

Viability Consultation Outcomes – Summary of Main Concerns

Q3. - Do you have any comments on the proposal that the Viability Assessment would be publicly available to view on the Planning Register?

- The proposal lacks flexibility – most equivalent policies that are emerging have an exceptions policy for redaction in certain circumstances. A significant number of these assessments contain commercially sensitive information which could, for example, include rights of light information, vacant possession compensation costs or allowance for acquisition of third party land etc,
- This proposal could discourage development in the area due to the potential commercial risks in comparison to other neighbouring authorities,
- There should be some provision for negotiation (with the developer) if genuinely sensitive commercial information is involved,
- The proposal may hinder the tendering process for builds and also development financing if build costs and financing are open to public scrutiny,
- Committee members should be able to scrutinise (but not the general public),
- Concern that a transparent VA could result in unsubstantiated and ill-informed comments on an application that would lead to misinformed objections,
- We would genuinely caution about providing sensitive commercial information in the public domain. This would likely be an issue to most if not all developers within the City and may result in alternative investment locations being sought.

LPA response: Transparency of information is essential to ensure a fully open and accountable planning process. The direction of travel within planning policy is for greater transparency.

The comments relating to commercially sensitive information have been fully considered. Whilst the tests set out in the EIR and FOIA outline that the public interest of full disclosure will very often outweigh commercial interests there may be circumstances where elements of the Viability Assessment may be commercially sensitive and redaction would be appropriate.

If the applicant considers that there is commercially sensitive information that should remain confidential then this should be clearly identified and full justification provided as to the extent of the harm that would occur if this information was disclosed. The LPA would assess the case put forward in accordance with the relevant legislation on a case by case basis.

Any discussions regarding the potential submission of a redacted Viability Assessment would ideally take place at pre-application stage.

Q4. - Do you have any comments about the proposal that that a Viability Assessment should be a validation requirement on schemes that do not include the necessary policy requirements or contributions and this is being justified on viability grounds?

- The scheme could change significantly throughout the application process so could result in aborted work in revising the VA,
- The proposal could stifle development if designs are 'set' early in the process to accord with the VA,
- The proposal will delay the planning process further,
- Concerns that poor quality VA's will be submitted just in order to get an application validated,
- Also concern that applications will not be validated if the VA is not considered acceptable.

LPA Response: It is considered that this requirement will speed up the determination of planning applications rather than cause delays as the VA will have been submitted upfront.

Schemes are often revised and VA's updated during the planning application process as existing. Requiring a VA upfront will not change this.

The LPA considers that the policy will improve the VA's submitted as they will be considered more thoroughly as part of the main application submission. If poor VA's are submitted this will reflect badly on the applicant rather than the LPA as the information will be publically available and delays in requiring additional information in regards to viability attributed to the applicant.

The Viability Checklist will provide guidance for applicants and the LPA is not envisaging that a significant number of applications will be invalid due to a lack of a VA.

Q5. - Do you have any comment about the proposed list of general requirements to be included within a Viability Assessment?

- Type of tenure may not be known at the time of submission,
- An 'Explanation Note' at the end of the Viability Checklist should not be required as it strays into the area of policy rather than a strict financial appraisal,
- Actual sales price of the land should not be included,
- Existing use + premium is too rigid and not suitable for all sites,
- 'Open book' should mean transparency and openness of the process rather than the developer actually 'opening their books' to public scrutiny. Some

costs etc should be set to standard costs rather than those specific for that site,

- The checklist does not need to be so prescriptive – should be more guidance,
- Does not contain a list of contingencies that could significantly impact viability,
- By requesting estimated residential sales or rental values at a point of a project when these matters have often been undecided will have a significant impact on the viability. In addition, the estimated construction costs can have a significant impact on viability. This represents a requirement for flexibility which can be discussed professionally before and/or during the course of an application,
- If the Council proceed in making this a validation requirement, then the only thing that should be presented at the point of validation is a summary of the District Valuation Service's report in the same manner as that presented to Committee at present. No further information should be in the public domain,
- On many 'outline' applications the full details of costs / sales etc are not known at the point of submission.

LPA Response: A checklist is proposed to provide a more consistent approach to the information required. The aim is to provide guidance for applicants to ensure sufficient details are submitted to enable a timely assessment of the information. It is not designed as a rigid straight jacket for applicants.

In response to the consultation responses the checklist has been revised to provide more clarity for applicants and will be reviewed as required to ensure it is as relevant as possible.

There were a number of respondents that questioned whether the existing land use plus premium approach to land valuation was appropriate. Whilst this is the preferred approach the checklist does not preclude other valuation approaches in certain instances.

An executive summary is seen to be important to provide a concise and factual overview of the viability position.

In regards to outline applications, viability always has to be considered at this stage (rather than reserved matters stage). If the applicant wants to put forward a viability case at this stage a VA will be required. This is no different from the current position.

If applicants are putting forward a viability case then they should have an idea of build costs / sales values by the time they submit an application.

Q6. - Do you have any comments as to whether an affordable housing statement should be required for policy compliant residential schemes setting out the specific details of the affordable housing (location / number / type / tenure of affordable units / number of habitable rooms etc) or required contributions?

- This information would be duplication as it is already set out in the application form or contained in a planning statement,
- Overly onerous for policy compliant schemes (having regard to 193 of the NPPF),
- Not appropriate for small scale schemes,

LPA Response: Full details of the affordable housing offer are rarely provided and as such it would not be a duplication of work. Full details on the affordable housing provision are vital to be able to properly assess whether a residential scheme is genuinely policy compliant.

The affordable housing statement could be incorporated as another section in a planning statement and as such is not considered to be an onerous requirement.

One respondent questioned whether an affordable housing statement was necessary for schemes between 5 and 9 units where a commuted sum would be sought. This was acknowledged and it is now proposed that for residential schemes of this scale the requirement will be to complete and submit a proforma where the necessary financial contribution can be confirmed.

Q7. - Do you have any further comments about the proposals?

- The degree of change that proposals can undergo during the pre-application and determination periods will limit the extent to which a Registered Provider can be involved prior to planning permission being secured. Any early discussions with a Registered Provider should be treated as such and may be subject to considerable change,
- It is considered that the only information on viability that should be presented on the Planning Register or in the public domain is a summary sheet on any negotiations or discussions that have taken place with the Local Planning Authority prior to the submission of an application and agreed by an independent body such as the District Valuation Service,
- It is considered that if Members have concerns about viability they should be able to scrutinize the information adequately in advance of making a decision. They should be encouraged to be more proactive through the application

process and discuss these matters during the lifetime of the scheme rather than at the Committee where the decision is made. Members briefings are the appropriate forum for these discussions,

LPA Response: Whilst full details of the RP or any other future occupier may not be known at the application stage early engagement with RP's for instance would give the most accurate indication of costs and as such is encouraged.

Whilst details of pre-application viability discussions may be helpful, this is not a substitute for the submission of a fully considered VA which should be publically available.

The LPA is committing to providing an open and accountable planning service and as such full transparency of information is required for the general public as well as Members.

