

HS3: Matter 2 – Appropriate, Available Evidence

Issue 2 – Viability Evidence

QUESTION 1

What is the justification for using a site capacity of 825 units at Officers Meadow (Strategic Site R03)?

1. Officers Meadow is a strategic site and is allocated for 825 units – See Table 3.1 of CSD6, CIL Viability Assessment Update (August 2022). The purpose of the viability testing is to show that *'the proposed rate or rates would not undermine the deliverability of the plan'* as per paragraph 25-040-20190901 of the PPG and paragraph 34 of the 2021 National Planning Policy Framework (NPPF). The modelling therefore reflects the plan, rather than a different scheme that the developer may bring forward.

QUESTION 2

Does the appraisal methodology in the CIL Viability Assessment Update (August 2022) adequately reflect the costs of finance?

2. Yes, although it is accepted that the cost of finance will fluctuate through economic cycles.
3. An assumption of 7% is used on all debt balance units – see Paragraph 7.41 of CSD6, CIL Viability Assessment Update (August 2022). This was an increase from 6% presented in the May 2022 consultation and used in the 2018 Whole Plan Viability Assessment.
4. In the appraisals the interest is calculated on all the funds employed, so has the effect of overstating the total cost of interest. Most developers are required to put some equity into most projects. A cautious approach is being taken.
5. Interest rates have of course increased over the last few months or so. The recent *Office for Budget Responsibility: Economic and fiscal outlook* (March 2023) suggests (at Chart 1.1) that

inflation will fall to less than 1% over the next 18 months or so and Bank Rates will start to fall in mid 2023 (Chart 2.2).

QUESTION 3

Has the Viability Assessment update accurately considered the costs for strategic sites R01-R03? How have these costs been factored into account?

6. Yes, the modelling assumptions and site areas are set out in Table 3.1 of CSD6, CIL Viability Assessment Update (August 2022). The updated Strategic Infrastructure and Mitigation costs are set out in Table 7.2 of CSD6, CIL Viability Assessment Update (August 2022). These are the Council's best current estimate of these costs. These costs were subject to examination as part of the Local Plan EiP, however, the costs have been indexed to reflect inflation.

QUESTION 4

The Viability Assessment Update sets out costs in Table 7.1 and 7.2. Paragraph 7.30 states that the figures are based on October 2018 costs which have been indexed to July 2022. Is this approach accurate, justified and robust?

7. The Paragraph 25-019-20190901 of the PPG says:

Viability assessments should be proportionate, simple, transparent and publicly available in accordance with the viability guidance. Viability assessments can be prepared jointly for the purposes of both plan making and preparing charging schedules. This evidence should be presented in a document (separate from the charging schedule) that shows the potential effects of the proposed levy rate or rates on the viability of development across the authority's area. Where the levy is introduced after a plan has been made, it may be appropriate for a local authority to supplement plan viability evidence with assessments of recent economic and development trends, and through working with developers (e.g. through local developer forums), rather than by procuring new evidence.

Further the Paragraph 25-017-20190901 of the PPG says:

Information on the charging authority area's infrastructure needs should be drawn from the infrastructure assessment that was undertaken when preparing the relevant plan (the Local Plan and London Plan in London) and their CIL charging schedules. This is because the plan identifies the scale and type of infrastructure needed to deliver the area's local development and growth needs (see paragraph 34 of the National Planning Policy Framework).

And the Paragraph 25-018-20190901 of the PPG says:

Where infrastructure planning work which was undertaken specifically for the levy setting process has not been tested as part of another examination, it will need to be tested as part of another examination, it will need to be tested at the levy examination. The examiner will need to test that evidence is sufficient to confirm the aggregate infrastructure funding gap and the total target amount that the charging authority proposes to raise through the levy.

8. The Infrastructure Delivery Plan (CSD7A and CSD7B) which was developed through the preparation of the Local Plan identifies the relevant infrastructure required to support planned growth in the area. The costings for the items within the IDP were developed using various sources and in consultation with relevant stakeholders.
9. Through the Local Plan Examination the IDP was interrogated and tested by the appointed Planning Inspectors with them concluding that the approach set out within the IDP for identifying necessary infrastructure being justified and consistent with national policy.
10. It is clear that we are in a period of inflation. We therefore consider the most appropriate approach is to index the figures. To return to first principles and rework the cost elements of the IDP would not be proportionate, bearing in mind the sections of the PPG quoted above.

QUESTION 5

What level of developer profit has the Viability Assessment Update used? Is it consistent with guidance in the PPG? (Paragraph: 018 Reference ID: 10-018-20190509)

11. Paragraph 7.54 of CSD6, CIL Viability Assessment Update (August 2022) sets out that the developers return assumption of 17.5% of the total development value is used for residential development. 15% is assumed for non-residential development (Paragraph 7.53 of CSD6, CIL Viability Assessment Update (August 2022)).

12. This is wholly consistent with the PPG. Paragraph 10-018-20190509 of the PPG says:

How should a return to developers be defined for the purpose of viability assessment?

Potential risk is accounted for in the assumed return for developers at the plan making stage. It is the role of developers, not plan makers or decision makers, to mitigate these risks. The cost of fully complying with policy requirements should be accounted for in benchmark land value. Under no circumstances will price paid for land be relevant justification for failing to accord with relevant policies in the plan.

For the purpose of plan making an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies. Plan makers may choose to apply alternative figures where there is evidence to support this according to the type, scale and risk profile of planned development. A lower figure may be more appropriate in consideration of delivery of affordable housing in circumstances where this guarantees an end sale at a known value and reduces risk. Alternative figures may also be appropriate for different development types.

13. An assumption of 20%:6% for market : affordable housing is approximately equivalent to 17% across market and affordable housing or 20% of costs.

QUESTION 6

How does the Viability Assessment Update take into account different sales values across Brentwood? Are there any specific areas (and not just sites) where the levy would have a greater impact on viability?

14. Table 4.8 of CSD6, CIL Viability Assessment Update (August 2022) sets out the value assumptions. This carries forward the approach used in the 2018 Whole Plan Viability Assessment.

Paragraph 10-011-20180724 of the PPG sets out that average values should be used:

For broad area-wide or site typology assessment at the plan making stage, average figures can be used, with adjustment to take into account land use, form, scale, location, rents and yields, disregarding outliers in the data. For housing, historic information about delivery rates can be informative.

15. The sales values have been updated having regard to a range of official data sources such as the Land Registry, the Price Paid from actual sales, and newbuild asking prices.
16. Sales values do vary across Brentwood, they also vary from road to road, scheme to scheme and even within schemes. House Prices tend to be greater in the northeast of the Borough and less in the southwest of the Borough – see figures 4.5 and 4.6 of CSD6, Viability Assessment Update (August 2022).
17. Having said this, these differences are difficult to robustly evidence due to the relatively low levels of newbuild sale transactions to draw on. If there was more evidence then it may well have been possible to evidence higher values in some parts of the Borough, however, HDH have taken a cautious approach and attributed the same values across the Borough. This may mean that viability is understated in some places, however, this cautious approach is considered the most appropriate.
18. It is timely to consider how values have changed since CSD6, Viability Assessment Update (August 2022). The price information in CSD6, Viability Assessment Update was downloaded from the Land Registry in March 2022. This included average prices for all homes to January 2022 and new homes to November 2021.
19. Since then, the Land Registry data suggests that newbuild prices have increased by about 12% across Brentwood.

Change in Residential Values Since August 2022 Viability Assessment Update.							
Brentwood							
	All	Detached	Semi-detached	Terraced	Flats	Newbuild	Existing
2021-11	£454,521	£853,167	£506,419	£373,226	£264,238	£401,577	£457,202
2022-12						£449,477	£480,406
2023-02	£479,349	£899,510	£537,504	£396,516	£273,693		
Change	£24,828	£46,343	£31,085	£23,290	£9,455	£47,900	£23,204
	5.46%	5.43%	6.14%	6.24%	3.58%	11.93%	5.08%
England and Wales							
	All	Detached	Semi-detached	Terraced	Flats	Newbuild	Existing
2021-11	£279,499	£437,458	£266,367	£225,675	£235,596	£354,550	£274,535
2022-12						£424,725	£300,821
2023-02	£303,287	£480,266	£289,477	£245,407	£248,533		
Change	£23,788	£42,808	£23,110	£19,732	£12,937	£70,175	£26,286
	8.51%	9.79%	8.68%	8.74%	5.49%	19.79%	9.57%

QUESTION 7

How has Local Plan Policy MG06 been taken into account in determining viability, which requires an immediate update of the Plan? Is this relevant for the purposes of examining the draft charging schedule?

20. Policy MG06 LOCAL PLAN REVIEW AND UPDATE sets out the following:

POLICY MG06: LOCAL PLAN REVIEW AND UPDATE

The Council will bring forward a partial update of the Plan with the objective of meeting the full Objectively Assessed Housing Needs. The review will commence immediately upon the adoption of this Plan with submission of the review for examination within 28 months. Specific matters to be addressed by the update shall include the following (amongst all other matters that need to be assessed and taken into account for the purposes of plan preparation):

1. *An update of Objectively Assessed Housing Needs in accordance with the NPPF 2021 and related guidance;*
2. *An updated full green belt review and an updated spatial strategy (informed by the green belt review) in turn to inform the sustainable allocation of further sites to meet the full Objectively Assessed Housing Needs as assessed in part A above;*
3. *The allocation of further sites to meet as a minimum the full Objectively Assessed Housing Needs in accordance with the updated spatial strategy for the full period of the plan review;*
 - a) *A review of transport and highway issues to cater for local plan growth throughout the period of the review (in consultation with National Highways and Essex County Council) taking into account:*
 - b) *the optimisation of existing, and the introduction of further, sustainable transport measures where appropriate along with the need to provide improvements to and around:*
 - i. *A12 junction 12;*
 - ii. *M25 Junction 28;*
 - iii. *M25 junction 29;*
 - c) *any additional transport and highways infrastructure that will be needed to meet in full the updated Objectively Assessed Housing Needs and facilitate the further allocations taking into account implemented and committed highway schemes.*

21. This policy concerns the review of the Local Plan and does not, in itself, impact on viability. Having said this, it does not suggest that a distinctly different pattern of development may be appropriate or that different policies that impact on the cost of development (and therefore viability) be introduced.

22. If the Draft Charging Schedule is approved and the Council adopt CIL, then CIL would be treated as an additional development cost, and it would be necessary to incorporate it into the base appraisals of the new Whole Plan Viability Assessment that would be required as part of the evidence base to support a new Local Plan.

QUESTION 8

How has Local Plan Policy BE01 been taken into account in determining viability, which states that, wherever possible, major development will be required to provide a minimum of 10% of predicted energy needs from renewables? Is the assessment based on appropriate and sufficiently up-to-date evidence in this regard?

23. To some extent Policy BE01: Carbon Reduction, and Renewable Energy, as drafted in the adopted local plan, has been superseded by national policy. BE01 seeks:

All major development will be required to achieve at least a 10% reduction in carbon dioxide emissions above the requirements of Part L Building Regulations; and

New Non-residential development will be required to achieve a certified 'Excellent' rating under the BREEAM New Construction (Non-Domestic Buildings) 2018 scheme, or other equivalent standards.

The Policy then goes on to seek that:

Wherever possible, application of major development will be required to provide a minimum of 10% of the predicted energy needs of the development from renewable energy.

24. The Department of Levelling up, Communities and Housing, published the latest revision to Conservation of Fuel and Power, Approved Document L of the Building Regulations as a 'stepping stone' on the pathway to zero carbon homes. It sets the target of an interim 31% reduction in CO₂ emissions over 2013 standards for dwellings. The changes apply to new homes that submit plans after June 2022 or have not begun construction before June 2023 – so will apply to any new homes that would be subject to CIL. This change is assumed to apply to all new homes in CSD6, Viability Assessment Update (August 2022) and more than exceeds the requirements of BE01.

25. It is likely that part of a solution to meet this requirement would include the use of renewable energy such as solar panels.
26. The costs will depend on the specific changes made and are considered in Chapter 3 of the 2019 Government Consultation. These costs have been indexed and would add about 3% to the base cost of construction and are assumed to apply in the base appraisals.
27. As to whether or not the 3% assumption is sufficient, the assumption is based on the official figures. The percentage cost is used so to reflect inflation.
28. It is timely to mention some more recent work commissioned by Essex County Council (ECC). The Essex net zero Carbon Viability and Toolkit Study (Three Dragons, Qoda and Ward Williams Associates, August 2022) has recently been published. This suggests (Figure 10.8) the following costs:
- Average 2-bedroom terraced house – circa 70m², £3,000;
 - Average larger 3-bedroom house, or small 4 bedroom – circa 97m², £3,000;
 - Average 1 or 2-bedroom apartment – circa 56m² NIA (i.e. plus circulation), £1,900
29. The construction costs used in CSD6, Viability Assessment Update (August 2022) are derived from the BCIS. When the above costs are considered as a proportion of the BCIS costs it would suggest that the assumption used in CSD6, Viability Assessment Update (August 2022) are now a little high. This is to be expected as the costs of new standards take a while to steady and developers refine how the new standards are met.

2021 Building Regulations*						
	Per Unit	m2	£/m2		BCIS	%
Average 2-bedroom terraced house – circa 70m ²	£3,000	70	£42.86		£1,407	3.05%
Average larger 3-bedroom house, or small 4 bedroom – circa 97m ²	£3,000	97	£30.93		£1,429	2.16%
Average 1 or 2-bedroom apartment – circa 56m ² NIA (i.e. plus circulation)	£1,900	56	£33.93		£1,614	2.10%

30. With regard to the 10% energy generation, the cost of £1,750 / dwelling has been carried forward from the 2018 viability assessment and has been modelled in this regard. This was tested through the consultation process both in 2018 and 2022 and no alternative evidence was submitted.

QUESTION 9

Does the modelling in the Viability Assessment Update broadly test the viability of sites likely to come forward over the plan-period? If not, what should the Viability Evidence have considered?

31. Yes. The approach to the modelling set out in Chapter 9 of CSD6, Viability Assessment Update (August 2022). This carries forward the approach used in the 2018 Whole Plan Viability Assessment. The modelling considered the characteristics of the allocations and includes smaller sites of the type that are likely to come forward as windfall development.
32. The modelling is also consistent with the Council's general expectations with regards to gross : net site areas and sites of 50 units and larger are assumed to have at least 15% open space. In addition, in line with Policy NE05: Open Space and Recreation Provision, sets out the following open space requirements:
- | | |
|------------------------------------|---|
| - Outdoor Sport | 3.15 ha per 1,000 population |
| - Children's Playing Space | Between 0.13 – 0.17 ha per 1,000 population |
| - Allotments and Community Gardens | 0.18 per ha per 1,000 population |
33. At the time of CSD6, Viability Assessment Update (August 2022), the Council was in the process of updating its guidance in this regard and an increased assumption of 4.1 ha per 1,000 population in relation to residential development is used. It is assumed that this is provided on-site on greenfield sites, and off site on brownfield sites, based on an average household size of 2.4 persons.

QUESTION 10

What are the reasons for the thresholds used for modelling employment uses? Are they based on appropriate available evidence and do they adequately reflect the type of development coming forward?

34. When a Council allocates land for residential development the size of the site is known and the number of units is specified. Further the nature of the development is informed by the preferred housing mix, the tenure mix, and a range of design policies. Based on this a relatively good representation of the planned development can be modelled – as has been done in the residential typologies.
35. The situation is quite different with non-residential development. As can be seen from Policies E11, E13, E10, E13 and E08 the employment allocations are very high-level and general – doing little more than pointing towards Use Classes.
36. The modelling as set out in Chapter 9 of CSD6, Viability Assessment Update (August 2022) is necessarily high level. With the exception of the addition of logistics uses, it is carried forward from the 2018 Whole Plan Viability Assessment. The approach taken allows the different types of development that may come forward on employment sites to be assessed.

QUESTION 11

How have 'logistics' uses been defined and are the costs and values associated with logistics uses based on appropriate local evidence? In particular, how was the value of £2,800 per square metre generated for this sector?

37. BBC would welcome the opportunity to discuss the definition of Logistics at the CIL Examination. We will suggest that this is clarified as ‘Uses falling under B8 Storage and Distribution of the Use Class Order’.
38. The values for these uses are set out from paragraph 5.16 of CSD6, Viability Assessment Update (August 2022). In considering the local values it is important to note that Brentwood is well located for major logistics uses, being well accessed by the M25, the A127 and the A12.
39. There has been little logistic development in the Borough and therefore little local evidence. The PPG recognises (Paragraph 10-011-20180724) that for ‘...*commercial development broad assessment of value in line with industry practice may be necessary*’. It goes on to say ‘...*average figures can be used, with adjustment to take into account land use, form, scale, location, rents and yields, disregarding outliers in the data*’. The assessment of value is consistent with this approach. The value assumptions were tested through the May/June 2022 Technical Consultation.
40. The values of logistics uses are based on rents of £150 per sqm, a yield of 4% and a rent-free period of 2 years. These assumptions derive a value of over £3,000 per sqm, however an assumption of £2,800 per sqm was used.
41. There is little doubt that this part of the commercial property market has changed as a result of the recent rises in interest rates. The evidence behind the assumptions was set out from paragraph 5.19 of CSD6, Viability Assessment Update (August 2022). The data sources have been revisited:
- Savills, in *Big Shed Briefing* (Savills, January 2023), reports rents of £900/sqft to £35/sqft in London and the Southeast – being somewhat more than the figures used last year. A prime investment yields, on a national basis, of about 5% for multi let units and for distribution is given. This is an increase from the 3.25% reported last year.
 - CBRE, in *UK Logistics Market Summary Q1 2023* (CBRE, April 2023) now reports for prime ‘Big Box’ rent in the South East submarket of £27 per sqft pa) (an increase from £20.00 per sqft last year) and a Net Initial Yield of 5.25% (and increase from 3.5% NIY last year).
 - Knight Frank, in *LOGIC: London & South East Q1 2023 Review* (Knight Frank, January 2022), reports prime rents of £27.50 per sqft (increased from £25/sqft) and yields of 4.3% (increased from 3.5%).

42. It is important to note that an increase in rents results in an increase in value, but an increase in yield results in a fall in value.
43. The major Logistics development in the Borough will be the Brentwood Enterprise Park at the junction of the M25 and A127. The Council and the site promoter have submitted a Statement of Common Ground (PSED1). This considered the value of very large-scale development and a value of £2,557.87 per sqm was agreed over the whole scheme. This is based on slightly lower value assumptions, commensurate with the very large units, and the increased yield of 5%.
44. The derivation of the cost assumptions is consistent with the derivation of costs across other types of development. These were tested through the May/June 2022 Technical Consultation and are principally derived from the BCIS (as per paragraph 10-012-20180724 of the PPG).
45. The costs set out in Appendix 11 of CSD6, Viability Assessment Update (August 2022) were updated in June 2022. These vary, based on unit size.

	Lower quartiles	Median
Up to 500m ² GFA	£1,074 per sqm	£1,367 per sqm
500 to 2000m ² GFA	£711 per sqm	£874 per sqm
Over 2000m ² GFA	£588 per sqm	£649 per sqm

QUESTION 12

How have the relevant buyers' costs been taken into account in the Viability Assessment Update? Are they accurate?

46. Document CSD6, Viability Assessment Update (August 2022) is not clear on what assumption is used for buyers' costs.
47. An allowance of 4.5% of the Gross Development Value is used in the assessments. This can be seen in the appraisals in Appendix 14 of CSD6, Viability Assessment Update (August 2022) (in the 5th line from the top).