approaches and methodologies that are considered to be most appropriate in the context of delivery of the Development Plan. On adoption, this will supersede viability guidance in the Islington Planning Obligations SPD (2013). The Planning Obligations SPD will also be updated in due course to reflect these changes.
- 2.25. The council receives a large number of viability assessments which are submitted in support of arguments that applications cannot meet policy requirements. PPG confirms the principle set out in the NPPF that where safeguards are necessary to make a particular development acceptable in

¹⁹ Major development as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 includes development where the number of dwellinghouses to be provided is 10 or more and the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more.

²⁰ See for example:

-Joseph Rowntree Foundation: Rethinking planning obligations: Balancing housing numbers and affordability (2015);
-London Assembly, Planning Committee Meeting Minutes, 17 September 2015;
-Association for Public Sector Excellence & Town and Country Planning Association (TCPA): Housing the Nation: Ensuring councils can deliver more and better homes (2015);
-Campaign to Protect Rural England (CPRE): Getting Houses Built, How to Accelerate the Delivery of New Housing (2015);
-Communities and Local Government Select Committee: Fourth Report, Operation of the National Planning Policy Framework (December 2014) Paragraphs 64-6;
-The Lyons Housing Review, Mobilising across the nation to build the homes our children need (2014) pages 75-76;
-Joint statement issued by TCPA, Royal Institute of British Architecture (RIBA), BRE, CPRE and Friends of the Earth (2013): Communities risk losing essential affordable housing unless Government sets fair planning guidance

²¹ Mayor of London's Question Time, 15 July 2015

planning terms, and these safeguards cannot be secured, planning permission should not be granted for unacceptable development²².

- 2.26. It is particularly important that the inputs and assumptions applied in a development appraisal are appropriate and fully justified due to the direct impact on the outcome of the appraisal and determination of the application, as well as the potential implications of failing to meet required standards. In light of these issues, another purpose of the SPD is to provide clarity on the nature and extent of information required by the council to enable it to robustly scrutinise viability assessments.
- 2.27. The regulatory framework for planning has changed significantly in recent years. The Housing and Planning Bill (published in October 2015) proposes further changes. The guidance in this SPD continues to be relevant to the decision making process within the current legal and policy framework. The council will monitor and consider further regulatory changes as they come into effect.
- 2.28. The SPD provides guidance on the following aspects of the viability assessment process: Procedure (Section 3); Deliverability and Transparency (Section 4); Methodology (Section 5); Information Requirements (Section 6); Viability Review Mechanisms (Section 7) and Monitoring and Review (Section 8). Key requirements are summarised at the end of each section and at Appendix A. These should be read in conjunction with the full guidance set out in each Section. Appendix B provides a summary list of information and evidence to be submitted as part of a viability assessment. Appendix C sets out the council's approach to affordable rented housing within the context of the Mayor's Housing Strategy and the Council's Housing Strategy 2014-2019.

²² Planning Practice Guidance (PPG), Viability, Viability and decision taking, Paragraph 019

3. Procedure

Pre - Application Stage

- 3.1. Pre-application discussions offer the opportunity for the council to clarify the planning policies and material considerations that will be relevant to determining an application, as well as enabling issues to be resolved through a collaborative process²³.
- 3.2. The pre-application stage also offers the opportunity to scope out the viability exercise, and to discuss the appropriate methodology and inputs to be applied based on the specific development proposal. Providing clarity and agreeing key aspects of an appraisal at this stage is important to ensure that the application process progresses smoothly and viability-related issues are addressed early on.
- 3.3. The level of viability evidence required at the pre-application stage will depend on the scale and nature of the proposed development. However, for all major applications where it is considered that policy requirements will not be met in full due to viability considerations, a draft appraisal should be provided at pre-application stage²⁴. This will enable the council to provide early feedback to assist with preparation of the planning application, which will increase the likelihood of this being successful.
- 3.4. In line with the Mayor of London's Housing Supplementary Planning Guidance (SPG) this should include details of discussions with Registered Providers of affordable housing which should inform the value of affordable housing assumed within an appraisal (see Section 6).
- 3.5. In line with the requirements of the Islington Planning Obligations SPD, draft Section 106 Heads of Terms and CIL should also be considered during pre-application discussions. The Council aims to agree planning obligations at an early stage, which will ensure there is sufficient time for drafting the Section 106 agreement within statutory timescales.

Viability, Affordable Housing and Scheme Design

- 3.6. Proposals should be designed in a way that accords with Development Plan policies, including those relating to land use, densities, building heights, environmental standards and the requirement to provide the maximum reasonable level of affordable housing taking account of the overall borough wide strategic target of 50%, at a policy compliant tenure split.
- 3.7. In terms of residential schemes, Islington Core Strategy Policy CS12 includes the requirement that affordable housing units are designed to a high quality and are fully integrated with the overall scheme. The Development Management Policies encourage housing design which is 'tenure blind' so that affordable and private homes are indistinguishable from one another in terms of design quality, appearance and location on a site.
- 3.8. In view of this, the level of affordable housing should not be artificially constrained by a design approach which is based on the separation of market and affordable units when the viability process indicates that additional affordable housing would otherwise be achievable. Such an approach would enable affordable housing to be 'designed out' of a proposal regardless of the outcome of assessing viability. This is contrary to Policy CS12 which requires that the maximum reasonable level of affordable housing is provided taking account of the borough's strategic target,

²³ PPG, Before Submitting an Application, Paragraph 001;

²⁴ See footnote 19

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and that affordable housing is integrated within the overall scheme. This also highlights the importance of engaging with the council on viability issues at an early stage, to ensure that issues such as this can be prevented.

- 3.9. For major applications, the council will agree timescales for pre-application and application stages within Planning Performance Agreements (PPAs).

Pre-application Stage - Key Requirements

- An applicant should provide details relating to proposed methodology, inputs and a draft viability appraisal at pre-application stage where viability is likely to be a consideration in determining the application.
- An applicant should discuss Section 106 Heads of terms at pre-application stage so that this is addressed at an early stage and to enable financial contributions to be included in the assessment.
- Proposals should be designed in a form that accords with Development Plan policies, including the requirement to provide the maximum reasonable level of affordable housing and integrate this within the overall scheme, and that reflects the outcome of the viability assessment process.

Validation/ Application Stage

- 3.10. The council requires that a viability assessment is submitted for all major residential applications at validation stage. A viability assessment is also required for any other application where viability is a factor in determining the application.
- 3.11. It is important that the planning application process can progress efficiently in order to meet statutory timeframes for determination. Viability assessments should be submitted alongside other application documents and should include all relevant information required by the council, as set out in this SPD or as otherwise requested by the council, to avoid delays in determining the application (see in particular Sections 4, 5 and 6, and summaries at Appendices A and B). If details set out in this SPD or requested by the council are not provided by the applicant, this is likely to undermine the validity of the assessment and limit the weight that can be given to it in the decision-taking process.
- 3.12. If material changes are made to an application after submission that could affect scheme viability, a revised appraisal will be required. Again, this may delay determination as these matters are likely to be fundamental to consideration of the application. This highlights the importance of engaging with the council through pre-application discussions. Where there is a delay, the council will expect to agree a new timetable for determination and revise any PPA accordingly.
- 3.13. Where issues have not been resolved and it has not been possible to determine the application within the timescale originally envisaged, it may be necessary to submit an updated viability assessment to reflect current market conditions.
- 3.14. A list of proposed Section 106 Heads of Terms²⁵ and a CIL Additional Information Form²⁶ are also required for validation.

²⁵ See Islington Planning Obligations SPD (2013) for further information: www.islington.gov.uk/s106

²⁶ Further details on Community Infrastructure Levy are set out on the council's website: http://www.islington.gov.uk/services/planning/planningpol/community_infrastructure_levy/Pages/operation-cil.aspx

Validation / Application Stage - Key Requirements

- A viability appraisal should be submitted at validation stage for all major residential applications or for any other application where viability is relied upon as a factor in determining the application.
- Viability assessments should include all relevant information required by the council (see in particular Sections 4, 5 and 6, and summaries at Appendices A and B) to avoid delays in determining the application.
- A revised viability appraisal should be submitted where any material changes are made following validation. An appraisal should also be updated where necessary to ensure that the assessment reflects current market conditions at the point of determination.

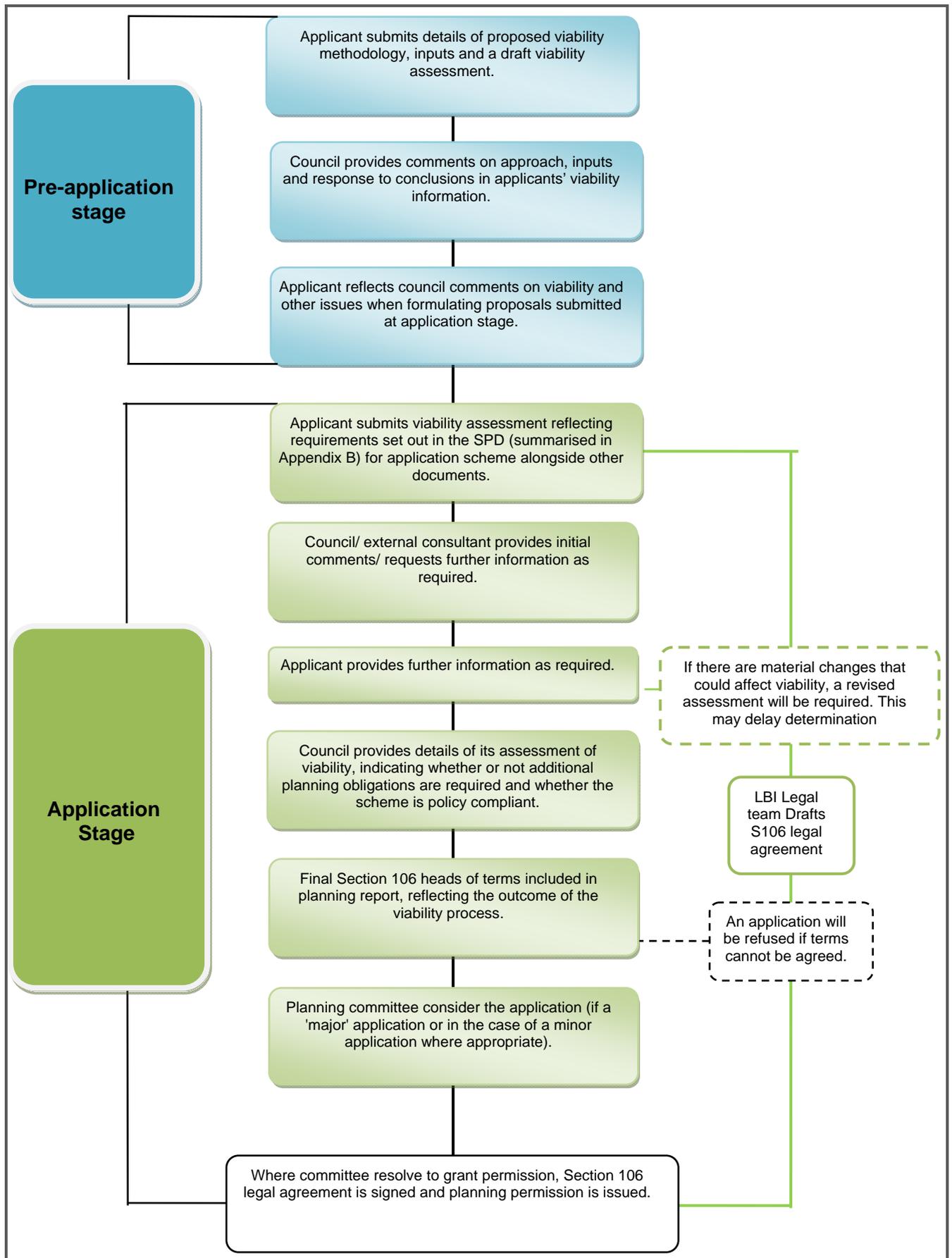
Assessment of Viability Appraisal

- 3.15. Viability evidence will be assessed by the council, who will normally take advice from an external consultant. The cost of the assessment and any other associated costs, will be paid for in advance by the applicant. In some instances it may be necessary to commission additional specialist services to enable the council to properly assess the scheme, depending on the nature of the proposals.
- 3.16. The council will appoint suitably qualified consultants, whilst ensuring that there are no conflicts of interest and that they are able to undertake the work within required timescales.
- 3.17. When assessing an applicant's viability evidence, the council or its consultants may request clarification or additional information. Correspondence should always be sent directly to the council, with any information sent to the council's consultants also copied to the council.
- 3.18. As part of the assessment, the council will consider whether the approach adopted and inputs used are appropriate and adequately justified by evidence. It will determine whether the level of planning obligations and other Development Plan requirements proposed by the applicant are the maximum that can viably be supported or whether further obligations and/ or a greater level of policy compliance could be achieved.
- 3.19. Following completion of the assessment, the council will provide details to the applicant, indicating whether or not additional planning obligations are required and whether the scheme complies with Development Plan Policies. Section 106 heads of terms will be included in the council's Planning Report, reflecting the outcome of the viability process. An application will be refused permission if terms cannot be agreed.
- 3.20. Where a major application is recommended for approval, this will be considered by a council Planning Committee who will either resolve to grant permission, refuse consent, or defer this where insufficient information is available or key matters remain unresolved. Minor applications will be determined under delegated authority or by Planning Committee if appropriate. If the Planning Committee resolves to grant permission, the planning consent will be issued on completion of the Section 106 agreement.

Assessment of Viability Appraisal - Key Requirements

- The cost of the assessment and any associated costs, will be paid for in advance by the applicant.
- Correspondence relating to the assessment should always be directly sent or copied to the council.

Figure 1: Key aspects of the viability process at pre-application and application stages



4. Deliverability and Transparency

- 4.1. The role of viability assessments in the planning process is to support delivery. Paragraph 173 of the NPPF states that plans must be deliverable, and that “*pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking*”.
- 4.2. London Plan paragraph 3.71 requires that councils rigorously evaluate development appraisals submitted as part of the planning process. It is widely recognised that there is potential for significant variations in the outcome of viability assessments depending on the inputs assumed. It is therefore vital that viability assessments are formed of inputs that are supported by robust evidence. Further guidance relating to evidence, inputs and assumptions used in viability assessments is set out in Section 6.

Verification

- 4.3 It is important that viability information provided to the council is consistent with corresponding information that an applicant has themselves relied on to inform their own commercial decision making and information that is used as a basis for securing development finance. If a viability assessment submitted to the council is to be relied on as evidence in determining a planning application, the council will expect that this provides a true and fair reflection of the viability of the development.
- 4.4 To ensure that the information accords with paragraph 4.3 above, a statutory declaration will be sought from a director or person of similar standing of the applicant company, confirming that this is the case. Specifically, this should also verify that the costs and values applied in the viability assessment submitted to the council are consistent with current costs and values within (or used as a starting point for) viability assessments that the company is relying on for internal or financial purposes²⁷. A declaration will also be sought to confirm that the company undertaking the assessment has not been instructed on the basis of performance related pay or is incentivised in any other way according to the outcome the viability process and the level of planning obligations that the applicant is required to provide.
- 4.5 Members of the Royal Town Planning Institute (RTPI) and the Royal Institution of Chartered Surveyors (RICS) are also bound by a professional code of conduct. Accordingly, the council will expect members of these professional bodies who are involved in viability matters to adhere to these standards.²⁸

Deliverability

- 4.6. The council has received development appraisals which indicate that a development would generate a significant deficit with the level of planning obligations as proposed by the applicant, even at a level lower than required by policy. This raises questions regarding the commercial basis of the proposed scheme and the terms under which development finance is likely to be secured. This would also appear to be at odds with general market conditions and the high rates of development within the borough (where not explained by circumstances specific to the site).
- 4.7 An appraisal which shows a different level of planning obligations to be viable from that proposed by the applicant raises issues relating to the deliverability of a scheme and makes it difficult for the council to make an informed decision. It also poses the risk of a lower level of planning obligations

²⁷ If ‘outturn’ values and costs are applied within an assessment presented to the council, these should also be consistent with those relied on by the applicant (see Section 7 – Considering Changes in Value and Costs at Planning Application Stage).

²⁸ RTPI Code of Professional Conduct (2012) Paragraph 1(a); RICS Rules of Conduct for Members (2013) Paragraph 3.

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being sought by the applicant at a later date (for example through a Section 106 BA application for a reduction in affordable housing) after planning consent has been secured.

- 4.8 An applicant should demonstrate how their proposed scheme is deliverable, taking into account their proposed level of planning obligations. The applicant must clearly demonstrate with reference to viability evidence that the proposed level of obligations is the maximum that can be provided and that the scheme is deliverable with this level of provision.
- 4.9 A statutory declaration by the applicant company and by finance providers may be required, which verifies that they consider the scheme as proposed to be deliverable, based on the information provided to the council.
- 4.10 Where the applicant does not intend to build out the scheme themselves, they may be expected to provide evidence from a developer (with experience of delivering schemes of a similar type and scale) that the scheme is capable of being delivered on the basis of the evidence presented in the viability assessment.

Deliverability and Verification - Key Requirements

- To verify the information provided as part of the planning process, a statutory declaration will be sought from the applicant company confirming that:
 - The assessment submitted to the council is a true and fair reflection of the viability of the proposed development; and that costs and values in this assessment are consistent with current costs and values within (or used as a starting point for) viability assessments that have been undertaken for internal or financial purposes.
 - The company undertaking the assessment has not been instructed on the basis of performance related pay or is incentivised in any other way according to the outcome of the viability process and the level of planning obligations that the applicant is required to provide.
- The applicant must clearly demonstrate with reference to viability evidence that the proposed level of obligations is the maximum that can be provided and that the scheme is deliverable with this level of provision.
- A statutory declaration by a director of the applicant company and by finance providers may be required, which verifies that they consider the scheme as proposed to be deliverable, based on the information provided to the council.

Transparency and Confidentiality

- 4.11 Information relevant to the plan-making and planning application process is publicly available. The benefits of transparency are set out in first recital to European Directive 2003/4, which the Environmental Information Regulations (2004) are intended to implement:

“Increased public access to environmental information and the dissemination of such information contribute to a greater awareness of environmental matters, a free exchange of views, more effective participation by the public in environmental decision making and, eventually, to a better environment.”

- 4.12 The NPPF also places a requirement on Local Planning Authorities to facilitate community involvement in planning decisions:

“Local planning authorities should create a shared vision with communities of the residential environment and facilities they wish to see. To support this, local planning authorities should aim to

involve all sections of the community in the development of Local Plans and in planning decisions
...²⁹.

- 4.13 It is common for applicants to seek to place confidentiality restrictions on viability information. This normally takes the form of requesting that the council does not disclose information to a third party and seeking an exemption from disclosure under the Environmental Information Regulations 2004 and the Freedom of Information Act 2000 on the basis that this would adversely affect the confidentiality of commercial information which protects a legitimate economic interest.
- 4.14 The issue of a lack of transparency within the viability assessment process has been raised in a number of recent reports, including the House of Commons DCLG Select Committee 2014 review of the Operation of the National Planning Policy Framework. The review identified that more needs to be done to prevent unsustainable development and to ensure that the social and environmental dimensions of sustainable development are given equal weight to economic factors. The Committee concluded that greater consistency and more transparency are needed to overcome issues with the viability process. PPG encourages transparency of evidence wherever possible³⁰.
- 4.15 Confidentiality and transparency have also been considered in a number of recent Information Commissioner's Office (ICO) and First Tier Tribunal decisions, following requests to release the information under the Environmental Information Regulations 2004 (EIR)³¹. The EIR set out a presumption in favour of disclosure. Tests for an exemption to disclosure relate to the extent to which this would produce an 'adverse effect' and an overriding test relating to how the public interest would best be served³². In these cases the ICO and First Tier Tribunal concluded either that there was insufficient evidence to show that disclosure would cause an adverse effect, such as harm to a commercial interest, or where harm would be caused, the public interest in disclosure outweighed non-disclosure³³.
- 4.16 In January 2015, the First Tier Tribunal ruled that in the case of the Greenwich Peninsula site all of the viability information was central to assessing the application and should be disclosed³⁴. In considering the facts of the case, the Tribunal identified a number of factors that would dilute any potential harm to developers from the disclosure of the viability information that was provided:
- Sales are dictated more by market conditions at the time an asset is released to the market than by the assumptions a developer may have incorporated into their viability assessment at the planning application stage. Disclosure of viability information including assumptions made around sales values is therefore unlikely to cause commercial harm to a developer as purchasers have their own idea of what the market worth of an asset is to them.
 - The potential harm caused to developers by competitors viewing their sale and cost assumptions is limited as competitors have their own knowledge of sales values and costs and are likely to consider their own assumptions to be more accurate.

²⁹ NPPF Paragraph 69

³⁰ PPG, Viability – A general overview; Paragraph 004

³¹ See for example: the Greenwich Peninsula; the Heygate Estate; Walthamstow Greyhound Stadium; Earl's Court redevelopment; Coroner's Court Building, Bristol; Hampton Court Station and the Jolly Boatman; and the Thorpe Arch Estate, Wetherby.

³² See publications by the Information Commissioner's Office: The Public Interest Test: Freedom of Information Act; How Exceptions and the Public Interest Test Work in the Environmental Information Regulations; Information in the Public Domain: Freedom of Information Act, Environmental Information Regulations.

³³ In the case of the Heygate Estate, the court determined that the 'live' viability model developed by the applicant that allows different scenarios to be run and tested, and sales and rental information between the developer and future commercial customers should not be made available. However, other information should be disclosed and there was a countervailing public interest in ensuring that social housing providers obtain a reasonable deal.

³⁴ First Tier Tribunal, Greenwich Peninsula case:

http://www.informationtribunal.gov.uk/DBFiles/Decision/i1478/Royal%20Borough%20of%20Greenwich%20EA.2014.0122%20%2830_01.15%29.pdf

- The value of viability information to a competitor also diminishes rapidly, as viability assessments are a snapshot in time. Whilst the value to competitors is limited, the benefit to the public of being able to view the assumptions that informed the affordable housing offer and the level of planning obligations secured is significant³⁵.

The Council's Approach

- 4.17 The council recognises the importance of public participation and the availability of viability information in the planning process. This enables members of the public to ascertain whether viability evidence is reasonable and robust, whilst helping to maintain confidence in the planning system and the accountability of those undertaking the assessments. This is particularly relevant in circumstances where it is argued that the council's affordable housing target or other policy requirements cannot be met due to financial viability.
- 4.18 The council is also mindful that viability information is often based on or similar to publically available data and / or standard assumptions. Even where this is not the case, it has rarely been demonstrated that disclosure would cause an 'adverse effect' which would outweigh the public benefit of disclosure.
- 4.19 For these reasons and those identified by the First Tier Tribunal the council considers that information submitted as a part of, and in support of a viability assessment should be treated transparently and be available for wider scrutiny. In submitting information, applicants should do so in the knowledge that this will be made publically available alongside other application documents.
- 4.20 The council will allow for exceptions to this in very limited circumstances and only in the event that there is a convincing case that disclosure of an element of a viability assessment would cause harm to the public interest to an extent that is not outweighed by the benefits of disclosure. Given the significant benefits associated with the availability of information to the public as a part of the decision making process, and the other factors identified above, the council anticipates that there would be very few exceptions.
- 4.21 If an applicant wishes to make a case for an exceptional circumstance in relation to an element of their assessment, they should provide a full justification as to the extent to which disclosure of a specific piece of information would cause an 'adverse effect' and harm to the public interest that is not outweighed by the benefits of disclosure. The council will consider this carefully, with reference to the 'adverse effect' and overriding 'public interest' tests in the EIR, as well as the specific circumstances of the case.
- 4.22 If it is considered that an exceptional circumstance is likely to arise, this should be raised at an early stage within the pre-application process. In submitting information to the council, an applicant does so in the knowledge that the council may not accept the applicant's claims that information should not be disclosed to the public.
- 4.23 The council also has the right to provide information to external parties advising the council on viability matters where this is necessary to ensure due diligence in assessing an application, and that it properly fulfils its statutory function as Local Planning Authority. Regardless of any decision not to make specific elements of an appraisal publically available, information will be made available, on a confidential basis, to planning committee members or any other council member who has a legitimate interest in seeing it.

³⁵ The Tribunal also considered, but did not accept the argument that the developer would be reluctant to provide public authorities with anything above the bare minimum of viability information if it was to be made publicly available.

- 4.24 Notwithstanding any such decision, the council may also need to release information to a third party where another body has a role in determining the application (e.g. the Mayor of London); where another body has a role in providing public subsidy; or where the application is subject to a planning appeal. Any decision not to disclose information will be subject to the council's obligations under the Freedom of Information Act and the Environmental Information Regulations.

Transparency & Confidentiality - Key Requirements

- The availability of information submitted as a part of the planning process is important to ensure public participation in the planning process, confidence in the planning system and the accountability of those undertaking the assessments.
- The council considers that information submitted as a part of, and in support of a viability assessment should be treated transparently and be available for wider scrutiny. In submitting information, applicants do so in the knowledge that this will be made publically available alongside other application documents.
- The council will allow for exceptions to this in limited circumstances and only in the event that there is a convincing case that disclosure of an element of a viability assessment would cause harm to the public interest to an extent that is not outweighed by the benefits of disclosure. If an applicant considers that an exceptional circumstance is likely to arise, this should be raised at an early stage within the pre-application process.

5. Methodology

- 5.1. The 'Residual Land Value' valuation methodology is used to determine the 'residual' value that is available to pay a landowner once the costs of undertaking the development and a reasonable developer's profit are deducted from the gross development value (GDV) generated by the development. Any additional value associated with a development over and above the value of the site in its existing use or accepted policy compliant alternative use is dependent on the grant of planning permission, the basis of which is the Development Plan. Under this approach Development Plan requirements (which have already been subject to area-wide viability testing) are therefore included alongside other development costs, which are deducted from the GDV to determine the residual value that is available to pay for the land.
- 5.2. The council considers that the Residual Land Value methodology is the most appropriate to use in this context and is consistent with the longstanding principle that policy requirements associated with securing planning permission are development costs that influence the level of any uplift in land value derived from the grant of planning permission for a development or change of use on the land. Applied properly this approach is therefore appropriate for assessing viability as part of the planning process given that the purpose of the planning system is to achieve sustainable development, as determined by the relevant Statutory Development Plan³⁶.
- 5.3. In line with the GLA Development Appraisal Toolkit Guidance Notes, the council does not consider it appropriate to apply a fixed land value as an input within a development appraisal based on price paid for land or an aspirational sum sought by a landowner. In this case the developer's profit, rather than the land value, would become the output of the residual valuation. This has led to circumstances, where a high fixed land value has been assumed, which is inconsistent with the outcome of the viability assessment which shows an unviable scheme. Furthermore other changes to a scheme, such as a reduction in density (which would be expected to result in a lower residual value) may not be reflected in an appraisal where the site value has been fixed and is not the output of the appraisal.
- 5.4. This also raises a further concern regarding internal consistency. A market based land value which is likely to reflect assumptions regarding future value and cost growth assumptions should not reasonably be included as a fixed cost input in an assessment which is based on current day values and costs. Further guidance on these issues and the methodology for determining an appropriate 'benchmark land value' is set out in Section 6.

Methodology - Key Requirements

- The council considers that the Residual Land Value methodology is the most appropriate to use when undertaking a viability assessment for a planning application. In this approach, Development Plan requirements are included alongside other development costs, which are deducted from the Gross Development Value to determine the residual value that is available to pay for land.
- In line with the GLA Development Appraisal Toolkit Guidance, the council does not consider it appropriate within a development appraisal to apply a fixed land value as an input which is based on price paid for land or an aspirational sum sought by a landowner. Such an approach without appropriate reference to the landowners' existing interest prior to grant of consent, and without fully taking into account planning policy requirements, can undermine the delivery of Development Plan requirements and create inconsistencies between assumed site value and the outcome of the assessment.

³⁶ Given the sensitivity of residual valuations to changes in inputs appraisals should be evidenced, internally consistent, should be considered as a whole and outcomes may require sense checking. This is considered further in Section 6.

Viability Model

- 5.5. There are a range of standard models that are typically used for undertaking viability assessments, such as the GLA Development Appraisal Toolkit, the Homes and Communities Agency (HCA) model and the development software ARGUS Developer. The council considers that it may be appropriate to use each of these depending on the nature of the scheme, although it has a preference for ARGUS as this has a range of capabilities and is widely used by the industry.
- 5.6. Establishing a common basis upon which the applicant and the council can discuss viability is paramount. It is vital that the council is provided with a full working electronic version of the viability appraisal model which can be fully tested and interrogated, even where bespoke models are used. All assumptions, including phasing and cash flows should also be accessible and capable of variation to observe the impact on the model's outturn.
- 5.7. The council will not accept viability arguments where it is not given the ability to properly assess the validity of the appraisal that is relied on.
- 5.8. The council will generally not make the live working version of a viability model accessible to third parties, other than to those who have a specific role in advising the council on viability matters. These advisors will be required not to release the model to any third party. See Section 4 for further consideration of issues relating to confidentiality and transparency of viability information.

Viability Model – Key Requirements

- The council should be provided with a working electronic version of the viability appraisal model which can be fully tested and interrogated.

6. Information Requirements – Evidence, Inputs and Assumptions

- 6.1. Local authorities are required to ensure that both their plans and their planning decisions are based on robust evidence, which also applies to viability information submitted with planning applications. This helps not only to secure good planning outcomes, but also to ensure that there is consistency in the way planning applications are assessed, that the planning decision making process operates fairly and that this does not disadvantage other applicants.
- 6.2. All viability evidence must be robustly justified and appraisal assumptions should be benchmarked against publicly available data sources. Appraisals must also be balanced, coherent as a whole and internally consistent. For example, whilst individual inputs could theoretically be justifiable when seen in isolation, the consistent adoption of pessimistic figures across a range of fields, can result in an outcome that is biased³⁷. The relationship between specific inputs, and the relationship between inputs and the outcome of the assessment as a whole should therefore be considered.
- 6.3. Further details and guidance relating to the key evidence, inputs and assumptions within a viability assessment are set out below.

Evidence, Inputs and Assumptions - Key Requirement

- Viability assessments should comprise of the information and evidence set out in this Section 6 (and other relevant sections) of the SPD and as summarised at Appendix B.
- All viability evidence must be robustly justified and appraisal assumptions should be benchmarked against publicly available data sources.
- Appraisals must be balanced, coherent as a whole and internally consistent. The relationship between specific inputs and the outcome of the assessment as a whole should therefore be considered.

Scheme Details and Development Programme

- 6.4. Details of the proposed scheme should be provided including site area, residential unit numbers, densities, unit sizes, habitable rooms and the split between private and affordable tenures. Floorspace figures should also be provided for residential and non-residential uses in Gross Internal Area (GIA) and Net Saleable Area (NSA)/ Net Internal Area (NIA).
- 6.5. Information should be provided relating to the applicant company, the target market/ occupiers of the development and the proposed specification, which should be consistent with assumed costs and values.
- 6.6. Details of the assumed development programme and the timing of cost and income inputs should be provided, including land payments and residential sales rates, with reference to: project/ construction plans and contracts; and land/ development/ letting agreements (as relevant). The development programme should include information relating to pre-build, construction, marketing and sales/ lettings periods.

³⁷ Professor Patrick McAllister, Professor in Real Estate, University College London, London Assembly Planning Committee, 16 July 2015, Transcript of Item 5 – Housing Supplementary Planning Guidance

Scheme Details and Development Programme - Key Requirement

Details should be provided regarding:

- The proposed scheme (including site area, residential unit numbers, densities, unit sizes, habitable rooms, split between private and affordable tenures, and floor space figures for residential and non-residential in GIA and NSA/NIA).
- The target market / occupiers.
- The proposed specification (consistent with assumed costs and values).
- The timing of cost and income inputs (including residential sales rates with reference to project/ construction plans and contracts and land/ development/ letting agreements as relevant).
- The development programme (including information relating to pre-build, construction, marketing and sales/ lettings periods).

Development Value

- 6.7. Gross Development Value is determined by assessing the total value of a development based on the value of the individual uses within the development. This is derived from the sales values of any units to be sold and the rental value of any properties to be rented which are capitalised using a 'yield', to give an overall capital value (including ground rents). Development values adopted within viability assessments are typically determined based on current day figures at the time of determination. This is considered further in Section 7.
- 6.8. Assumptions relating to development values should be justified with reference to comparable properties, appropriate market evidence and where relevant, arrangements with future occupiers, including rents and lease arrangements. Information relating to other properties that is provided to justify assumed development values should be directly comparable to the site in question for it to be given appropriate weight, or should be adjusted to ensure appropriate comparison. Transactions or market data should be up to date (from at least within the last 6 months), within an appropriate distance from the site, and relate to new build properties. If, in exceptional circumstances, there is a lack of new build data it may be appropriate to provide information for existing properties, although a premium should be applied where this is the case.
- 6.9. Information relevant to comparable properties should be fully analysed to demonstrate how this has been interpreted and applied to the application scheme. Where an assessment refers to indices or other information sources generated by third parties, a full examination of the data and methodology used to inform the index would need to be provided for it to be considered acceptable.
- 6.10. The Land Registry has now made all sales transactions for residential properties available online. For further information see: <https://www.gov.uk/government/organisations/land-registry>.
- 6.11. Where market residential properties are valued on the basis that they will be rented, the council is likely to require the applicant to enter into a planning obligation that the property will not be sold within a certain timeframe. In such cases the ability to sell the property at the end of that timeframe should be taken into account when establishing a capital value for the property.

Development Values - Key Requirements

- Assumptions relating to development values should be justified with reference to up to date transactions and market evidence relating to comparable new build properties within a reasonable distance from the site, and, where relevant, arrangements with future occupiers.
- Information relevant to comparable properties should be fully analysed to demonstrate how this has been interpreted and applied to the application scheme.

Affordable Housing Values

- 6.12. The Mayor of London's Housing SPG states that development appraisals should be carried out in conjunction with a Registered Provider of social housing (RP). As referred to in Section 3, developers and RPs should engage with the planning and housing departments of the relevant borough at pre-application stage.
- 6.13. The value assumed for the affordable housing component of a development should reflect RP offers for purchasing the affordable housing based on assessments of rental and capital receipts from the affordable housing units, any proceeds reinvested from staircasing receipts³⁸, Right to Acquire (RTA) or external subsidies, including GLA grant funding and internal RP subsidy³⁹.
- 6.14. The London Plan states that the Mayor seeks to maximise affordable housing output and expects developers to make the most effective use of available affordable housing resources to achieve this⁴⁰. If affordable housing values do not reflect the amounts paid by RPs, there is a risk that this will be undervalued resulting in less affordable housing than warranted by the resources provided by the RP.
- 6.15. The timing of payments for affordable housing should also be reflected in an appraisal. An RP may for example pay circa 30% of the agreed total price at implementation with further funding provided in instalments throughout the development programme.
- 6.16. If an RP offer has not been accepted at the point of the application, evidence should be provided regarding offers received and the marketing process⁴¹. If a developer is having difficulty securing an offer the council should be notified and can facilitate discussions with reference to its preferred list of RP partners. Where evidence of RP offers is not provided, the council will apply affordable housing values based on typical RP offer levels.
- 6.17. The starting point for discussion on developments is that there should be no assumption that direct public grant will be available for the provision of affordable housing, unless the proposals are supported by a confirmed delivery agreement with an RP with a confirmed grant allocation. Details of any subsidy or grant that may be available should be provided to enable the borough to ensure that this results in a better outcome in terms of overall affordable housing output, tenure mix and/or bedroom size than a development without public investment.
- 6.18. The council will consider the affordability of development proposals on a scheme by scheme basis, but in general will not support delivery of new rented affordable homes that include properties

³⁸ 'Staircasing' is the term used for the purchasing of additional shares/percentages in a shared ownership property. Occupiers have the ability to purchase all shares in the property and thus own 100% of the property ('staircasing out').

³⁹ RICS Practice Standards: Valuation of Land for Affordable Housing, 1st Edition, Guidance Note (2010)

⁴⁰ London Plan Paragraph 3.72

⁴¹ For properties generating rental income, estimates of rent levels should be provided, together with assumptions regarding estimated capitalisation period, deductions and discount rate.

charging rent levels that do not accord with the Council's Housing Strategy 2014-2019. Further details on the council's approach to affordable rented housing are set out in Appendix C.

- 6.19. Applicants should demonstrate and commit to ensuring that intermediate housing will be affordable for households with a range of incomes below the upper limit identified by the Mayor of London. For dwellings to be considered affordable, annual housing costs, including mortgage (assuming reasonable interest rates and deposit requirements), rent and service charges, should be no greater than 40% of net household income (net income to be assumed to be 70% of gross income)⁴².
- 6.20. RPs typically include value attributable to staircasing (as well as internal subsidy) when making offers to purchase shared ownership units. A typical assumption is that on average 70% of equity would be purchased. Where shared ownership units are proposed, the unrestricted market value of the property should be provided and staircasing should be taken into account when determining its value.

Affordable Housing Values - Key Requirements

- Development appraisals should be carried out in conjunction with a Registered Provider of social housing.
- Affordable housing values assumed within a viability assessment should reflect the offer/s made by Registered Providers for purchasing the affordable housing element of the development. Evidence of calculations underpinning affordable housing values, including details of rental and capital receipts (including staircasing), discussions with RPs and subsidies should be provided.

Build Costs

- 6.21. Development costs adopted within viability assessments are typically determined based on current day figures⁴³ at the point of the planning permission. This is considered further in Section 7 (Considering Changes in Values and Costs at Planning Application Stage).
- 6.22. The RICS Build Costs Information Service (BCIS) is a publically available source of cost information which can be used in viability assessments. The selection of BCIS values must correctly reflect the specific nature, location and size of proposal, and be justified to show that an appropriate and reasoned approach has been taken in estimating the costs. In such instances where costs are agreed by the council, this would be an acceptable basis of cost inputs as part of a review mechanism, linked to the Tender Price Index (TPI).
- 6.23. For larger schemes, it is likely to be more appropriate to rely on a specific assessment of build costs. In these circumstances, costs should be fully justified based on a detailed specification of the proposed development and the intended construction approach. The information should be provided on an elemental basis with a full breakdown of costs into component parts. This should be benchmarked against commercial sources of information such as BCIS or Spon's price books. Costs should also be distinguished for different parts of the scheme such as market and affordable housing.

⁴² See GLA (2015), London Plan Annual Monitoring Report 11 (2013-14)
<https://www.london.gov.uk/sites/default/files/Annual%20Monitoring%20Report%2011.pdf>

⁴³ See PPG paragraph 017

Development Viability SPD

- 6.24. Where a specific assessment of build costs is relied on, rather than standardised costs from a recognised source, or where any abnormal costs are applied, build costs will be reviewed on an open book basis as a part of a viability review (see Section 7).
- 6.25. The council will expect a clear correlation to be evident between a development's specification, assumed build costs and development values. Build costs and values should also be formulated on a consistent basis. Where current day values are adopted, build costs should not incorporate cost inflation. Professional and marketing fees adopted at the higher end of typical ranges would be expected to be associated with higher values.
- 6.26. It is important that any site-specific or abnormal costs are disaggregated and supported by robust evidence. Associated works must be directly related to the site and development as listed in the planning application (e.g. additional costs attached to remediation, protection of heritage assets on site etc) and required in order to enable the development to proceed. The council will have regard to the nature of any abnormal costs that will apply and also the impact that this has on land value. It should not be assumed that abnormal costs would necessarily be borne exclusively at the expense of compliance with the Development Plan, as a site involving abnormal development costs is likely to attract a lower land value than could be achieved on a site where this was not the case.

Build Costs - Key Requirements

- The RICS Build Costs Information Service (BCIS) is a publically available source of cost information that can be used in viability assessments. In such instances and where costs are agreed by the council, this would be an acceptable basis of cost inputs as a part of a review mechanism, linked to the Tender Price Index (TPI).
- For larger schemes, it is likely to be more appropriate to rely on a specific assessment of build costs. In these circumstances, costs should be fully justified based on a detailed specification of the proposed development and the intended construction approach.
- Where a specific assessment of build costs is relied on, rather than standardised costs from a recognised source, or where any abnormal costs are applied, build costs will be reviewed on an open book basis as a part of a viability review. Costs should be provided for different components of the scheme including market and affordable housing.
- The council will expect a clear correlation to be evident between a development's specification, assumed build costs and development values.

Developer Profit

- 6.27. Developers must receive a competitive return for a scheme to proceed and also a level of profit that is sufficient for finance to be secured. The appropriate level of developer profit will vary from scheme to scheme. This is determined by a range of factors including property market conditions, individual characteristics of the scheme, comparable schemes and the development's risk profile. The lower the scheme's risk profile, the lower the level of required profit and vice versa.
- 6.28. Assumptions made must be balanced and internally consistent. In line with this, it should be made clear how the profit level has been adjusted taking into account the other assumed inputs within an appraisal. For example, where a high build cost contingency or other costs at the upper end of typical parameters are adopted as means of mitigating risk, this would equally be expected to influence the assumed profit target.

Development Viability SPD

- 6.29. Following the downturn of 2008/9, required profit levels increased notably reflecting greater risk and constraints on the availability of development finance. During that time, for market residential properties, much higher levels of profit were applied – typically 20% on Gross Development Value (GDV).
- 6.30. A major upturn in the London residential market has since led to rising values and significant levels of housing delivery in Islington. Inner London residential values have long since outstripped the previous 2007 peak. High demand for residential properties means that it is common for units to be sold ‘off-plan’, which also has the effect of reducing risk.
- 6.31. Increased demand for commercial floorspace and low vacancy rates, together with the concentration of technology businesses in the Old Street/ City Road/ Kings Cross areas and other factors, such as the forthcoming Crossrail Station at Farringdon, have also placed upward pressure on values and rents. This has increased the prospect of ‘pre-let’ arrangements with future tenants or forward sales as a means of reducing risk.
- 6.32. These improved conditions, together with the greater availability of development finance, have reduced risk and with it decreased typical profit levels required to ensure delivery compared with those seen following the financial crisis. In view of this it is considered that current profit levels for private residential / commercial components of a scheme are likely to fall within a range of 15-20% on Gross Development Costs (GDC), appropriate to current market conditions, depending on the circumstances of the proposal.
- 6.33. Profit requirements for affordable housing are much lower than those for market sale units given the lower levels of risk associated with securing occupation of affordable units compared with the sale of market units⁴⁴.
- 6.34. In accordance with the PPG the council will avoid a rigid approach to profit levels. The council will consider the individual characteristics of each scheme when determining an appropriate profit level and will require supporting evidence from applicants and lenders to justify why a particular return is appropriate, having regard to site specific circumstances, market conditions and the scheme’s risk profile.

Calculating Developer’s Profit

- 6.35. The most common approach for calculating developer’s profit in viability assessments submitted as a part of the planning process is either as a factor of Gross Development Cost (GDC) or Gross Development Value (GDV). In this case the unit of measurement is monetary so that a development proposal’s viability surplus or deficit can be easily quantified. Also, it is a comparatively stable measure in that a relatively small change in a scheme’s development programme is unlikely to significantly change the developer profit. This approach, which lacks the sophistication of ‘time based models’⁴⁵, has traditionally been favoured by the development industry. This may in part be due to inherent uncertainties when assessing development viability, which more complex modelling would not necessarily overcome.
- 6.36. An alternative approach that has been applied on some longer term and phased developments is the use of Internal Rate of Return (IRR). This is a metric for measuring scheme viability which is typically used to provide a time weighted measure of an investment’s return to help determine whether to commit investment capital.

⁴⁴ For instance, the Homes and Communities Agency (HCA) applies a default profit of 5% on costs for affordable housing in its Development Appraisal Tool (DAT). The GLA Development Appraisal Viability Toolkit applies a default profit of 6%.

⁴⁵ See for example RICS (Professor Neil Crosby, Professor Peter Wyatt) Financial Viability Appraisal in Planning Decisions: Theory and Practice (April 2015)

Development Viability SPD

- 6.37. IRR is a different measure of profit from an assessment based on profit as a percentage of GDV or GDC. The two should not be treated interchangeably although both approaches are sometimes undertaken. The IRR approach is driven by scheme cash flows and is highly sensitive to the timing of costs and revenues. Small changes to the development programme and timing of scheme costs and revenues, which may be uncertain at planning stage, can have a large impact on IRR. As such, depending on the quality of information available, the use of an IRR approach when determining development viability as part of the planning process has the potential to be more unstable.
- 6.38. In some viability appraisals that the council has reviewed, it has been found that development costs have been assumed to occur at an unrealistically early stage in the programme while income has been received later than would reasonably be expected. This has led to the result that when the IRR has been calculated it is shown to be disproportionately low, as values have been artificially postponed and costs front loaded, maximising the negative impact on IRR.
- 6.39. The council has also dealt with schemes where a target IRR has been adopted that it considers has not been adequately justified in view of market conditions and the scale and risk profile of the development.
- 6.40. Where a development programme and the timing of costs and income are uncertain or likely to change, this approach is likely to be less reliable. If an applicant considers that the IRR provides useful information for assessing development viability, alongside profits on costs/values it is particularly important that a full justification is provided for the assumed development programme and the timing of cost and income inputs.
- 6.41. As the decision making authority, the council has no means of control relating to timing of the development programme which could have a significant bearing on the outcome of an IRR based approach. As such, the council will only rely on IRR as a measure of profit if it is satisfied that the development programme, timing of cost and value inputs and target IRR have been fully justified and are reasonable. In these cases, the council will also consider profit as a factor of GDC/ GDV alongside IRR.
- 6.42. Taking into account the arguments for and against different measurements of profit in viability appraisals, the council considers that this approach best balances the need for reliability, transparency and accuracy and is most appropriate to be used as part of the statutory decision making process.

Developer Profit - Key Requirements

- The council will require supporting evidence from applicants to justify proposed rates of profit. This should take into account the individual characteristics of the scheme, including property market conditions and a development's risk profile, and profits achieved on comparable schemes.
- The council will only rely on IRR as a measure of profit if it is satisfied that the development programme, timing of cost and value inputs and target IRR have been fully justified. In these cases, the council will also consider profit as a factor of GDC/ GDV.

Benchmark Land Value

- 6.43. The process for establishing an appropriate benchmark land value for a viability assessment is one of the most important issues within a viability assessment because this indicates the threshold for determining whether a scheme is viable or not.

Development Viability SPD

- 6.44. A development is deemed to be viable if the 'residual land value' is equal to or higher than the benchmark land value as this is the level at which it is considered that the landowner has received a 'competitive return' and will release the land for development.

Reflecting Policy Requirements in Land Value

- 6.45. Planning Practice Guidance states that:

*"In all cases, land or site value should: reflect policy requirements and planning obligations and, where applicable, any Community Infrastructure Levy charge ..."*⁴⁶.

- 6.46. This is a key requirement because if it is assumed that land value will increase due to the grant of permission but this does not adequately reflect policy requirements, the adopted site value is likely to be inflated. If this inflated site value is included as a benchmark or a fixed cost in an assessment, this will artificially reduce viability and undermine the delivery of sustainable development and those policies it failed to reflect. It is therefore crucial to the purposes of the planning system that land value mirrors or replicates all relevant policy requirements, including borough affordable housing targets and CIL charges. This applies in all scenarios including those involving site assembly and the disposal and redevelopment of public sector land and buildings. The implications are considered further below.

Competitive Returns

- 6.47. The NPPF requires that competitive returns should be secured for a willing landowner and developer⁴⁷. PPG confirms that current (or existing) use value provides an appropriate basis for comparison with a residual land value to determine whether this incentivises a land owner to release a site and achieves a competitive return⁴⁸.

Existing Use Value Plus Premium

- 6.48. In line with this, 'Existing Use Value plus a premium' (EUV plus), is a commonly taken approach to determining the land value benchmark which is used to assess whether a residual land value provides a competitive return for the land owner. This benchmark is based on the Current or Existing Use Value of a site plus a landowner premium and follows the premise that a landowner could sell their site based on the value of the land in its current use without bringing the land forward for development. In most cases the income generating potential and value of current uses will be lost as a result of a development and so the landowner should receive at least the value of the land in its 'pre-permission' use when bringing forward land for development. A premium is added to this to provide the landowner with an additional incentive to release the site, having regard to site circumstances.
- 6.49. A key benefit of this approach is that it clearly identifies the uplift in value arising from the grant of planning permission because it enables comparison with the situation in which planning permission has not been secured.
- 6.50. The Mayor of London's Housing SPG⁴⁹ states that:

"On balance, the GLA has found that the 'Existing Use Value plus' based approach is generally more helpful for planning purposes, not least because of the way it can be used to address the

⁴⁶ PPG, Paragraph 023

⁴⁷ NPPF, paragraph 173

⁴⁸ PPG, Viability Paragraph 024

⁴⁹ Mayor of London Housing SPG (2012). The Mayor's Draft Housing SPG (2015) reiterates the Mayor's support for this approach.

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need to ensure that development is sustainable in terms of National Planning Policy Framework and Local Plan requirements.”

- 6.51. The GLA Development Appraisal Toolkit Guidance Notes, Homes and Communities Agency Guidance ‘Responding to the Downturn’, and Local Housing Delivery Group ‘Viability Testing Local Plans: Advice for Planning Practitioners’ also advocate use of the Existing Use Value plus a premium approach or Alternative Use Value as the basis for determining the benchmark land value⁵⁰.
- 6.52. The council supports the view that the EUV plus approach is most conducive to achieving the goals of the planning system and considers that this should form the primary basis for determining the benchmark land value in most circumstances.

Defining and Assessing Existing Use Value

- 6.53. It is important that existing use value is fully justified with reference to comparable evidence that is specific to the current use and which excludes any ‘hope value’⁵¹ associated with proposed development on the site or potential alternative uses. The council will apply the following definition of Existing Use Value:

The value of the site in its existing use, assuming that it remains in that use and that there is no hope value to reflect development on the site for alternative uses.

- 6.54. Market transactions used to justify an existing use value must be genuinely comparable to the application site, and should relate to sites and buildings of a similar condition and quality, or otherwise be adjusted accordingly.

Assessing the Premium above EUV

- 6.55. Any premium applied should also be justified reflecting the individual circumstances of the site and owner. For example, for a site in a poor state of repair which may generate costs or not meet the current requirements of the landowner, a limited or nil premium would be expected. Conversely, a site that fully meets the operational needs of a profitable business which may require relocation may require a higher premium. Where an existing use and the value of this to the landowner is retained within a development, less of an incentive is likely to be required for the land to be made available for development, and a lower benchmark would be expected.
- 6.56. In addition to these site specific issues, a key factor in determining the benchmark land value (and the level of premium over EUV) is the requirement set out in PPG that *in all cases* land or site value should *reflect* planning policies, planning obligations and CIL. This has the direct consequence of ruling out significantly inflated land values arising from the grant of permission, based on assumptions (built into purchase prices, transactions and/or land owner aspirations) which do not adequately reflect planning policy. These inflated values would, if adopted, make it almost inevitable that those policy requirements would be found to be unviable. Such an approach conflicts with the statutory planning framework and undermines the plan-led system as established in the Town and Country Planning Act 1990 (as amended) and the NPPF.

⁵⁰ See also the Lyons Housing Review (2014)

⁵¹ ‘Hope value’ is defined by RICS as “any element of open Market Value of a property in excess of the current use value, reflecting the prospect of some more valuable future use or development”. This prospective, more valuable use is usually a use for which planning permission has not yet been obtained.

- 6.57. Based on the imperative of delivering sustainable development, the fact that Development Plan policies are the starting point for determining applications and that an uplift in land value is dependent on the grant of planning consent, the premium, landowner's expectations and associated developer bids, should therefore be directly influenced by the extent of planning policies that apply. The application of key policies when determining land value is considered further below.

Comparable Market Based Evidence

- 6.58. PPG states that land or site value should be informed by comparable, market-based evidence wherever possible. This can be relevant when justifying the value of land in its *existing* use (assuming no hope value – see Existing Use Value above), the benchmark land value and/ or the residual land value (see below).
- 6.59. Comparable, market-based evidence can also be used as a cross reference to help inform the benchmark land value (and premium above existing use value) and to check whether this is likely to be sufficient to encourage a landowner to release a site.
- 6.60. There are however a number of potential difficulties in the transparent analysis of land market transactions (the value the land is being traded for) and in the use of transactions for the purposes of informing the benchmark in planning viability assessments. Key issues are as follows:
- The full facts of past transactions are rarely available and bids for land may have overestimated actual value.
 - There is potential for transactions to not fully reflect current planning policy requirements such as those relating to affordable housing and density, as required by PPG *in all cases*⁵².
 - Sites may have a differing 'inherent' value depending on the presence or absence and nature of income generating existing uses.
 - Land transactions are typically based on assumptions of growth in values (whereas viability assessments are normally based on current values).
 - Transactions may relate to sites of different sizes, densities, mix of uses and costs to facilitate development.
 - Reliance on transactions that are not comparable, that do not reflect the Development Plan policies as they relate to the application site, or that are based on assumptions of growth, may lead to inflated site values. This would restrict the ability to secure development that is sustainable and consistent with the Development Plan.
- 6.61. When undertaking this 'sense check' it is therefore vital that transactions are genuinely comparable and that they reflect planning policy. The agreed benchmark land values for comparison sites should also be identified where available as these represent land values that have been determined for planning purposes and therefore may provide a more relevant basis for comparison than price paid. Where it is not possible to source relevant comparable evidence or adjust this appropriately to the circumstances of the application site (including policy requirements), limited weight can be given to this evidence.
- 6.62. Where sufficiently comparable or adjusted, market based evidence is available this can be used to sense check a *residual land value*. Given the high sensitivity of residual appraisals, it may be necessary to check that overall outcomes are realistic, especially where there may be concerns

⁵² Transactions may for example relate to sites where affordable housing provision is lower than adopted targets due to site specific circumstances such as a high existing use value which may not be relevant to the application site. These sales when analysed should be adjusted to reflect policy compliance in order to make a valid comparison between sites.

that a residual value might be underestimated, endangering the delivery of plan requirements. In such circumstances it may be appropriate to revisit and potentially adjust relevant inputs in an appraisal (such as profits/ costs) to generate a more realistic residual value.

Market Value Approach (Having Regard to the Development Plan)

- 6.63. The RICS Guidance Note 'Financial Viability in Planning' (2012), while allowing for the use of Existing Use Value, supports an approach in which the benchmark land value is determined by the Market Value of land with the special assumption that regard is had to Development Plan policies and other material planning considerations. That which is contrary to the Development Plan is to be disregarded.
- 6.64. It is vital that viability assessments using the RICS Guidance note methodology accord fully with the site value definition, and fully take into account development plan policies when determining site value.
- 6.65. The RICS Guidance makes it clear that the site purchase price may or may not be material in determining the Site Value. The guidance states that:
- “A viability appraisal is taken at a point in time, taking account of costs and values at that date. A site may be purchased some time before a viability assessment takes place and circumstances might change. This is part of the developer’s risk. Land values can go up or down between the date of purchase and a viability assessment taking place; in a rising market developers benefit, in a falling market they may lose out”⁵³.*
- 6.66. The guidance identifies various factors that should be taken into account when considering the price paid including that:
- “A developer may make unreasonable/ overoptimistic assumptions regarding the type and density of development or the extent of planning obligations, which means that it has overpaid for the site. ...”*
- 6.67. There are however a number of difficulties in the use of land market transactions to inform land value within a planning viability assessment as set out in paragraph 6.60 above. A recent research paper undertaken for the RICS, in particular, identifies a misapplication of the RICS guidance, surrounding the *“crucial market value special assumption concerning the inclusion of policy compliant planning obligation assumptions. If they are not fully taken into account in development viability appraisal, landowners and developers can manipulate the situation to their financial benefit”⁵⁴.*
- 6.68. A market based land value (whether based on price paid, market transactions, valuations or an aspirational landowner figure), which only ‘has regard’ to Development Plan policies, but does not fully reflect these, as required by PPG, creates a scenario where it becomes almost inevitable that it would be found that policy requirements make a development unviable (see also above for section on ‘Assessing the Premium Above EUV’). This approach also runs the risk that there is far less scope than should be the case to meet Development Plan requirements, meaning that there is less prospect of achieving planning consent⁵⁵. Any uplift in land value is derived from the planning

⁵³ RICS, Financial Viability in Planning (2012)

⁵⁴ RICS (Professor Neil Crosby, Professor Peter Wyatt, University of Reading) Financial Viability Appraisal in Planning Decisions: Theory and Practice (2015). The authors were consultants to the working group on the RICS Financial Viability in Planning Guidance 2012.

⁵⁵ Concerns relating to this approach have also been identified in the GLA Development Appraisal Toolkit Guidance Notes (2015): “It is possible for the Toolkit to model an approach where the land acquisition cost is used as a driver for the viability calculation.

consent. If consent is not granted due to the unsustainable nature of the proposal, it is therefore likely that the land value adopted was not justified.

- 6.69. The dangers of reliance on purchase price and market transactions are further identified in the RICS research paper. The paper emphasises that *“the historic purchase price should never be used in a development viability appraisal”* and that the direct comparison method used in some appraisals to determine land value input or residual land value benchmarks without taking into account planning obligations to determine the appropriate level of planning obligations *“introduces an element of circularity into the appraisal ... which can be used by appellants to their advantage”*. Comparable evidence must be adjusted to take into account current policy requirements otherwise there is a clear risk of encouraging *“developers to overpay for sites and try to recover some or all of this overpayment via reductions in planning obligations”*⁵⁶.
- 6.70. For these reasons (and those set out a Paragraph 6.60), the ‘market value’ approach should be treated with caution. Where transactions have been cited that are not adequately comparable to the application site or incorporate assumptions of value growth, and have not been sufficiently adjusted, limited weight can be given to these and any benchmark land value that is reliant on them.

Taking Account of Affordable Housing, Planning Obligations and CIL Requirements when Determining Land Value

- 6.71. A key requirement (amongst others) that must be taken into account when determining land value is the council’s affordable housing target that 50% of residential units should be delivered as affordable housing over the plan period (Core Strategy Policy CS12)⁵⁷. Individual schemes must provide the maximum reasonable amount of affordable housing on site taking into account the 50% target.
- 6.72. The policy sets out the expectation that many sites will achieve 50% affordable housing and some will provide more than this⁵⁸. In all cases significant weight should be given to this requirement when determining land value. Viability testing should therefore always include and start with the policy target of 50% affordable housing.
- 6.73. Where appropriate according to site specific circumstances, higher or lower levels of affordable housing should be tested incrementally until the maximum reasonable level is determined. Lower levels should only be considered where warranted by genuine viability constraints under the terms of the guidance in this SPD.
- 6.74. In terms of land value this would only comprise a scenario whereby an acceptable benchmark land value⁵⁹ based on site specific circumstances (informed by comparable market evidence where possible but always reflecting the imperative to meet planning policy), could not be achieved. It is therefore not the case that any level of affordable housing provision between 0 and 100% can be assumed to potentially be acceptable from the outset, without reference to viability testing the application site under the terms of this guidance including an acceptable benchmark. The use of

Users will be need to be aware that this approach effectively “turns the model on its head”, and determines that policy requirements are the ‘residual’ in the calculation and thus open to being ‘squeezed’ by developers who have not reflected policy in their bid for land”.

⁵⁶ RICS (Professor Neil Crosby, Professor Pete Wyatt) Financial Viability Appraisal in Planning Decisions: Theory and Practice (2015)

⁵⁷ This is a key Corporate priority as reflected in the Islington Corporate Plan and extremely high levels of housing need.

⁵⁸ Policy CS12 states that the council will seek to increase delivery of affordable housing, especially social rented housing, from sources other than private and mixed-use schemes, such schemes by Registered Providers, building on the council’s own land and from a range of available intermediate housing products.

⁵⁹ See in particular section on EUV plus above.

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such an assumption as a basis for determining land value, which is then applied as a fixed input within a viability assessment, is not evidence of a genuine viability constraint but, as noted above, is the result of a circular approach which has the potential to pre-determine and distort the outcome of the viability assessment process.

- 6.75. London Plan Paragraph 3.70 acknowledges that achievement of a borough's affordable housing target in a particular year should not constrain maximisation of affordable housing output on individual proposals – the target applies for the term of the Plan. Assumptions regarding affordable housing requirements (and consequentially the amount that a developer can pay for land) relying on evidence of levels agreed on other sites, run the risk of reflecting the specific circumstances of those other sites which may however not be relevant to the application site (as identified above). This is a misapplication of planning policy that could result in applicants overvaluing and/ or overpaying for sites at the cost of policy compliance, as discussed in the RICS research paper and above. As such, approaches to assessing land value based on assumptions of levels of affordable housing founded on market perceptions or anticipated “norms”, will not be considered to reflect planning policy or comply with the requirements of PPG in this regard.
- 6.76. Other planning obligations and CIL charges should also always be reflected in land value. This is consistent with PPG, with RICS Guidance on Financial Viability in Planning and with the approach adopted by the Examiner of the Mayor of London's CIL who stated that “...a reduction in development land value is an inherent part of the CIL concept”. This was also reflected in evidence submitted as a part of the council's CIL Examination⁶⁰. For these reasons the council does not consider that it is necessarily the case that CIL would reduce provision of other policy requirements such as affordable housing.

Alternative Use Value

- 6.77. An Alternative Use Value (AUV) approach to the benchmark land value will only be accepted where there is a valid consent for the alternative use or if the alternative use would clearly fully comply with the Development Plan as required by PPG⁶¹. The acceptability of an alternative use proposal is a matter for consideration by planning officers as part of the application process. Therefore sufficient information must be provided for officers to make a reasoned determination as to the prospects of the alternative scheme securing planning consent. The applicant will also be expected to demonstrate that there is a realistic prospect that this alternative scheme could be implemented. A full viability appraisal must be submitted together with a provisional design indicating how the alternative use could be accommodated on the site and a relevant cost plan.

Benchmark Land Value - Key Requirements

- Planning Practice Guidance requires that in all cases land value should reflect policy requirements, planning obligations and CIL charges. PPG also confirms that current (or existing) use value provides an appropriate basis for comparison with a benchmark land value to determine whether this incentivises a land owner to release a site and achieves a competitive return.
- In line with this and a range of relevant guidance documents, the council considers that the 'EUV plus a premium' approach best reflects the need to ensure that development is sustainable and should form the primary basis for determining the benchmark land value in most circumstances. This should reflect the value of the landowners' existing interest prior to grant of consent and the need to provide a relevant incentive to the landowner to release the land for development, fully

⁶⁰ See Council's CIL Evidence Base:

http://www.islington.gov.uk/services/planning/planningpol/community_infrastructure_levy/Pages/CIL-Charging-Schedule---Submission-Document-List.aspx

⁶¹ PPG, Viability, Viability and Decision Taking, Paragraph 024

taking into account site specific circumstances and the need to maximise policy compliance through the plan-led system.

- Comparable, market based evidence can be used to help inform the premium above existing use value, but should always be appropriately adjusted to ensure that transactions are genuinely comparable, reflect current policy requirements and have not been inflated through assumptions of growth in values. Where it is not possible to source appropriate comparable evidence, limited weight can be given to this.
- The current application of a 'market value' approach has raised concerns of inadequate reflection of policy requirements, circularity and inflated land values which inappropriately reduce planning obligations. Where these concerns are evident the council will rely on the Existing Use Value plus a premium approach applying the guidance set out in this document.
- The Core Strategy affordable housing target that 50% of residential units should be delivered as affordable housing over the plan period (Policy CS12) and CIL charges are key requirements that should in all cases be taken into account and given significant weight when determining land value. Lower levels of affordable housing should only be tested where warranted by genuine site specific viability constraints (including where an acceptable benchmark land value cannot be achieved) as defined under the terms of this guidance.
- An Alternative Use Value (AUV) approach to the benchmark land value will only be accepted where there is a valid consent for the alternative use or if the alternative use would clearly fully comply with the Development Plan. A full viability appraisal must be submitted together with a provisional design indicating how the alternative use could be accommodated on the site.

Planning Contributions

- 6.78. The council can assist applicants in calculating the likely financial contributions arising from a development and it is important that these inputs are accurately reflected in any viability information submitted to the council. This should be discussed at pre-application stage with an applicant submitting draft Section 106 (S106) Heads of Terms as a part of an application (see also Sections 3).
- 6.79. The council adopted its Community Infrastructure Levy (CIL) Charging Schedule on 1st September 2014. The Mayor of London introduced his CIL Charging Schedule on 1st April 2012⁶².
- 6.80. The councils' CIL and S106 requirements have been subject to viability testing, alongside the Mayor of London's CIL. The Examiner to the Islington CIL Charging Schedule found that the proposed CIL charges account for a small proportion of development costs and would not affect the delivery of development across the area or materially impact affordable housing provision.
- 6.81. Mayoral and Borough CIL charges applied in viability appraisals should reflect any relief that will apply, such as social housing relief or charitable relief, and should be calculated in accordance with the CIL Regulations 2010 (as amended), for example, with existing floorspace discounted if relevant and the phasing of payments taken into account for phased developments. It is additionally important to ensure that the impact of the Mayoral and Borough CIL instalment policies are taken into account as this will determine the timing of payments.
- 6.82. The Islington Planning Obligations SPD provides guidance on which obligations apply following the adoption of the Islington CIL. These typically relate to non-infrastructure and site-specific requirements such as carbon offsetting, employment and training and highway reinstatement⁶³.

⁶² Islington CIL charging schedule: <http://www.islington.gov.uk/cil>

Mayoral CIL charging schedule: <https://www.london.gov.uk/priorities/planning/mayoral-community-infrastructure-levy>

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- 6.83. Where the council deems that the required planning obligations would render a scheme unviable, flexible arrangements relating to the timing and level of planning obligations may be considered if the scheme would otherwise not be able to proceed. However in line with the NPPF and PPG, where safeguards are necessary to make a development acceptable in planning terms and these cannot be secured, planning permission will not be granted for unacceptable development.

Planning Contributions - Key Requirements

- Likely CIL and S106 contributions should be included as a development cost in a viability assessment and should be calculated in accordance with the Islington and Mayoral Charging Schedules, the CIL Regulations and the Islington Planning Obligations SPD, as relevant. The Islington and Mayoral CIL instalment policies should also be reflected in the assumed timing of payments.
- The council will consider the timing and level of planning obligations that can be supported as a part of the viability assessment process, however, in line with government policies, where safeguards are necessary to make a development acceptable in planning terms and these cannot be secured, planning permission will not be granted.

Development Finance

- 6.84. Development finance is a complex area. A great number of products and arrangements are available which differ depending on the nature of the organisation seeking funding, on the organisation providing the funding and on the type of funding required.
- 6.85. A typical approach when assessing finance costs as a part of the viability process, is to assume that all developers will incur generic average finance costs based on 'standard' market rates. Applying 'standard' borrowing costs is likely to favour developers who have access to cheaper finance or public subsidy or loans. Developers that are able to deploy their own or an investor's equity and who incur lower or no finance interest payments are also likely to benefit. There is a case that developers using their own equity should be able to achieve a return on their investment, although this a business decision for the developer.
- 6.86. The benefit of a standardised approach is that planning consent runs with the land, which may be sold to another party with different finance arrangements. A developer could secure a planning consent with lower levels of policy compliance due to the high finance costs, but then sell the site to another developer who can acquire cheaper finance but benefit from the same planning consent without meeting Development Plan requirements.
- 6.87. In view of the merits of an approach that does not vary significantly according to the nature of the applicant, a standardised approach will generally be adopted to finance costs which should be appropriate to the type of proposal. The viability model should reflect that finance costs vary throughout the development period, with the majority of interest costs typically incurred during construction.

⁶³ The SPD is available here: www.islington.gov.uk/s106

Development Finance - Key Requirements

- A standardised approach will generally be adopted to finance costs which should be appropriate to the type of proposal.
- The viability model should reflect that finance costs vary throughout the development period, with the majority of interest costs typically incurred during construction.

7. Viability Review Mechanisms

- 7.1 The assessment of development viability at planning application stage may have the effect of reducing the policy requirements that a development would otherwise have to meet. Where this results in development that does not contribute sufficiently to meeting the borough wide affordable housing target this has the potential to prevent the authority from meeting the significant, need for affordable housing in the area. Where other planning obligations requirements are not met the local impacts of a development may not be fully addressed. If granted this could result in development that is contrary to the key objective of achieving sustainable development.
- 7.2 Paragraph 3.75 of the London Plan states that when determining applications for housing developments, boroughs need to 'take account of economic uncertainties, and in respect of schemes presently anticipated to deliver low levels of affordable housing', viability reappraisals 'may be used to ensure that maximum public benefit is secured over the period of the development'.
- 7.3 As referred to in Section 2 of the SPD, the Islington property market has experienced significant changes in recent years. The viability of a scheme may be notably different by the time it is implemented, due to uncertainties in relation to aspects of a viability assessment at the application stage and the potential for changes to market conditions.
- 7.4 In view of these issues, the practice of reviewing development viability to ensure that proposals are based on an accurate assessment of viability at the point of delivery has become well established across London.

The Council's Approach

- 7.5 In order to ensure that the maximum reasonable level of affordable housing is provided in line with Core Strategy Policy CS12 and that other plan requirements are met, the council will require viability review mechanisms through Section 106 agreements:
- On all major residential / mixed use applications which do not meet the strategic affordable housing target; and
 - For all major applications where policy requirements are not met in full at the time permission is granted.
- 7.6 Review mechanisms will be used to determine whether a development is capable of providing additional affordable housing or meeting other policy requirements that were deemed unviable at application stage. This will only apply if a 'surplus' is generated over and above the returns necessary for a scheme to be deemed viable (see below).
- 7.7 A reduction in planning requirements at application stage, whilst ensuring a competitive return to a developer, effectively lowers development risk, albeit potentially at a cost to the wider community. In this context, a reassessment of viability at a later date to determine whether the required returns have been exceeded and whether planning requirements could in fact be met, is appropriate and should not unduly add to development risk.

Additional Provision Capped Based on Policy Requirements

- 7.8 The purpose of the review is to determine whether greater compliance with the Development Plan can be achieved. Therefore any additional obligations will be capped based on the terms of the Development Plan (including the strategic affordable housing target). In line with this, the aim is to secure provision of policy requirements that were previously determined not to be deliverable,

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rather than to enter into an open-ended profit share arrangement with a developer that may be typical as a part of a commercial coverage agreement.

- 7.9 This accords with the council's duty to ensure the delivery and implementation of its Local Plan. After policy requirements are met, any additional 'surplus' will be retained in its entirety by the developer as additional or 'super' profit. Further details on the council's approach to determining the cap and additional developer profit are set out below.

Timing of Viability Reviews

- 7.10 Viability reviews carried out at an early stage in the development or prior to the implementation of later phases have the benefit of increasing the likelihood that additional affordable housing can be provided on site. The advantage of undertaking viability reviews towards the end of a development on the other hand is that robust, up to date values and costs can be taken into account.
- 7.11 The council will therefore require viability reviews to take place at the following stages:
- For all schemes requiring a review⁶⁴: At an advanced stage of development (advanced stage review), a review will ensure that viability is accurately assessed and up to date;
 - On phased developments⁶⁵: In view of the priority given to onsite delivery of affordable housing⁶⁶, an additional viability review will be required prior to substantial implementation of the development (pre-implementation review) where this does not occur within 12 months of the planning permission; and
 - For 'large phased schemes'⁶⁷: A further review will be required at a mid-point stage in the development (prior to implementation of the second half/ later phases of the development) (mid-term review).
- 7.12 As noted in Section 2, housing delivery targets have consistently been exceeded in the borough. This is indicative of extremely high residential values and a buoyant property market⁶⁸. Given the circumstances of the borough, and the potential for a viability assessment to become out of date within a short timeframe, the council does not intend (or consider it necessary) to use viability reviews as an incentive for delivery⁶⁹, but rather to ensure that the assessment of viability is based on up to date and accurate viability evidence, and to support the delivery of the Development Plan.

Viability Review Process

- 7.13 The council will require an applicant to submit updated information for assessment by the council at the point of the review with expert advice commissioned by the council as required. The costs of assessment will be met by the applicant. The review will assess changes to gross development value and build costs⁷⁰, which are the key variables that are most likely to be subject to change. This will apply to the development as a whole (incorporating all uses) and be based on formulas

⁶⁴ See paragraph 7.5

⁶⁵ Threshold for phased schemes: typically 150 or more residential units / 10,000 sq m or greater for commercial or mixed use schemes, to be assessed by the council based on the circumstances of the scheme.

⁶⁶ See London Plan (2015) Policy 3.12 and Core Strategy (2011) Policy CS12

⁶⁷ Threshold for 'large phased developments': 400 or more residential units or 25,000 sq m or greater for commercial/ mixed use.

⁶⁸ At the time of publication, house prices in Islington are the fifth highest of all local authority areas nationally.

⁶⁹ For example, by only requiring a review where a development does not come forward within a certain timeframe, even though this could be at the expense of meeting policy requirements that could viably be achieved.

⁷⁰ Typically comprising of demolition, construction, external works and contingencies; However, where build costs in the application stage assessment are based on relevant BCIS figures and have been accepted by the council, these will not be reassessed as part of the review, but will be linked to the Tender Price Index (TPI) from the date of the original assessment.

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(see below) to be included in the S106 agreement allowing for a transparent process⁷¹. The assessment will be based on the process set out in Section 3 (Assessment of Viability Appraisal).

- 7.14 These formulas will be used to determine whether a 'surplus' will be generated over and above required returns⁷². A proportion of any additional value generated as a result of increased values or reduced costs will be retained by the developer as an additional profit allowance to ensure that they gain from the improved scenario⁷³. This allowance will be higher for mid-term and advanced stage reviews to ensure that a developer remains incentivised to maximise values and minimise costs prior to the review.
- 7.15 In the event of a 'surplus', this is used to determine the level of additional affordable housing that can be provided (capped by the strategic affordable housing target) based on the (opportunity) cost to the developer of converting market housing into affordable housing as determined by the difference in value of market housing compared to its value as affordable housing. For other planning obligations that were not fully addressed at application stage, the level of any additional financial contribution (capped at a policy compliant level) will be determined by the initial formulas at each stage, as set out below.

Pre-Implementation Reviews

- 7.16 For phased developments⁷⁴, where a development has reached 'substantial implementation' within 12 months of the grant of planning permission and market conditions and the viability of a scheme remains relatively unchanged, a pre-implementation review would not normally be required. If substantial implementation occurs after 12 months (at which point the initial viability assessment will be deemed to be out of date) a review will be required. This should take place within a 3 month period following substantial implementation.
- 7.17 In order to avoid a notional implementation of the scheme, a definition of substantial implementation will be used that will typically comprise demolition, excavation, foundations and basement works (if applicable). If substantial implementation is achieved within a 12 month period but the development then stalls for a further period of 12 months, a review will then be required.
- 7.18 Reviews which take place prior to implementation of a phased development should deliver additional on-site affordable housing in accordance with an Additional Affordable Housing Scheme to be appended to the S106 agreement. This should identify the units to be converted to affordable housing in line with the council's required tenure split.
- 7.19 Where there is remaining surplus which does not amount to the provision of one whole affordable housing unit, this surplus amount should be used as a contribution for off-site affordable housing or to provide any further planning obligations that were required but found to be unviable at application stage. The same applies in the case of mid-term reviews.
- 7.20 In the case of viability reviews prior to substantial implementation, the developer will receive a share of any surplus in line with typical profit requirements. The majority of sales and rental income will be received at a later date and so the developer will remain incentivised to maximise value after the review has taken place.

⁷¹ Focusing on these two key elements also reduces information requirements and limits the extent of time that the review will take. For these reasons, other elements within the initial appraisal determined by the council will not normally be re-assessed.

⁷² The starting point for the review is that, it was determined that the approved scheme is deliverable at application stage (see Section 4).

⁷³ This is calculated as a factor of value and costs to ensure that the developer potentially stands to gain in either scenario.

⁷⁴ Threshold for phased schemes: typically 150 or more residential units / 10,000 sq m or greater for commercial or mixed use schemes, to be assessed by the council based on the circumstances of the scheme.

- 7.21 The pre-implementation review formula is set out below. This operates in two stages, firstly to calculate the level of surplus available for onsite affordable housing (or other policy requirements) and secondly to determine the level of additional affordable housing floorspace deliverable from the surplus. Any surplus will be used to determine those units identified in the Additional Affordable Housing Schedule that will be converted to affordable housing up to the affordable housing target cap. For other policy requirements which take the form of a contribution, only Formula 1 will apply.

Pre-Implementation Review Formula

Formula 1: To calculate the 'policy surplus' available for onsite affordable housing (or other policy requirements) at pre-implementation review stage

$$\text{'Policy Surplus'} = ((A - B) - (C - D)) \times 0.80$$

A = Updated Gross Development Value (GDV)*

B = GDV determined as part of the assessment of viability at application stage

C = Updated Build Costs**

D = Build Costs determined as part of the assessment of viability at application stage

Notes:

- (A - B) is the change in GDV at the point of review
- (C - D) is the change in Build Costs at the point of review, which is subtracted from the change in GDV to establish whether there is additional value generated as a result of increased values or reduced costs
- x 0.80 calculates the reduction in the additional value available for onsite affordable housing, accounting for the proportion of additional value to be retained by the applicant as an additional profit allowance (i.e.20%; see paragraph 7.14)

Formula 2: To determine the amount of additional onsite affordable housing floorspace

$$\text{'Additional Social Rented Floorspace'} = E \div (G - H)$$

$$\text{'Additional Intermediate Floorspace'} = F \div (G - I)$$

E = 'Policy surplus' x 0.70 (proportion of surplus to be used for social rented housing)

F = 'Policy surplus' x 0.30 (proportion of surplus to be used for intermediate housing)

G = Average market housing values per sq m*

H = Average social rented housing values per sq m*

I = Average intermediate values per sq m*

*determined as part of the review

** determined as part of the review, or, where based on application stage BCIS build costs, and agreed by council, linked to the Tender Price Index (TPI)

Notes:

- Policy surplus is calculated from Formula 1
- (G - H) is the cost of converting a market housing unit to social rented
- (G - I) is the cost of converting a market housing unit to intermediate
- E is the proportion of surplus to be used for social rented housing
- F is the proportion of surplus to be used for intermediate housing
- E and F are divided by (G - H) and (G - I) respectively to establish the floorspace available for additional affordable housing
- The additional social rented and intermediate floorspace figures will be used to determine those units identified in the Additional Affordable Housing Schedule to be converted to affordable housing

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- 7.22 The council's intended approach is to set out a clear basis for calculating the level of any additional requirements that could viably be provided while recognising that in some instances adjustments to the calculations may be warranted according to the circumstances of a specific proposal. For example, in circumstances where the conversion of different tenures would be appropriate, such as intermediate housing to social rented housing, the council may apply an alternative formula which takes into account the difference in values of the relevant tenures.

Mid-Term Reviews

- 7.23 In the case of 'large phased developments'⁷⁵, mid-term reviews will be required which take place prior to implementation of later phases of a development. These should deliver additional on-site affordable housing in later phases in accordance with an Additional Affordable Housing Scheme to be appended to the S106 agreement.
- 7.24 Mid-term (and advanced stage) reviews should assess the development as a whole, taking into account values, build costs and surplus that have been realised in the initial stages of the development as well as estimates for the subsequent phases. This is necessary to ensure that affordable housing provision is maximised and that other policy requirements that were not achievable at application stage, are met where viable. Where build costs were based on BCIS in the application stage assessment, these will be index linked from the date of the previous review.
- 7.25 This review will operate in two stages – the first to calculate any surplus based on the approach set out in Formula 3 (see advanced stage review section below)⁷⁶; the second using the surplus to determine the level of additional affordable housing that can be provided based on Formula 2 (see section on pre-implementation reviews above).

Advanced Stage Reviews

- 7.26 Advanced stage reviews will be required on all schemes requiring a review⁷⁷. For residential led schemes, advanced stage reviews should be undertaken on sale of 75% of market residential units, and for other schemes, within a three month period prior to practical completion. This enables the assessment to be based on up to date, accurate information, while also retaining the ability to secure the additional provision of policy requirements⁷⁸. The outcome of this review will typically be a financial contribution towards offsite affordable housing provision or other policy requirements.
- 7.27 Any contribution payable in the event that a surplus is generated will be capped according to the level of contribution required by policy and associated guidance. For affordable housing contributions this will be based on the level of surplus required to provide additional affordable housing to meet the strategic target of 50%. The contribution and cap will be calculated in accordance with the following formulas:

⁷⁵ Threshold for large developments: 400 or more residential units or 25,000 sq m of greater for commercial or mixed use schemes.

⁷⁶ In the case of mid-term reviews the outcome of the calculation is the *surplus* available for the delivery of additional affordable units, rather than a contribution. 'A' is based on actual GDV at the point of the mid-term review rather than on sale of 75% of units.

⁷⁷ On all major residential / mixed use applications which do not meet the strategic affordable housing target and on all major applications where policy requirements are not met in full at the time permission is granted.

⁷⁸ This will normally be achieved through a restriction on occupation of market units and / or payment into a secure account

Advanced Stage Review Contribution Formula

Formula 3: To calculate the additional financial contribution payable to the council at advanced review stage towards affordable housing or other policy requirements not viable at application stage

$$\text{'Contribution'} = ((A + B - C) - (D + E - F)) \times 0.60$$

Where:

A = Gross Development Value (GDV) achieved on sale of 75% of residential units and GDV from other parts of the development sold/ let and other income receipts*

B = Estimated GDV for parts of the development that are yet to be sold/ let and other income sources*

C = GDV determined as part of the assessment of viability at application stage (or for phased schemes as determined in previous review)

D = Actual Build Costs incurred at point of review**

E = Estimated Build Costs for remainder of the development**

F = Total Build Costs determined as part of the assessment of viability at application stage (or for phased schemes as determined in previous review)

*determined as part of the review

**determined as part of the review, or, where based on application stage BCIS build costs and agreed by council, linked to the Tender Price Index (TPI) (for phased schemes, linked to TPI from the date of the previous review).

Notes:

- (A + B - C) is the change in GDV at the point of review
- (D + E - F) is the change in Build Costs at the point of review, which is subtracted from the change in GDV to establish whether additional value has been generated as a result of increased values or reduced costs
- x 0.60 calculates the reduction in the contribution required, accounting for the proportion of additional value to be retained by the applicant as an additional profit allowance (i.e.40%; see paragraph 7.14)

Formula 4: To calculate the 'advanced stage cap' which is the maximum additional affordable housing contribution payable at advanced review stage

$$\text{'Advanced Stage Affordable Housing Cap'} = ((G - H) \times (K - L)) + ((I - J) \times (K - M))$$

Where: G = 50% of total residential floorspace x 0.70

H = Total social rented housing floorspace determined at application stage (or for phased schemes as determined in earlier reviews)

I = 50% of total residential floorspace x 0.30

J = Total intermediate housing floorspace determined at application stage (or for phased schemes as determined in earlier reviews)

K = Average market housing value per sq m*

L = Average social rented value per sq m*

M= Average intermediate value per sq m*

*determined as part of the review

Notes:

- G is the proportion of affordable housing floorspace to be social rented based on policy tenure split
- I is the proportion of affordable housing floorspace to be intermediate based on policy tenure split
- (G - H) is the additional social rented floorspace cap based on overall 50% affordable housing provision
- (I - J) is the additional intermediate floorspace cap based on overall 50% affordable housing provision
- (K - L) is the cost of converting a market housing unit to social rented
- (K - M) is the cost of converting a market housing unit to intermediate
- (K - L) & (K - M) multiplied by (G - H) & (I - J) respectively to establish maximum additional contribution

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7.28 Again, in some instances adjustments to the calculations may be warranted according to the circumstances of a specific proposal. For example, where market and affordable housing values were clearly distinguished in the original appraisal calculation, it may be appropriate to allow for differential costs when determining the Advanced Stage Affordable Housing Cap.

Key Information Requirements

7.29 The following information should be provided on an open book basis for assessment as part of a review:

- Gross Development Values (GDV) (all gross receipts or revenue received) supported by evidence, including but not limited to: audited company accounts detailing all sold/ let transactions; certified sales contracts or completion certificates issued by the developer's solicitors detailing the purchase price for each sale; Land Registry records showing sale price information; or other receipts, such as income from hoardings.
- The estimated GDV for the unsold/ unlet components of the development at the point of review using detailed comparable information: taking into account any sales/ lettings that have taken place on the development (see also Section 6 and Appendix B) and income from any other sources.
- Average residential values per sq m: for market and affordable housing across the scheme based on the information provided above.
- Actual Build Costs incurred⁷⁹ evidenced by: payments made or agreed to be paid in the relevant building contract, including receipted invoices, or costs certified by the developer's quantity surveyor, costs consultant or employer's agent.
- Estimated Build Costs to be incurred for the remainder of the development⁸⁰ based on: agreed building contracts or estimation provided by the developer's quantity surveyor or costs consultant (see also Section 6 and Appendix B).

Material Changes

7.30 Where material changes are proposed that would make the scheme less compliant with the Development Plan, which do not fall within the scope of S106 BA of the Town and Country Planning Act 1990, this would require a new planning permission and could not be addressed through a review mechanism.

Considering Changes in Values and Costs at Planning Application Stage

7.31 In line with PPG, the council will normally consider development viability based on current costs and values at application stage⁸¹. The PPG also envisages that for phased schemes it may be appropriate to consider projected changes in values or costs at planning application stage, an approach sometimes referred to as a 'growth model'.

7.32 This is distinct from review mechanisms which consider changes in values and costs at the point of delivery. PPG does not provide guidance on this, although the principle of re-assessing values and costs at delivery stage for phased and non-phased schemes is established in S106BA of the Town and Country Planning Act 1990⁸² and in the Mayor's Housing SPG.

⁷⁹ Not required where build costs in the application stage assessment are based on relevant BCIS figures which will be index linked.

⁸⁰ See previous footnote.

⁸¹ PPG paragraph 024

⁸² Under S106BA of the Act, an applicant can apply for a downward revision of affordable housing requirements arising from changes in viability since planning permission was granted.

- 7.33 In previous cases the council has found that growth assumptions applied in applicants' appraisals at application stage have been significantly lower than the long term trends for both Islington and London, and lower than the projected value increases in expert advice obtained by the council. Applicant's growth estimates have also proved to be unreliable when compared with actual growth that has occurred in the initial years following the appraisal.
- 7.34 If a viability assessment assumes projected changes in development values and build costs, these should be fully justified, reasonable and consistent with long-term new build trends, current market conditions and market expectations.
- 7.35 This approach is sometimes used as a basis for arguing for adoption of higher levels of profit and that the viability of a scheme should not be reviewed, even for large scale phased schemes that will be delivered over many years. If an applicant chooses to rely on growth forecasts, the uncertainty associated with growth forecasting is such that viability reviews will be necessary to assess actual changes in value. Furthermore, profit levels should not be overstated as this would potentially offset the impact of adopting value projections and undermine the purpose of this approach which is to more accurately reflect the viability of the development at the point of delivery and to help ensure that developments are delivered in accordance with the Plan.

Review Mechanisms - Key Requirements

- In order to ensure that the maximum reasonable level of affordable housing is provided in line with Core Strategy Policy CS12, and that other plan requirements are met, the council will require viability review mechanisms through Section 106 agreements on all major residential applications which do not meet the strategic affordable housing target and for all major applications where policy requirements are not met in full at the time permission is granted.
- Additional policy requirements arising from the review will be capped based on those set out in the Development Plan.
- The council will require viability reviews to take place:
 - at an advanced stage of development for all schemes requiring a review (to ensure that viability is accurately assessed at the point at which actual values are realised).
 - prior to substantial implementation of the development (in the event that this does not take place within 12 months of the permission) for phased developments, and
 - at a mid-point stage in the development (prior to implementation of the second half/ later phase(s) of the development) on 'large phased schemes'.
- Pre-implementation and mid-point reviews will typically result in additional on-site affordable housing while advanced stage reviews will generate a financial contribution where a surplus arises.
- Reviews will be undertaken based on the process and formulas outlined in the SPD, which will be set out in S106 agreements to provide transparency.
- For phased schemes, if projected changes in development values and build costs are applied at application stage, these should be fully justified, reasonable and consistent with long-term new build trends, current market conditions and market expectations. Whether or not projected values and costs are applied, viability reviews will be necessary to assess actual changes in values/ costs.

8. Council Monitoring and Review

- 8.1 In order to fulfil its duty to ensure the proper assessment of planning applications and the monitoring of development and its policies, the council may undertake reviews of the viability of developments during or after construction, regardless of whether a formal review mechanism is in place. The purpose of this will be to ascertain the extent to which the financial information submitted is reflective of the actual viability of development and to determine whether further affordable housing or other policy requirements could have been provided. This approach will help to ensure greater transparency and accountability and will assist the council when reviewing its policies.

Monitoring and Review – Key Requirements

- The council may undertake reviews of the viability of developments during or after construction, regardless of whether a formal review mechanism is in place.

Appendix A – Summary of Key Requirements

Pre-application Stage

- An applicant should provide details relating to proposed methodology, inputs and a draft viability appraisal at pre-application stage where viability is likely to be a consideration in determining the application.
- An applicant should discuss Section 106 Heads of terms at pre-application stage so that this is addressed at an early stage and to enable financial contributions to be included in the assessment.
- Proposals should be designed in a form that accords with Development Plan policies, including the requirement to provide the maximum reasonable level of affordable housing and integrate this within the overall scheme, and that reflects the outcome of the viability assessment process.

Validation / Application Stage

- A viability appraisal should be submitted at validation stage for all major residential applications or for any other application where viability is relied upon as a factor in determining the application.
- Viability assessments should include all relevant information required by the council (see in particular Sections 4, 5 and 6, and summaries at Appendices A and B) to avoid delays in determining the application.
- A revised viability appraisal should be submitted where any material changes are made following validation. An appraisal should also be updated where necessary to ensure that the assessment reflects current market conditions at the point of determination.

Assessment of Viability Appraisal

- The cost of the assessment and any associated costs, will be paid for in advance by the applicant.
- Correspondence relating to the assessment should always be directly sent or copied to the council.

Deliverability and Verification

- To verify the information provided as part of the planning process, a statutory declaration will be sought from the applicant company confirming that:
 - The assessment submitted to the council is a true and fair reflection of the viability of the proposed development; and that costs and values in this assessment are consistent with current costs and values within (or used as a starting point for) viability assessments that have been undertaken for internal or financial purposes.
 - The company undertaking the assessment has not been instructed on the basis of performance related pay or is incentivised in any other way according to the outcome of the viability process and the level of planning obligations that the applicant is required to provide.
- The applicant must clearly demonstrate with reference to viability evidence that the proposed level of obligations is the maximum that can be provided and that the scheme is deliverable with this level of provision.
- A statutory declaration by a director of the applicant company and by finance providers may be required, which verifies that they consider the scheme as proposed to be deliverable, based on the information provided to the council.

Transparency & Confidentiality

- The availability of information submitted as a part of the planning process is important to ensure public participation in the planning process, confidence in the planning system and the accountability of those undertaking the assessments.
- The council considers that information submitted as a part of, and in support of a viability assessment should be treated transparently and be available for wider scrutiny. In submitting information, applicants do so in the knowledge that this will be made publically available alongside other application documents.
- The council will allow for exceptions to this in limited circumstances and only in the event that there is a convincing case that disclosure of an element of a viability assessment would cause harm to the public interest to an extent that is not outweighed by the benefits of disclosure. If an applicant considers that an exceptional circumstance is likely to arise, this should be raised at an early stage within the pre-application process.

Methodology

- The council considers that the Residual Land Value methodology is the most appropriate to use when undertaking a viability assessment for a planning application. In this approach, Development Plan requirements are included alongside other development costs, which are deducted from the Gross Development Value to determine the residual value that is available to pay for land.
- In line with the GLA Development Appraisal Toolkit Guidance, the council does not consider it appropriate within a development appraisal to apply a fixed land value as an input which is based on price paid for land or an aspirational sum sought by a landowner. Such an approach without appropriate reference to the landowners' existing interest prior to grant of consent, and without fully taking into account planning policy requirements, can undermine the delivery of Development Plan requirements and create inconsistencies between assumed site value and the outcome of the assessment.

Viability Model

- The council should be provided with a working electronic version of the viability appraisal model which can be fully tested and interrogated.

Evidence, Inputs and Assumptions

- Viability assessments should comprise of the information and evidence set out in this Section 6 (and other relevant sections) of the SPD and as summarised at Appendix B.
- All viability evidence must be robustly justified and appraisal assumptions should be benchmarked against publicly available data sources.
- Appraisals must be balanced, coherent as a whole and internally consistent. The relationship between specific inputs and the outcome of the assessment as a whole should therefore be considered.

Scheme Details and Development Programme

Details should be provided regarding:

- The proposed scheme (including site area, residential unit numbers, densities, unit sizes, habitable rooms, split between private and affordable tenures, and floor space figures for residential and non-residential in GIA and NSA/NIA).
- The target market / occupiers
- The proposed specification (consistent with assumed costs and values).
- The timing of cost and income inputs (including residential sales rates with reference to project/ construction plans and contracts and land/ development/ letting agreements as relevant).
- The development programme (including information relating to pre-build, construction, marketing and sales/ lettings periods).

Development Values

- Assumptions relating to development values should be justified with reference to up to date transactions and market evidence relating to comparable new build properties within a reasonable distance from the site, and, where relevant, arrangements with future occupiers.
- Information relevant to comparable properties should be fully analysed to demonstrate how this has been interpreted and applied to the application scheme.

Affordable Housing Values

- Development appraisals should be carried out in conjunction with a Registered Provider of social housing.
- Affordable housing values assumed within a viability assessment should reflect the offer/s made by Registered Providers for purchasing the affordable housing element of the development. Evidence of calculations underpinning affordable housing values, including details of rental and capital receipts (including staircasing), discussions with RPs and subsidies should be provided.

Build Costs

- The RICS Build Costs Information Service (BCIS) is a publically available source of cost information that can be used in viability assessments. In such instances and where costs are agreed by the council, this would be an acceptable basis of cost inputs as a part of a review mechanism, linked to the Tender Price Index (TPI).
- For larger schemes, it is likely to be more appropriate to rely on a specific assessment of build costs. In these circumstances, costs should be fully justified based on a detailed specification of the proposed development and the intended construction approach.
- Where a specific assessment of build costs is relied on, rather than standardised costs from a recognised source, or where any abnormal costs are applied, build costs will be reviewed on an open book basis as a part of a viability review. Costs should be provided for different components of the scheme including market and affordable housing.
- The council will expect a clear correlation to be evident between a development's specification, assumed build costs and development values. The council will expect a clear correlation to be evident between a development's specification, assumed build costs and development values.

Developer Profit

- The council will require supporting evidence from applicants to justify proposed rates of profit. This should take into account the individual characteristics of the scheme, including property market conditions and a development's risk profile, and profits achieved on comparable schemes.
- The council will only rely on IRR as a measure of profit if it is satisfied that the development programme, timing of cost and value inputs and target IRR have been fully justified. In these cases, the council will also consider profit as a factor of GDC/ GDV.

Benchmark Land Value

- Planning Practice Guidance requires that in all cases land value should reflect policy requirements, planning obligations and CIL charges. PPG also confirms that current (or existing) use value provides an appropriate basis for comparison with a benchmark land value to determine whether this incentivises a land owner to release a site and achieves a competitive return.
- In line with this and a range of relevant guidance documents, the council considers that the 'EUV plus a premium' approach best reflects the need to ensure that development is sustainable and should form the primary basis for determining the benchmark land value in most circumstances. This should reflect the value of the landowners' existing interest prior to grant of consent and the need to provide a relevant incentive to the landowner to release the land for development, fully taking into account site specific circumstances and the need to maximise policy compliance through the planned system.
- Comparable, market based evidence can be used to help inform the premium above existing use value, but should always be appropriately adjusted to ensure that transactions are genuinely comparable, reflect current policy requirements and have not been inflated through assumptions of growth in values. Where it is not possible to source appropriate comparable evidence, limited weight can be given to this.
- The current application of a 'market value' approach has raised concerns of inadequate reflection of policy requirements, circularity and inflated land values which inappropriately reduce planning obligations. Where these concerns are evident the council will rely on the Existing Use Value plus a premium approach applying the guidance set out in this document.
- The Core Strategy affordable housing target that 50% of residential units should be delivered as affordable housing over the plan period (Policy CS12) and CIL charges are key requirements that should in all cases be taken into account and given significant weight when determining land value. Lower levels of affordable housing should only be tested where warranted by genuine site specific viability constraints (including where an acceptable benchmark land value cannot be achieved) as defined under the terms of this guidance.
- An Alternative Use Value (AUV) approach to the benchmark land value will only be accepted where there is a valid consent for the alternative use or if the alternative use would clearly fully comply with the Development Plan. A full viability appraisal must be submitted together with a provisional design indicating how the alternative use could be accommodated on the site.

Planning Contributions

- Likely CIL and S106 contributions should be included as a development cost in a viability assessment and should be calculated in accordance with the Islington and Mayoral Charging Schedules, the CIL Regulations and the Islington Planning Obligations SPD, as relevant. The Islington and Mayoral CIL instalment policies should also be reflected in the assumed timing of payments.
- The council will consider the timing and level of planning obligations that can be supported as a part of the viability assessment process, however, in line with government policies, where safeguards are necessary to make a development acceptable in planning terms and these cannot be secured, planning permission will not be granted.

Development Finance

- A standardised approach will generally be adopted to finance costs which should be appropriate to the type of proposal.
- The viability model should reflect that finance costs vary throughout the development period, with the majority of interest costs typically incurred during construction.

Review Mechanisms

- In order to ensure that the maximum reasonable level of affordable housing is provided in line with Core Strategy Policy CS12, and that other plan requirements are met, the council will require viability review mechanisms through Section 106 agreements on all major residential applications which do not meet the strategic affordable housing target and for all major applications where policy requirements are not met in full at the time permission is granted.
- Additional policy requirements arising from the review will be capped based on those set out in the Development Plan.
- The council will require viability reviews to take place:
 - at an advanced stage of development for all schemes requiring a review (to ensure that viability is accurately assessed at the point at which actual values are realised).
 - prior to substantial implementation of the development (in the event that this does not take place within 12 months of the permission) for phased developments, and
 - at a mid-point stage in the development (prior to implementation of the second half/ later phase(s) of the development) on 'large phased schemes'.
- Pre-implementation and mid-point reviews will typically result in additional on-site affordable housing while advanced stage reviews will generate a financial contribution where a surplus arises.
- Reviews will be undertaken based on the process and formulas outlined in the SPD, which will be set out in S106 agreements to provide transparency.
- For phased schemes, if projected changes in development values and build costs are applied at application stage, these should be fully justified, reasonable and consistent with long-term new build trends, current market conditions and market expectations. Whether or not projected values and costs are applied, viability reviews will be necessary to assess actual changes in values/ costs.

Monitoring and Review

- The council may undertake reviews of the viability of developments during or after construction, regardless of whether a formal review mechanism is in place.

Appendix B – Viability Assessment – Information and Evidence List

The following information should be submitted as part of a viability assessment (see Sections 4, 5 and 6):

APPRAISAL FORMAT	<ul style="list-style-type: none"> • Hard and electronic version of appraisal in format that can be fully tested and interrogated
PROPOSED SCHEME DETAILS	<ul style="list-style-type: none"> • Floor areas: - Residential: Gross Internal Area (GIA) and Net Saleable Area (NSA) - Commercial / Other: Gross Internal Area (GIA) and Net Internal Area (NIA) • Proposed specification for each component of development, consistent with assumed costs and values, and target market / occupiers • Residential unit numbers, sizes and habitable rooms including the split between private and affordable tenures • Site area and densities
DEVELOPMENT PROGRAMME	<ul style="list-style-type: none"> • Project plan, including land acquisition, pre-build, construction and marketing periods and phasing (where appropriate) • Viability cashflow
GROSS DEVELOPMENT VALUE (GDV)	<ul style="list-style-type: none"> • Anticipated residential sales values, ground rents, sales rates (per month), assumptions regarding forward sales and supporting evidence • Anticipated rental values, yields and supporting evidence • Details of likely incentives, rent-free periods, voids for any commercial element • Anticipated value of affordable units based on evidence including details of discussions with Registered Providers and RP offers
COSTS	<ul style="list-style-type: none"> • Build costs based on RICS Build Costs Information Service (BCIS), with values correctly reflecting the specific proposal, and justified to show that an appropriate and reasoned approach has been taken in estimating the costs • Where applicants seek to rely on a specific assessment of build costs rather than a recognised publically available source of information: expected build cost and supporting evidence including a fully detailed elemental cost plan demonstrating the basis of cost estimations and evidence of contractor costs. Disaggregated abnormal costs (if relevant) that can be benchmarked against BCIS • Details of other costs such as demolition costs and supporting evidence • Sales/ letting and professional fees and supporting evidence
PROFIT	<ul style="list-style-type: none"> • Profit on cost and value • Development yield • Supporting evidence from applicants to justify proposed target rates of profit taking account of the individual characteristics of the scheme
BENCHMARK LAND VALUE	<ul style="list-style-type: none"> • Existing Use Value (EUV) based on evidence including existing income, comparable data and details of condition of existing site. Justification for any premium applied over EUV, taking account of circumstances of site and guidance in SPD • Freehold/leasehold titles • Tenancy schedule - to include lease summaries (where appropriate) • Details of income that will continue to be received over the development period • Arrangements between landowner and developer, including any land sale, development or tenancy agreements • Evidence for how benchmark land value reflects planning policy
PLANNING CONTRIBUTIONS	<ul style="list-style-type: none"> • Section 106 Costs (See Islington Planning Obligations SPD and Heads of Terms provided by the council) • Islington and Mayoral CIL costs based on the Islington and Mayoral Charging Schedules and CIL Regulations 2010 (as amended), reflecting existing floorspace calculations, social housing relief, the phasing of payments and instalment policies (if relevant)
DEVELOPMENT FINANCE	<ul style="list-style-type: none"> • Finance costs appropriate to the type of proposal, reflecting that finance costs vary throughout the development period, with the majority of interest costs typically incurred

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	during construction
OTHER	<ul style="list-style-type: none">• Statutory declarations to verify accuracy of information submitted/ regarding performance related pay according to outcome of viability process / deliverability of scheme proposed (see Section 4 for more details)• Other information requested by the council having regard to the specific application

Appendix C – Affordable Rented Housing

1 Local Policy Context

- A.1 This information has been provided to assist with the planning process and to provide guidance on rent levels for affordable housing that are appropriate to Islington, within the strategic context provided by the London Housing Strategy 2014 and the Mayor's Housing Covenant 2015-18. It also provides clarity regarding the financial assumptions used to inform viability assessments that determine affordable housing contributions, and the process whereby RPs may seek to deliver the affordable rent tenure in Islington, including award of borough-level grant. This guidance is based on adopted and published council strategies and policies, including the Housing Strategy 2014-2019, the Tenancy Strategy 2012-2015 and the Local Plan.
- A.2 The council's key priority is to secure a supply of affordable housing that households on the housing waiting list can afford without increasing long-term benefit dependency. This requires striking a balance between ensuring affordability for those in housing need and securing as much new supply as reasonably possible.
- A.3 Given the level of need in the borough, Core Strategy Policy CS12 sets out that the council will seek the maximum reasonable amount of affordable housing taking account of the 50% strategic target, especially social rented housing, from private and mixed use schemes. The policy requires a tenure split of 70% social rent and 30% intermediate. Following the introduction of the affordable rent tenure and engagement with the Mayor, the council has considered how this product could contribute to meeting housing need, within the local context of very high market housing costs.
- A.4 As set out in the borough's Housing Strategy 2014-19, access to a genuinely affordable home enables residents and households to improve their outcomes with better opportunities to escape poverty experienced through high housing costs and avoid being dependent upon welfare benefits, whether in employment or not. To set appropriate rent levels, it is necessary to ensure that eligible households, both working and non-working, can take up tenancies within new developments without spending an excessive proportion of their net income on housing costs. In not differentiating between affordability for working and non-working households, the council is mindful that low income employment by its nature tends to be insecure, and that households may experience prolonged periods of unemployment where they are wholly reliant on benefits despite actively seeking work.
- A.5 The Islington Tenancy Strategy 2012-15 provides the strategic tenancy framework which Registered Providers (RPs) operating in the borough are obliged to have regard to in setting their own landlord policies on tenure and rents. In assessing affordability, the strategy expects that no more than 35% of net income should be used towards housing costs. The Strategy encourages RPs to continue to offer tenancies at social rent, and seeks to maximise homes provided at target⁸³ rents in perpetuity on new developments where planning obligations require the provision of new affordable units.
- A.6 In formulating the current Tenancy Strategy, the council has considered the role of the new affordable rent tenure. The *Effects of the Affordable Rent Product* study (Jones Lang LaSalle, 2011) examined key issues including the product's affordability and ability to meet identified need in the borough, its potential impacts on the churn of the existing stock/overall supply of affordable housing and its likely effect on benefit dependency and work incentives. It was shown that unless affordable rents were set well below the maximum level chargeable of 80% of market rent, the tenure would not add any additional affordable options that would contribute to meeting the affordable housing need identified in the 2010 SHMA. The Housing Strategy 2014-19 therefore sets out the Council's continued

⁸³ Target rent is also known as formula rent, and details of how to calculate target rent is set out in Government Guidance on Rents for Social Housing.

commitment to increasing the supply of social rented homes to provide genuinely affordable housing on new developments.

- A.7 The 2013 London SHMA sets a slightly different affordability benchmark for determining those in need of affordable housing, that the rent for the size of property required does not exceed 25% of gross household income for households with incomes of less than £40,000. This would result in a slightly lower affordable weekly rent level than the borough's affordability measure. For schemes which propose the affordable rent tenure in lieu of the social rent tenure, the council's assumption is that rents will be determined in discussion with the borough's Housing Development Team and in all cases complying with Mayoral guidance that affordable rent levels (including service charges) will not exceed the maximum applicable Local Housing Allowance rate.
- A.8 The council continues to monitor changes in local market rent levels and local incomes to provide up-to-date evidence on local affordability and justify the Housing Strategy's expectation that RPs will continue to deliver homes at target rent levels in the borough. With reference to the London Housing Strategy 2014 and the accompanying 2015-2018 funding prospectus, we have also considered the affordability of *discounted*⁸⁴ and *capped*⁸⁵ affordable rent properties in the context of local market rent levels, Local Housing Allowance (LHA) rates and welfare caps.
- A.9 Table 1 below collates the most recently available data on market rent levels in various areas of the borough. As can be seen from the table, rents substantially higher than the national guideline cap on social rents would not meet affordability criteria set in the Tenancy's Strategy in the majority of the borough, and would thus exclude a large proportion of eligible households from access to new affordable homes, particularly families needing larger homes, and cause considerable difficulty for the council in addressing housing need.
- A.10 Information on market rents in Table 1 is based on September 2015 data from the Valuation Office Agency (VOA) as compiled in the GLA's London Rents Map using a sample covering the previous 12 months given at postcode district (e.g. N1) level. This information is for illustrative purposes only as market rents in Islington can vary greatly within an area and over time due to a variety of factors. It is likely that rents in the table underestimate current rent levels as they are based on historical data and a limited sample; data on asking prices from online property portals supports this assumption. The council will continue to collate information on market rents on an annual basis to monitor affordability and inform discussions regarding market rent assessments.

2 Relationship to the Mayor's Housing Covenant 2015-2018

- A.11 As set out in the *Regulatory Framework for Social Housing* (HCA, 2012) affordable rent terms can only be used where a delivery agreement for new supply of social housing has been agreed under a new supply agreement entered into between a private RP and the Mayor. The council recognises that there are RPs active in the borough that have a new supply agreement with the Mayor to deliver affordable rent and the council has supported bids by RPs under the 2015-18 programme where these also accord with local policies and strategies.
- A.12 This process has confirmed that delivery of new supply in Islington at rent levels equivalent to target rents is considered to contribute to achievement of the Mayor's objectives as set out in the London Housing Strategy 2014. In certain cases, subject to schemes meeting local funding criteria, the council may make available additional grant funding to RP partners.

⁸⁴ Discounted affordable rent is defined by the Mayor as properties with rents set at the lower of up to eighty percent of market rent or the local housing allowance.

⁸⁵ Capped affordable rent is defined by the Mayor as properties with rents at no more than 50 percent of market rent (lower quartile market rent in high value areas); the minimum possible rent chargeable for capped rent properties is the target rent.

Table 1 Indicative market rent levels by postcode district (September 2015)

Postcode District	Rent Level (weekly)	1-bed	2-bed	3-bed	4-bed
EC1V	Median Market Rent	£439.00	£590.00	£610.00	£750.00
	Lower Quartile Market Rent	£395.00	£500.00	£573.00	n/a
N1	Median Market Rent	£360.00	£495.00	£620.00	£775.00
	Lower Quartile Market Rent	£320.00	£415.00	£550.00	£615.00
N19	Median Market Rent	£292.00	£355.00	£525.00	£665.00
	Lower Quartile Market Rent	£265.00	£324.00	£447.00	£641.00
N4	Median Market Rent	£300.00	£370.00	£500.00	£552.00
	Lower Quartile Market Rent	£261.00	£328.00	£415.00	£518.00
N7	Median Market Rent	£323.00	£400.00	£529.00	£640.00
	Lower Quartile Market Rent	£288.00	£360.00	£475.00	£610.00
WC1X	Median Market Rent	£375.00	£463.00	£693.00	n/a
	Lower Quartile Market Rent	£350.00	£425.00	£573.00	n/a
Islington	Median Market Rent	£335.00	£450.00	£575.00	£700.00
DCLG Guidance	Formula rent caps 2015-16 (exclusive of service charge)	£141.42	£149.74	£158.06	£166.38

Source: London Rents Map <https://www.london.gov.uk/priorities/housing-land/renting-home/rents-map> and Government Guidance on Rents for Social Housing

Table 2 Local Housing Allowance Rates (LHA) November 2015

Broad Rental Market Area (BRMA)	Postcode Districts covered ⁸⁶	1-bed	2-bed	3-bed	4-bed
Central London	EC1, WC1X	£260.64	£302.33	£354.46	£417.02
Inner North London	N1, N4, N5, N7, N19	£260.64	£302.33	£354.46	£417.02
Inner East London	N1, N4	£257.35	£302.33	£354.46	£417.02
Outer North London	N4	£199.68	£255.34	£315.12	£388.65

Source: <https://lhadirect.voa.gov.uk/SearchResults.aspx?LocalAuthorityId=19&LHACategory=999&Month=7&Year=2014&SearchPageParameters=true>

3 New Supply

A.13 In view of the above, the Council's Housing Strategy and Action Plan 2014 states that the Council will work in partnership with RPs to secure commitment to genuinely affordable homes as a means of increasing supply and choice of genuinely affordable housing. The Strategy states:

"We expect 70% of new affordable homes to be for social rent as we do not consider homes provided for "Affordable Rent" with rents of up to 80% of open market rents as affordable for residents in housing need in Islington".

"We will continue our success in encouraging and support local housing association partners to develop homes for social rent through making land and/or funding available to subsidise delivery of genuinely affordable new homes."

A.14 Therefore on new developments, the council will only consider delivery of some/all of the required 70% rented accommodation as affordable rent in lieu of social rent where it can be demonstrated that these properties will be delivered at rent levels which contribute to achieving the objectives of the borough's Housing Strategy, in accordance with the Framework agreement with the Mayor, and where a legal agreement secures these rents levels in perpetuity. This approach provides RPs with

⁸⁶ Boundaries of BRMA do not follow postcode boundaries therefore applicants will need to confirm the applicable LHA rate. Note that the national maximum has been reached.

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the flexibility they require to fulfil their investment contracts with the GLA, provides certainty regarding the best use of public subsidy in the borough and ensures that the new affordable homes delivered contribute to meeting the housing needs of Islington.

- A.15 Where residential market rent assessments are required in support of a planning application/viability assessment, these will need to be conducted on a scheme-by-scheme basis, based on a valuation in accordance with a method recognised by the RICS Red Book. The council will expect the valuation of rental properties to evidence reasonable assumptions regarding the gross versus net rents in coming to a view on the value of the rented tenure when relying on the capitalised net rent to determine the gross development value of such units.

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