

THE REVISED NPPF Viability

Neil Cameron QC
10th September 2018

Introduction (1)



- Plan making
- Decision taking
- Standardised approach
- Conclusions



Introduction (2)

Paragraph 57 of the NPPF

- An assumption is to be made that developer contributions and other requirements based on up to date planning policies will not render a development economically unviable.
- A standardised approach to viability assessment is to be followed.
- Viability assessments are to be made publicly available

Plan making (1)

- The ‘soundness tests’ remain as in NPPF 1 (paragraph 35)
 - The test of whether a plan is effective includes whether it is deliverable over the plan period
- Paragraph 1 of the PPG on Viability states:

..policy requirements should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability that takes into account all relevant policies, and local and national standards, including the cost implications of the Community Infrastructure Levy (CIL) and section 106.

Plan making (2)



PPG on Viability paragraph 3

Assessing the viability of plans does not require individual testing of every site or assurance that individual sites are viable. Plan makers can use site typologies to determine viability at the plan making stage. Assessment of samples of sites may be helpful to support evidence. In some circumstances more detailed assessment may be necessary for particular areas or key sites on which the delivery of the plan relies.

Plan Making (3)



Government's response to consultation on the revised NPPF

The final framework reflects the Government's intention that plans should set out policy requirements for contributions from developers towards infrastructure and affordable housing, and that those policies should not undermine the deliverability of the plan. National planning guidance sets out the approach that plan makers should take to assessing viability to ensure that the plan is deliverable.

Decision Taking (1)

Paragraph 57 of the NPPF

Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.

Decision Taking (2)

Paragraph 8 of the PPG

Where a viability assessment is submitted to accompany a planning application this should be based upon and refer back to the viability assessment that informed the plan; and the applicant should provide evidence of what has changed since then.

Decision Taking (3)



- It is difficult to see how, save in relation to strategic sites, the approach taken at the plan- making stage will be applicable to a proposal on a particular site.
- It is open to a developer to justify the need for a viability assessment at the application stage
- Assessments are likely to be made available to the public
- Review mechanisms are likely to be used in cases where a proposal which does not meet policy requirements is permitted based on a viability assessment

The Standardised Approach (1)

- This applies at the plan making and decision taking stages (paragraph 57 NPPF)
- The approach is set out in the PPG
- The approach applies to costs and values

The Standardised Approach (2) Land Value



Land Value

PPG paragraphs 13-17

- EUV plus
- AUV – limited to cases where there is an implementable planning permission



Standardised Approach (3) – Land Value



- A local plan can set out circumstances in which AUV might be used
- An applicant may have to make a planning application to establish an AUV
- The AUV planning application might be refused and the appeals conjoined
 - A viability assessment will have to be submitted to justify the AUV benchmark
 - The viability assessment for the primary scheme will need to consider alternative outcomes based on the outcome of the AUV application appeal.

Standardised Approach (4) Profit



For plan making a value of 15-20% of gross development value is indicated (PPG paragraph 18)



Conclusions

- Should developers take more interest in viability at the plan making stage?
- Should LPAs introduce policies on using AUV to arrive at a benchmark land value?
- Should developers make planning applications to establish AUV?