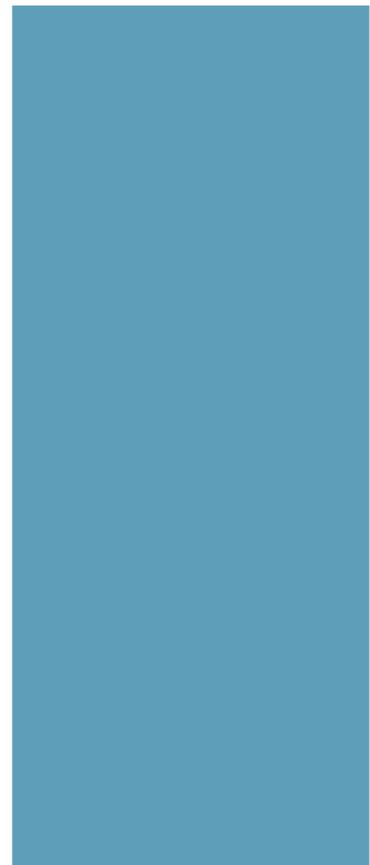
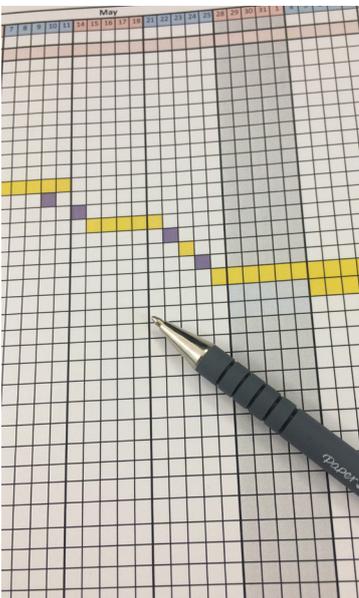


# Mid Sussex Development Viability Supplementary Planning Document

**Adopted  
July 2018**



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## Executive Summary

The Mid Sussex Development and Infrastructure Supplementary Planning Document (SPD) was adopted in 2006, and relates to policies in the adopted Mid Sussex Local Plan 2004.

Since the 2004 SPD was prepared, the Government has published and revised the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG), and published the Community Infrastructure Levy Regulations 2010 (as amended). Each of these documents have set out a new policy context, and provided updated guidance, for the management and collection of developer contributions.

The District Plan 2014-2031, which was adopted in March 2018 replaced the Local Plan 2004 as the Development Plan for Mid Sussex District.

The Development and Infrastructure SPD (2006) has therefore been refreshed, in order:

- To ensure that the SPD complies with all current, relevant national planning policy and guidance;
- To update the document to ensure that it complies with the relevant policies in the District Plan 2014-2031; and
- To update the requirements for each type of contribution, and the costs of those contributions.

The District Council's requirements for infrastructure provision will generally apply, unless indicated otherwise, to developments of five or more dwellings.

There are three separate SPD documents:

- A Development Infrastructure and Contributions SPD, which sets out the overall framework for the management of planning obligations;
- An Affordable Housing SPD, which provides more detailed information on the requirements for on-site and off-site affordable housing provision, and
- A Development Viability SPD which provides information on the viability assessment process, and sets out the Council's requirement that, where developers believe the requirements make their proposed development unviable, a viability assessment must be submitted to the District Council, with supporting evidence.

This SPD provides an overview of the full range of the District Council's requirements relating to development viability. It should be read in conjunction with the Development Infrastructure and Contributions SPD and the Affordable Housing SPD.

# Section 1 - Introduction

## Background

### Scope of this document

- 1.1 This Supplementary Planning Document (SPD) provides guidance on:
- What is expected of applicants submitting viability assessments (Submission Viability Assessments) in support of applications (including the process involved and required information);
  - How the District Council will consider Submission Viability Assessments; and
  - Guidance on future viability review mechanisms in cases where the affordable housing target or other policy requirements are not met following the consideration of a Submission Viability Assessment.

### Status and use of this document

1.2 In accordance with relevant legislation, this SPD has been subject to consultation, review of feedback received and then formally adopted by the District Council. It supplements the Mid Sussex District Plan and forms a material consideration in the determination of planning applications. It should be taken into account during the preparation of proposals for residential and mixed-use or non-residential development from the inception stages and therefore when undertaking development feasibility and negotiating site acquisitions.

1.3 Section 2 provides guidance on the viability assessment process. Section 3 provides guidance for applicants on the typical information requirements that they will be expected to provide to support their viability assessment and the District Council's review of that. Section 4 provides guidance on the use of future viability review mechanisms for all applications where policy requirements are not met in full at the time permission is granted.

## Section 2 - Viability and negotiation

### Introduction

- 2.1. The economic viability of development is important in terms of supporting delivery in both plan making and when determining planning applications.
- 2.2. The District Council has accounted for the cumulative impact of its policy requirements on development viability as part of the evidence base supporting the independent examination of its District Plan.
- 2.3. Proposals should be designed in a way that accords with Development Plan policies, including for the provision of affordable housing taking account of the overall District Plan requirement at a policy compliant tenure split (see Section 4).
- 2.4. The District Council is aware that in some exceptional circumstances, a proposal may generate insufficient value to support the full range of developer contributions.
- 2.5. In instances where, in the opinion of the applicant, a scheme cannot meet policy requirements, applicants are required to robustly demonstrate that the site is clearly unviable by submitting a Financial Viability Assessment (from hereon a 'viability assessment' or 'VA').
- 2.6. It is the District Council's role to determine the most appropriate approach to be taken in each viability case. This SPD sets out guidance on the approach and methodology considered appropriate in the context of supporting delivery of the Development Plan and making sure that the maximum possible provision of necessary planning obligations is achieved in the particular site and scheme circumstances, bearing in mind that this relates to the land and to planning; and is not an approach that is tailored or responsive to the applicant's particular circumstances in any way.
- 2.7. All VAs must be submitted in a clear and accessible format with full supporting evidence to substantiate the inputs and assumptions used (as set out in this SPD) and must be submitted alongside a planning application in order for it to be validated.
- 2.8. The VA will be scrutinised by the District Council with advice from a suitably qualified external consultant and the cost of this external consultant is to be borne by the developer. The assessment will consider whether the approach adopted and inputs used are appropriate and adequately justified by evidence and will determine whether the level of planning obligations and other Development Plan requirements proposed by the applicant are the maximum that can be viably supported or whether further obligations and/ or a greater level of policy compliance can be achieved. During assessment, the District Council may request clarification or additional information. The District Council will, where appropriate, be prepared to consider reasonable compromise but will expect applicants to present VAs that demonstrate the nearest to policy compliant proposals possible, having demonstrated satisfactorily that full compliance cannot be achieved. If a VA is not agreed by the District Council and follow-up / negotiation is appropriate, the District Council will expect the further review costs also to be paid by the applicant.
- 2.9. The cost of the District Council's review of the VA and any other associated costs (for example related to any follow-up or negotiation requiring the District Council's further review or additional support by its external consultant) will be paid for in advance by the applicant – before the review or follow-up work proceeds. In some instances it may be necessary also for the District Council or applicant to commission additional specialist services to enable the District Council to

properly assess the scheme, depending on the nature of the proposals and the dialogue on the information supplied.

2.10. On completion of the VA (or any follow-up review VA), the District Council will indicate if additional planning obligations are required over and above those proposed by the applicant through their VA. Heads of Terms will be included in the District Council's Planning Report, reflecting the outcome of the viability process. An application will be recommended for refusal of planning refused permission if terms cannot be agreed.

2.11. Where reductions in affordable housing provision are agreed on viability grounds the District Council will include the estimated scheme Gross Development Value and build costs at the time of planning permission in a planning obligation.

2.12. Potential affordable units will also be identified in planning obligations where affordable housing is not being provided in full or in part on viability grounds. This will enable affordable units to be provided at a later stage if there is an increase in viability and it subsequently proves possible to provide such units (see paragraph 4.13).

2.13. NPPG encourages transparency of evidence wherever possible<sup>1</sup>. The VA must be open and transparent and adopt an "open book" approach see paragraph 2.19 onwards.

2.14. To ensure openness and transparency in the planning process, all viability information will be made publically available on the public planning register alongside other planning application documentation. Redaction of any information will only be allowed in exceptional circumstances, and any justification provided as to the extent of harm that would occur if the information was disclosed will be placed on the public planning register, whether or not accepted.

2.15. If a VA submitted to the District Council is to be relied on for the purposes of determining a planning application (the Submission VA), the District Council will expect that this appropriately represents the viability of the development and is consistent with corresponding information that an applicant has themselves relied upon to inform commercial decisions.

2.16. The District 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. It is vital the District Council is provided with a full working electronic version of the viability appraisal model that can be fully tested and interrogated. All assumptions should be accessible and capable of variation to observe the impact on the model's outturn<sup>2</sup>.

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<sup>1</sup> NPPG, 10-010-20180724

<sup>2</sup> 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 District Council on viability matters. These advisors will be required not to release the model to any third party.

## Summary of Viability Assessment Requirements

2.17. The minimum requirements for a VA and the submission of supporting information are set out in Section 3 but the following must be noted:

- A VA should contain:
  - o a summary of the main assessment assumptions;
  - o A detailed appraisal containing the information in Section 4 as a minimum with supporting evidence;
  - o A summary clearly setting out the exceptional reasons that make a development proposal unviable; and
  - o a request to vary planning obligation / usual affordable housing requirements.
- Assumptions used in the VA must be generally evidenced from an independent expert or source.
- To accord with paragraph 2.15, a statement that the VA appropriately represents the viability of the development and is consistent with corresponding information that an applicant has themselves relied upon to inform commercial decisions; and that the costs and values applied in the VA submitted to the District Council are consistent with current costs and values within (or used as a starting point for) VAs that the company is relying on for internal or financial purposes<sup>3</sup>.
- A statement that the company undertaking the VA has not been instructed on the basis of performance related pay or 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.
- 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 and a statement that the scheme as proposed to be deliverable, based on the information provided to the District Council.
- 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 to demonstrate that the scheme is capable of being delivered on the basis of the evidence presented in the VA.
- The financial viability of schemes will change over time due to the prevailing economic climate and changing property values and construction costs. On large sites with extended build out times and particularly in cases for schemes granted in outline, a Review VA may be required for each phase and/or updated when the reserved matters application is made.

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<sup>3</sup> If 'outturn' values and costs are applied within an assessment presented to the District Council, these should also be consistent with those relied on by the applicant - see Section 4 – Considering Changes in Value and Costs at Planning Application Stage.

2.18. Where the District Council is satisfied that developer contributions cannot be met in full due to financial viability, the District Council will choose to:

- Negotiate the affordable housing requirement in accordance with District Plan Policy DP31. This could include:
  - o Reduced or revised affordable housing requirements (including adjustments to tenure mix); and/ or
  - o A Review VA for the clawback of an affordable housing financial contribution in the event that the completed development proves to be more financially viable than anticipated in the Submission VA.
- Negotiate other planning obligations. This could include:
  - o As a priority, the provision of site specific infrastructure in phases or with deferred timing/ trigger points;
  - o Reducing the scope of contributions or in-kind requirements provided the scheme would still remain acceptable in planning terms. This could be through altering the scope/ specification of a particular piece of infrastructure or negotiating reduced commuted sums;
  - o A mechanism for the clawback of a financial contribution in the event that the completed development proves to be more financially viable than anticipated in the VA<sup>4</sup>.

### Transparency of evidence

2.19. To ensure openness and transparency in the planning process, all viability information will be made publically available on the public planning register alongside other planning application documentation. Redaction of any information will only be allowed in exceptional circumstances, and any justification provided as to the extent of harm that would occur if the information was disclosed will be placed on the public planning register, whether or not accepted.

2.20. It is common practice for applicants to seek to place confidentiality restrictions on viability information, normally as a request for 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.

2.21. The District Council recognises the importance of public participation and the availability of viability information in the planning process to Councillors, officers and consultees. The District Council considers that disclosure would not cause an 'adverse effect' which would outweigh the public benefit of such an action; and that information submitted as a part of, and in support of a VA 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.

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<sup>4</sup> Providing these particular planning obligations are not necessary to make a development acceptable in planning terms.

2.22. The District Council will allow exceptions in very limited circumstances and only in the event that disclosure of an element of a VA would clearly cause harm to the public interest to an extent that is not outweighed by the benefits of disclosure. Applicants wishing to make a case for exceptional circumstances should provide 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.

2.23. The District Council will consider this carefully, with reference to the ‘adverse effect’ and overriding ‘public interest’ tests in the Environmental Information Regulations, as well as the specific circumstances of the case. Such issues should be raised at an early stage within the pre-application process.

2.24. The District Council has the right to provide information to external parties advising it on viability matters to fulfil 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 District Council member who has a legitimate interest in seeing it.

2.25. The District Council may also need to release information to a third party 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 District Council’s obligations under the Freedom of Information Act and the Environmental Information Regulations.

### Methodology

2.26. The Residual Land Value methodology is a tool to determine whether a scheme will proceed or not. It determines the ‘residual’ value that is left available to pay a landowner for their land, once the costs of development (and a reasonable profit for the developer) are deducted from the gross development value (GDV) generated by the development. If a proposal generates sufficient positive land value after also supporting a suitable level of profit as well as necessary development costs and planning obligations, it will generally be capable of implementation from a viability point of view. If not, the proposal may not go ahead, unless there are alternative funding sources to ‘bridge the gap’ or other compelling drivers for it to progress.

2.27. Any additional land value provided by a development over and above the value of the site in its existing use, or an accepted policy compliant alternative use, is dependent on the grant of planning permission, the basis of which is compliance with the Development Plan<sup>5</sup>.

2.28. 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 from the grant of planning permission or change of use of land for development. 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.

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<sup>5</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.

2.29. Landowner expectations and speculation on land values need to be balanced against the legitimate needs of communities accommodating new development, including the provision of affordable housing and infrastructure. Ultimately, the landowner will make a decision on implementing a scheme or selling on the basis of return and the potential for market change, and whether an alternative development might yield a higher value. The landowner's 'bottom line' will be achieving a residual land value at a premium above the 'existing use value' (see paragraph 2.33) a landowner would expect to make development worthwhile.

2.30. It is not considered appropriate to apply a fixed land value as an input within a development appraisal based on price paid for land or on an aspirational sum sought by a landowner. In such cases the developer's profit rather than the land value, would become the output of the residual valuation. This can result in a high fixed land value which is inconsistent with the outcome of the VA which shows an unviable scheme. Other changes to a scheme, such as an increase or reduction in density (which can increase or decrease residual value) may not be reflected in an appraisal where the site value has been fixed and is not the output of the appraisal.

### **Benchmark land values**

2.31. NPPG 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 return<sup>6</sup>.

2.32. Benchmark land values, based on the existing use value or alternative use value of sites, are key considerations in the assessment of development viability as they indicate the threshold for determining whether a scheme is viable or not. A development is deemed to be viable if the residual land value (see paragraph 2.26) is equal to or higher than the benchmark land value. At this level, it is considered that the landowner will receive a competitive return and assumed will willingly release the land for development.

### **Assessing Existing Use Value/ Alternative Use Value**

2.33. Existing use value is defined as the value of the site<sup>7</sup> in its existing use, assuming that it remains in such use. It does not include any hope value<sup>8</sup> to reflect development on the site for alternative uses. Existing use values can vary significantly depending on the demand for the type of building relative to other areas. For instance, open greenfield land or other forms of previously undeveloped land or unused land have low existing use value.

2.34. It is important that any reference to existing use value is fully justified with comparable evidence specific to the current use. It must exclude any 'hope value' associated with proposed development on the site or potential alternative uses.

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<sup>6</sup> NPPG, Ref 10-013-20180724

<sup>7</sup> 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- see paragraph 2.40.

<sup>8</sup> An element of market value, which reflects the prospect of some more valuable future use or development in excess of the existing use.

2.35. Development, particularly residential, generates significantly higher land values and landowner expectations. For instance, benchmark land values for greenfield sites are typically ten or more times agricultural value. It is a common approach to utilise an Alternative Use Value, or an Existing Use Value plus a premium to determine the benchmark land value and assess whether the residual land value provides a competitive return for the landowner.

2.36. The Alternative Use Value or an Existing Use Value plus a premium approach may be informative in establishing the benchmark land value. This method reflects the need to ensure that development is sustainable (by taking into account site specific circumstances and complying with policy requirements) and should reflect the value of the landowners' existing interest prior to grant of consent and the need to provide a relevant incentive for the landowner to release the land for development.

2.37. Any Alternative Use Value, or Existing Use Value plus a premium should be limited to those uses which have an existing implementable permission for that use.

2.38. An Alternative Use Value approach to the benchmark land value will only be accepted where the alternative use would comply with the Development Plan<sup>9</sup>. Sufficient information should be submitted to allow the principle of the alternative use to be assessed on a without prejudice basis to any future application that might be submitted.

2.39. In all cases, land or site value should reflect the site characteristics, planning policies including affordable housing, planning obligations and the Community Infrastructure Levy (CIL) (when this is adopted by the District Council). Such an approach significantly reduces inflated land values arising from the grant of planning permission, based on assumptions which do not adequately reflect planning policy and would likely make these unviable.

### **Market Value Approach**

2.40. There is no single threshold land value at which land will come forward for development and there are a number of potential difficulties in the analysis of land market transaction to inform the benchmark exercise in VAs. Such issues might be:

- Overall – comparability of sites, schemes and circumstances;
- Potential overestimates of value based on past transactions (“comparables”);
- Potential for other transactions (“comparables”) to not fully reflect current planning policy requirements such as those relating to affordable housing and density;
- Differing existing use value depending on any income generating existing uses.
- Land transactions are speculative based on assumptions of growth in values; and
- Transactions may relate to sites of different sizes, densities, mix of uses and costs to facilitate development.

2.41. Reliance on transactions that are not comparable may therefore lead to inappropriate views on site value. This would restrict the ability to secure development that is sustainable and consistent with the Development Plan.

.....  
<sup>9</sup> NPPG, 10-017-20180724

2.42. Comparable, market-based evidence can be used to help inform the Alternative Use/ 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. If this is not possible, limited weight can be given to this and any benchmark land value that is reliant on them and the District Council will rely on the Existing Use Value plus a premium approach applying the guidance set out in this document.

## Section 3 - Information requirements – Evidence, Inputs and Assumptions

3.1. The Submission VA should contain as a minimum the following information and data:

Table 1 –Viability Assessment: Required information and data

	Information / data required	Notes
Appraisal format	<ul style="list-style-type: none"> <li>• Printed and electronic version of appraisal in format that can be fully tested and interrogated</li> <li>• Methodology utilised for the appraisal including details of any appraisal software or toolkits used</li> </ul>	
Scheme details	<ul style="list-style-type: none"> <li>• Gross and net site area and densities</li> <li>• Residential unit numbers, sizes and types of units including the split between private and affordable tenures</li> <li>• Floor areas:               <ul style="list-style-type: none"> <li>o Residential: Gross Internal Area (GIA) and Net Saleable Area (NSA)</li> <li>o Commercial / Other: Gross Internal Area (GIA) and Net Internal Area (NIA)</li> </ul> </li> <li>• Proposed specification for each component of development, consistent with assumed costs and values, and target market / occupiers</li> </ul>	
Development programme	<ul style="list-style-type: none"> <li>• Project plan, including land acquisition, pre-build, construction and marketing periods and phasing (where appropriate)</li> <li>• Viability cash flow where possible:               <ul style="list-style-type: none"> <li>o The timing of cost and income inputs (including interest rates, capitalisation rates, loan costs residential sales rates with reference to project/ construction plans and contracts and land/ development/ letting agreements as relevant).</li> </ul> </li> </ul>	

<p>Gross Development Value A</p>	<ul style="list-style-type: none"> <li>• Anticipated residential sales values, ground rents, sales rates (per month), assumptions regarding forward sales and supporting evidence</li> <li>• Anticipated rental values, yields and supporting evidence</li> <li>• Details of likely incentives, rent-free periods, voids for any commercial element</li> <li>• Anticipated value (and timing of payments) of affordable units based on evidence including details of discussions with Registered Providers and Registered Providers offers</li> <li>• Substitution values and revenues for less or no affordable housing</li> </ul>	<ul style="list-style-type: none"> <li>• 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 where possible.</li> <li>• Information relevant to comparable properties should be fully analysed to demonstrate how this has been interpreted and applied to the application scheme.</li> <li>• Development appraisals should be informed by discussions with a Registered Provider of affordable housing – providers may be able to indicate their likely offer prices</li> <li>• Affordable housing values assumed within a VA should reflect the offer/s made by Registered Providers for purchasing the affordable housing element of the development. Where input is not available, information on rents, management and repair costs, voids, yields /payback period requirements should be submitted. For Shared ownership - % share and rent level on retained equity. Estimated %s market value (MV) and £/sq. m indications are also useful benchmarks helping inform a view on the revenue assumptions.</li> <li>• Evidence of calculations underpinning affordable housing values, including details of rental and capital receipts (including stair casing), discussions with Registered Providers and subsidies should be provided.</li> </ul>
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<p>Costs</p>	<ul style="list-style-type: none"> <li>• Build costs per square metre 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</li> <li>• Abnormal or exceptional costs not reflected in the land value/ price (and detailed reasons why)</li> <li>• Where applicants seek to rely on a specific assessment of build costs rather than a recognised publically available source of information (likely to be the case for larger schemes): 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 BCISB</li> <li>• Details of other costs such as demolition and supporting evidence including clarity on any additional assumptions such as relating to external/site works</li> </ul>	<ul style="list-style-type: none"> <li>• Development costs adopted within VAs are typically determined based on current day figures at the point of the planning permission.</li> <li>• The RICS Build Costs Information Service (BCIS) is a publically available source of cost information which can be used in VAs. 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 District Council, this would be an acceptable basis of cost inputs as part of a review mechanism, linked to the Tender Price Index (TPI)B.</li> <li>• Abnormal costs should come with an explanation of the need/relevance and cost estimate information / reasoning for the assumed cost levels.</li> <li>• 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.</li> <li>• 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.</li> <li>• The District Council will expect a clear correlation to be evident between a development's specification, assumed build costs and development values.</li> </ul>
<p>Fees</p>	<ul style="list-style-type: none"> <li>• Sales/ letting and professional fees and supporting evidence</li> </ul>	<ul style="list-style-type: none"> <li>• Build; sales / marketing costs</li> </ul>

<p>Developer profit</p>	<ul style="list-style-type: none"> <li>• Profit on cost or value</li> <li>• Supporting evidence from applicants to justify proposed target rates of profit taking account of the individual characteristics of the scheme</li> </ul>	<ul style="list-style-type: none"> <li>• In accordance with the NPPG the District Council will avoid a rigid approach to profit levels. The District 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.</li> <li>• 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.</li> <li>• Profit requirements for affordable housing are generally 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 units.</li> <li>• 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.</li> <li>• The District Council expect that the actual developer return that is produced as part of the applicant’s submitted viability development appraisals should form the profit threshold (rather than any higher figure)/ be regarded as a reasonable return for the applicant.</li> <li>• The most common approach for calculating developer’s profit in VAs submitted as a part of the planning process is either as a factor of Gross Development Cost (GDC) or Gross Development Value (GDV).</li> </ul>
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<p>Benchmark land value</p>	<ul style="list-style-type: none"> <li>• Existing Use Value (EUV) based on evidence including existing income, comparable data and details of condition of existing site. Justification for any alternative land use value / premium applied over EUV, taking account of circumstances of site and planning policy together with this SPD</li> <li>• Freehold/leasehold titles</li> <li>• Tenancy schedule - to include lease summaries (where appropriate)</li> <li>• Details of income that will continue to be received over the development period (where appropriate)</li> <li>• Arrangements between landowner and developer, including any land sale, development or tenancy agreements (where appropriate)</li> <li>• Evidence for how benchmark land value reflects planning policy</li> </ul>	<ul style="list-style-type: none"> <li>• See section 2.33</li> <li>• Land value should reflect policy requirements, planning obligations and CIL charges</li> <li>• The current application of a ‘market value’ approach has raised concerns which can 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.</li> <li>• 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.</li> <li>• An Alternative Use Value 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.</li> <li>• In any event bearing in mind that land can be overpaid for – a historic or actual site purchase may not be a good indicator of current site value.</li> </ul>
<p>Planning contributions</p>	<ul style="list-style-type: none"> <li>• Planning obligation costs (see Section 2)</li> <li>• Community Infrastructure Levy (see paragraph 2.39)</li> </ul>	<ul style="list-style-type: none"> <li>• Likely planning obligations (and CIL when adopted) should be included as a development cost in a VA.</li> <li>• The timing and level of planning obligations that can be supported as a part of the VA process will be considered. Where these are necessary to make development acceptable in planning terms however, and these cannot be secured, planning permission will not be granted.</li> <li>• Any CIL instalment policy (if adopted) should be reflected in assumed timings of payments.</li> </ul>
<p>Development finance</p>	<ul style="list-style-type: none"> <li>• 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 during construction and bearing in mind the assumed land purchases timing(s)</li> </ul>	<ul style="list-style-type: none"> <li>• A standardised approach will generally be adopted to finance costs which should be appropriate to the type of proposal.</li> <li>• The viability model should reflect that finance costs vary throughout the development period, with the majority of interest costs typically incurred during construction.</li> </ul>

Other	<ul style="list-style-type: none"> <li>• A statement to verify accuracy of information submitted/ (see paragraph 2.15 for more details)</li> <li>• Other information requested by the District Council having regard to the specific application</li> <li>• Depending on individual site circumstances further information may be required, this may include:             <ul style="list-style-type: none"> <li>o Developers market analysis report;</li> <li>o Details of company overheads;</li> <li>o Copy of financing offer/ letter;</li> <li>o Copy of cost plan;</li> <li>o Board report on scheme;</li> <li>o Letter from auditors concerning land values and write offs;</li> <li>o Sensitivity analysis showing different assumption options (e.g. low, medium and high scenarios).</li> </ul> </li> </ul>
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Notes:

A. GDV - 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 units to be rented which are capitalised using a 'yield', to give an overall capital value (including ground rents). Development values adopted within VAs are typically determined based on current day figures at the time of determination.

B. BCIS - The RICS Building Cost Information Service is a publically available (subscription) source of cost information which can be used in VAs. 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 District Council, this would be an acceptable basis of cost inputs as part of a review mechanism, linked to the Tender Price Index (TPI) (a measure of the movement of prices).

## Section 4 – Viability Review

4.1. The assessment of viability at planning application stage (Submission VA) may have had the effect of reducing the policy requirements that a development would otherwise have to meet. One potential outcome could be a reduced provision of affordable housing.

4.2. In order to ensure that the maximum reasonable level of affordable housing is provided in line with District Plan Policy DP31, and that other plan requirements are met, the District Council will require viability review through planning obligations on all residential/ mixed use applications which do not meet the affordable housing requirement and/ or policy requirements in full at the time permission is granted.

4.3. Property markets have experienced significant changes in recent years at a local and national level. The viability of a scheme may therefore be notably different by the time of implementation due to changes in market conditions; and uncertainties in relation to aspects of a VA at the application stage. As such, the practice of viability review to ensure that proposals are based on an accurate assessment of viability at the point of delivery has become increasingly well established.

## The approach to viability review

4.4. In order to ensure that the maximum reasonable level of affordable housing is provided in accordance with District Plan Policy DP31 and other plan requirements are met, viability review mechanisms are required, secured through planning obligations, for all applications which do not meet the strategic affordable housing requirement; and or applications where policy requirements are not met in full at the time permission is granted.

4.5. A viability review will determine whether a development is capable of providing additional affordable housing or meeting other unmet policy requirements, deemed unviable at planning application stage through the Submission VA.

## Additional provision capped based on policy requirements

4.6. The purpose of a viability review is to determine whether greater or full compliance with the Development Plan can be achieved to accord with the District Council's duty to deliver and implement its District Plan. Therefore any additional obligations will be capped based on the terms of the Development Plan (including the District Plan affordable housing target) with the aim of securing the provision of policy requirements that were previously determined not to be deliverable.

4.7. After any outstanding policy requirements are met, any additional 'surplus' will be retained in its entirety by the developer as additional profit. Further details on the District Council's approach to determining the cap and additional developer profit are set out below.

## Timing of viability reviews

4.8. 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; and is based on up to date and accurate viability evidence, and to support the delivery of the Development Plan.

4.9. The District Council will therefore require viability reviews to take place at the following stages.

- For all schemes requiring a Submission VA at planning application stage (see paragraph 4.1): At an advanced stage of development (**Advanced Stage Review VA**), a review will ensure that viability is accurately assessed and up to date;
- On phased developments<sup>10</sup>: In view of the priority given to onsite delivery of affordable housing<sup>11</sup>, an additional viability review will be required prior to substantial implementation of the development (**Pre-implementation Review VA**) where this does not occur within 12 months of the planning permission; and

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<sup>10</sup> Typically sites of 150 or more residential units 10,000 sq. m or greater commercial schemes or mixed use schemes – however, to be assessed by the Council based on circumstances of individual schemes.

<sup>11</sup> District Plan policy DP31: Affordable Housing

- For 'large phased schemes'<sup>12</sup> : 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 VA**).

### Viability review process

4.10. The applicant is required to submit updated information consistent with this SPD, as per that submitted at initial planning application stage (Submission Viability Assessment) including any necessary supplementary information following the District Council review of this. The review will assess changes to gross development value and build costs, the key variables most likely to change. This will apply to the development as a whole (incorporating all uses) and be based on formulas (see below) to be included in the planning obligation.

4.11. These formulae will be used to determine whether a 'surplus' will be generated over and above required developer returns<sup>13</sup>. 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 also gain from the improved scenario<sup>14</sup>. 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.

4.12. In the event of a 'surplus' being identified on viability review, 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.

4.13. In order to increase the likelihood of additional affordable housing being provided on site following a review at any stage, potential affordable units will be identified in planning obligations where affordable housing is not being provided in full or in part on viability grounds through an Additional Affordable Housing Schedule<sup>15</sup> to be appended to the planning obligation. This will enable affordable units to be provided at a later stage if there is an increase in viability and it subsequently proves possible to provide such units.

### Pre-Implementation Viability Review

4.14. For phased developments, 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 Viability Review would not normally be required. If substantial implementation occurs after 12 months (at which point the initial VA will be deemed to be out of date) a Pre-Implementation Viability Review will be required. This should take place within a 3 month period following substantial implementation.

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<sup>12</sup> Threshold for 'large phased developments': 400 or more residential units or 25,000 sq. m of greater for commercial/ mixed use.

<sup>13</sup> The starting point for the review is that, it was determined that the approved scheme is deliverable at application stage (see Section 2)

<sup>14</sup> This is calculated as a factor of value and costs to ensure that the developer potentially stands to gain in either scenario.

<sup>15</sup>The potential affordable housing units will be detailed in an Additional Affordable Housing Schedule. This will comprise a plan identifying the potential housing units together with a table stating their plot numbers, unit types and sizes.

4.15. 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 planning obligation. This should identify the units to be converted to affordable housing in line with the required tenure split. 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 Viability Reviews.

4.16. In the case of Pre-Implementation 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.

4.17. The Pre-Implementation Viability Review formula is set out below. This operates in two stages:

1 Calculate the level of any surplus available for on-site affordable housing or other policy requirements (Formula A);

2 Determine the level of additional affordable housing floorspace deliverable from any surplus (Formula B).

4.18. 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 A will apply.

## Figure 1 - Pre-Implementation Viability Review Formula

**Formula A:** To calculate the 'policy surplus' available for on-site affordable housing (or other policy requirements) at Pre-implementation Review Stage

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

A = Updated Gross Development Value (GDV)(A)

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

C = Updated Build Costs(B)

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
- APA (i.e. 0.80) calculates the reduction in the additional value available for on-site affordable housing, accounting for the proportion of additional value to be retained by the applicant as an additional profit allowance (i.e. a 20% developer profit see 4.10)

**Formula B:** To determine the amount of additional on-site affordable housing floorspace

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

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

E = 'Policy surplus' x 0.75 (proportion of surplus to be used for social or affordable rented homes)

F = 'Policy surplus' x 0.25 (proportion of surplus to be used for intermediate homes)

G = Average market housing values per sq. m(A)

H = Average social or affordable rented housing values per sq. m(B)

I = Average intermediate values per sq. m(A)

Notes:

- Policy surplus is calculated from Formula A
  - (G - H) is the cost of converting a market housing unit to social or affordable rented home
  - (G - I) is the cost of converting a market housing unit to an intermediate home
  - E is the proportion of surplus to be used for social or affordable rented homes
  - F is the proportion of surplus to be used for intermediate homes
  - E and F are divided by (G - H) and (G - I) respectively to establish the floorspace available for additional affordable housing
  - The additional social or affordable 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
- A. Determined as part of the review
- B. 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)

4.20. The above approach sets 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 District Council may apply an alternative formula which takes into account the difference in values of the relevant tenures.

### **Mid-term Viability Review**

4.21. In the case of 'large phased developments', Mid-Term Viability Reviews will be required which take place prior to implementation of later phases of a development<sup>16</sup>. These should deliver additional on-site affordable housing in later phases in accordance with an Additional Affordable Housing Schedule to be appended to the planning obligation.

4.22. Mid-Term (and Advanced Stage) Viability 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 build costs in the application stage assessment, these will be index linked from the date of the previous review.

4.23. This review will operate in two stages:

- 1 Calculate any surplus based on the approach set out in Formula C (see Advanced Stage Viability Review below).
- 2 Using the surplus to determine the level of additional affordable housing that can be provided on-site in accordance with an Additional Affordable Housing schedule to be appended to the planning application, based on Formula B (see section on pre-implementation reviews above).

### **Advanced Stage Viability Review**

4.24 Advanced Stage Viability Reviews will be required on all residential / mixed use applications which do not meet the District Plan affordable housing target and or all policy requirements at grant of planning permission on the basis of an agreed Submission VA (and any subsequently provided information). For residential led schemes, Advanced Stage Viability 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 requirements<sup>17</sup>.

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<sup>16</sup> At a mid-stage in the development (prior to implementation of the second half/ later phases of the development).

<sup>17</sup> This will normally be achieved through a restriction on occupation of market units and / or payment into a secure account.

4.25 The outcome of this review will typically be a financial contribution towards off-site affordable housing provision or other policy requirements. In the event that a surplus is generated, any contribution payable 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 overall affordable housing target. The contribution and cap will be calculated in accordance with the following formulae:

Figure 2 - Advanced Stage Review Contribution Formula

Formula C: 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

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

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(A)

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

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(B)

E = Estimated Build Costs for remainder of the development(B)

F = Total Build Costs determined as part of the assessment of viability at application stage (or for phased schemes as determined in 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
- APA (i.e. 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 4.10)

A. Determined as part of the review

B. 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).

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

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

G = 30% of total residential floorspace x 0.75

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

I = 30% of total residential floorspace x 0.25

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(A)

L = Average social rented value per sq. m(A)

M = Average intermediate value per sq. m(A)

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 or affordable rented housing floorspace cap based on overall 30% affordable housing provision
  - (I – J) is the additional intermediate floorspace cap based on overall 30% affordable housing provision
  - (K – L) is the cost of converting a market housing unit to social or affordable rented housing
  - (K – M) is the cost of converting a market housing unit to intermediate housing
  - (K – L) & (K – M) multiplied by (G – H) & (I – J) respectively to establish maximum additional contribution
- C. Determined as part of the review
- D. 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).

4.26 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.

### Considering Changes in Values and Costs at Planning Application Stage

4.27 In line with NPPG<sup>18</sup>, the District Council will normally consider development viability based on current costs and values at application stage. The NPPG envisages that for phased schemes it may be appropriate to consider projected changes in values or costs at planning application stage. This is distinct from viability review which considers changes in values and costs at the point of delivery.

4.28 If a VA 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.

4.29 Whether or not projected values and costs are applied, viability reviews will be necessary to assess actual changes in values/ costs.

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<sup>18</sup> NPPG, Viability: Key principles in understanding viability in plan making and decision taking: <https://www.gov.uk/guidance/viability>

Material Changes

4.30 Where material changes are proposed that would make the scheme less compliant with the Development Plan, this would require a new planning permission and could not be addressed through a VA review.

4.31 The information / data set out in Table 2 should be provided on an open book basis for assessment as part of a review:

Table 2 – Information required for review mechanisms

	<b>Information / data required</b>	<b>Notes</b>
Gross Development Value <sup>A</sup>	Gross Development Values (GDV) - all gross receipts or revenue received) supported by evidence, including but not limited to: <ul style="list-style-type: none"> <li>• Audited company accounts detailing all sold/ let transactions</li> <li>• Certified sales contracts or completion certificates detailing the purchase price for each sale</li> <li>• Land Registry records showing sale price information</li> <li>• Other receipts, such as income from hoardings.</li> </ul>	
Estimated GDV	Estimated GDV for the unsold/ unlet components of the development at the point of review using detailed comparable information taking into account: <ul style="list-style-type: none"> <li>• Any sales/ lettings that have taken place on the development (see also Section 3)</li> <li>• Income from any other sources.</li> </ul>	
Average residential values per sq. m	Average residential values per sq. m for market and affordable housing across the scheme based on the information provided above.	
Actual build costs incurred	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.	This is not required at application stage where build costs are based on relevant (index linked) BCIS figures
Estimated Build Costs	Estimated Build Costs to be incurred for the remainder of the development based on agreed building contracts or estimation provided by the developer's quantity surveyor or costs consultant (see Section 3).	This is not required at application stage where build costs are based on relevant (index linked) BCIS figures