

Purpose of this Advice Note

This advice note has been produced to assist developers, planning agents and applicants on viability standards during the preparation of the new Local Plan.

The Council has noticed an increase in the number of viability assessments being submitted alongside planning applications. Government policy on viability assessments is that they should be the exception not the norm. This is reiterated in Core Strategy Policy CS21 Affordable Housing that only in exceptional circumstances will an alternative to on-site provision of affordable housing be accepted and that a viability assessment will be needed to demonstrate why the policy asks are unviable.

The delivery of affordable housing on-site is a corporate priority for the Council and the Council is working closely with local housing associations and private developers to deliver the homes the local community needs.

The constrained housing land supply in Elmbridge means it can be difficult for the Council and registered social providers to access the market to utilise affordable housing financial contributions and funding to purchase sites. It also means it is vital that we make the most efficient use of sites coming forward for development and prioritise the types of housing that is most needed.

Policy Context

Paragraph 57 in the National Planning Policy Framework (NPPF) states that 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 stage¹.

Planning Practice Guidance (PPG) sets out the key principles in understanding viability assessments and decision making. A viability assessment should be based upon and refer back to the viability assessment that informed the Local Plan. Viability assessments should reflect the Government's recommended approach on standardised inputs as set out in the PPG².

Elmbridge Core Strategy [Policy CS21 Affordable Housing](#)³, seeks contributions for affordable housing on all development where there is a net increase in residential units. The level of contributions varies according to the number of dwellings proposed. The Council is continuing with its approach on seeking affordable housing contributions from small sites. Small sites are a major source of new homes in Elmbridge. Without the ability to collect affordable housing contributions on small sites, the Council will limit its capacity to support the delivery of affordable units. The thresholds and percentages for the provision of affordable housing as set out in the policy are subject to financial viability.

The Council expects on-site provision of affordable housing for sites of 5 or more dwellings. Only in **exceptional circumstances** will an alternative to on-site provision be appropriate. In such situations, the onus will be on the developer to demonstrate that on-site provision would compromise viability.

¹ NPPF, paragraph 57, <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

² PPG, How should a viability assessment be treated in decision making? Paragraph: 008 Reference ID: 10-008-20180724, <https://www.gov.uk/guidance/viability>

³ Core Strategy Policy CS21 Affordable Housing, <https://www.elmbridge.gov.uk/planning/local-plan/>

In the exceptional circumstances where it is considered that the delivery of affordable housing is unviable, this must be demonstrated through the submission of a viability assessment alongside a planning application. The viability assessment will be robustly tested by an independent viability consultant.

Policy CS21 is supported by the [Developers Contributions Supplementary Planning Document](#) (SPD (2012)) and is available on the Council's website⁴. The SPD sets out details of the negotiation process if non-viability can be robustly demonstrated.

Assessing Viability Assessments

The Council is committed to robustly scrutinising and testing any viability assessments submitted with planning applications. There is a misconception that the Council has been accepting no or reduced contributions towards affordable housing rather than challenging them on viability grounds and instead of securing the delivery of on-site provision of affordable housing or financial contributions as per the requirements of Policy CS21.

Viability of Policy CS 21 requirements has already been assessed under the Elmbridge Core Strategy 2011 and therefore the full contribution towards affordable housing is expected to be made. A reduced affordable housing offer and viability assessment should be submitted only in exceptional circumstances. The viability assessment must explain what has changed since the Council's review of viability for the Core Strategy and why this would prevent full payment.

Developers and landowners are expected to consider the overall cost of development prior to negotiating the sale or purchase of land or the acquisition or sale of an option. The price of land will **not** be accepted as reason for non-viability.

All developers, planning agents and applicants should refer to Elmbridge's Developers Contributions SPD (2012). The SPD sets out the policy requirements and a list of the information to be included in the viability assessment⁵.

In the exceptional circumstances where it is considered that development viability is affected by a range of factors such as high abnormal costs and / or competing or existing use values, this must be demonstrated through the submission of a viability assessment and raised with the Council at the earliest opportunity.

In order to ensure transparency and accountability, all viability assessments are made publicly available in the same manner as the other documents that form part of the planning application submission. This is in line with the requirements of the NPPF.

The Council's revised validation checklist available on the Council's website⁶ requires all viability assessments to be provided at registration for an application to be made valid. Late submissions of viability assessments are not accepted by the Council.

Following the submission of an applicant's viability appraisal, the Council requires the applicant to pay for a robust independent review instructed by the Council of the applicant's own viability appraisal. If, following independent review, the Council concludes that it is in fact economically viable to meet requirements, this will lead to the application being refused.

However, if the Council is satisfied that there are genuine exceptional economic constraints in meeting policy requirements, it will robustly negotiate and fully explore all available options to achieve economic viability and secure much needed contributions towards affordable housing. Including the use of late review mechanisms or clawback clauses in the S106 agreements for developments that do not meet the full affordable housing contribution. This will enable the delivery of increased provision of affordable housing where profitability of the development improves in the future or costs are too general to be accurate.

⁴ Developers Contributions SPD, <https://www.elmbridge.gov.uk/planning/developer-contributions/>

⁵ Developers Contributions SPD (2012), Section 4: Implementation, page 34, <https://www.elmbridge.gov.uk/planning/developer-contributions/>

⁶ Making a planning application

http://emaps.elmbridge.gov.uk/ebc_planning_noftr.aspx?requesttype=parseTemplate&template=PlanningValidCheckListStart.tmpl

Preferably negotiations between the Council and the applicant will take place during the pre- application discussions. Contributions will be secured by a unilateral undertaking prior to a decision being made.

In line with the requirements of the NPPF, the weight to be given to a viability assessment is a matter for the Council, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force⁷. The case officers report will include a detailed section on the evaluation of the viability assessment submitted.

Positive decision and plan making

The Council is committed to positive plan making to respond to future development needs and is currently considering the level of growth that can be sustainably accommodated within the Borough over the next plan period up to 2036. The current Local Plan programme is available to view [here](#).

⁷ NPPF, paragraph 57, <https://www.gov.uk/government/publications/national-planning-policy-framework--2>