

## Viability Assessments

Alistair Mills  
Landmark Chambers  
4 December 2017

### The Current Approach



- Is the current approach to viability assessment fit for purpose?
- Does it suit you/your clients' purpose(s)?

## The (Alleged) Weakness of the Current Approach



- *ad hoc* consideration of viability
  - (Perceived) lack of transparency
  - 'Sticky' expected developers' profit
  - Complex and length consideration of viability
  - Perceived 'race to the bottom' wrought by competitive bids for land pushing up land values
  - Perception that developer-friendly (LGA)
  - Limited provision of affordable housing
- 

## The Impact of Viability Assessment on the Provision of Affordable Housing



- Shelter's empirical study estimates that 79% of the s.106 affordable housing required by DP policy lost
  - Viability used as an argument more often on larger schemes
  - Large sites with higher affordable housing ratios have higher build-out rates
  - In Birmingham, where viability assessment submitted, fewer than 1% of homes were affordable
-



## The Problem of Overpayment for Land

- Observers now cynical about the relevance of the price paid for the land being plugged into viability assessment / calculation of benchmark land value
- This reflected in the major AD at Parkhurst Road APP/V5570/W/16/3151698 – purchase price was an important consideration but not determinative
- “I have had regard to the need to encourage rather than restrain development, and the need for flexibility in the application of planning policy, but this should not be at the expense of delivering much needed affordable housing. Nor should an inflated land value be subsidised by a reduction in affordable housing.”



## The Government's Proposals

- LPAs should set out the types and thresholds of AH contributions, the infrastructure needed to deliver a DP, and expectations for funding and contributions
- Where policies have been tested for viability, viability should not be raised again at application stage
- Updates to guidance for viability assessment to be simpler, quicker and more transparent
- Monitoring of the use of s.106

## Putting Viability Assessment in the Plan



- Is this workable?
  - May be difficult to predict, due to changes in policy and local government funding)  
– CPRE response
  - The proposed approach will be burdensome at LP examination (SEEC) – might this make it even more difficult to get plans through examination?
  - Possibility of streamlining with CIL, which tests for viability
- 

## Consideration of Viability at Application Stage



- This may depend on the life of the plan
  - LP viability assessment may become out of date (CPRE)
  - Law Society suggests ‘material change of circumstances’ test (to avoid risk of rigidity, or meaningless policies)
  - Country Land and Business Association – concern that the prospect of unviable development will stall delivery
  - Unrealistic? (Northern Housing Consortium)
  - It would speed up the process of application (Rushmore DC)
-

## Suggestions for Standardised Viability Assessment



- Transparency and genuinely 'open book' approach is popular
  - Purpose of this? May assist public understanding (LGA)
  - Some support for the approach in the Mayor of London's SPV / taking a EUV+ approach
  - Should not prevent delivery of needed housing (Northern Housing Consortium)
  - Can't have monolithic approach to viability (LGA)
  - Difficult to perform viability assessment at outline planning stage (Northern Housing Consortium)
- 

## Other Suggestions / Questions



- Duty to co-operate upon infrastructure providers (LGA)
  - Could there be any justification for the 10-unit threshold if viability assessed at LP stage, with an established methodology?
-



AMills@landmarkchambers.co.uk

