

Lancaster City Council: Climate Change Local Plan Review

Examination in Public Hearing Statement: Matter 8

Prepared on Behalf of a Developer Consortium:

Story Homes
Gleeson Homes
Persimmon Homes
Oakmere Homes
Eric Wright Group
Taylor Wimpey
Rowland Homes

August 2022

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1. Introduction

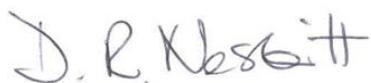
- 1.1. This Hearing Statement ('Statement') has been prepared on behalf of a Developer Consortium comprising Story Homes, Gleeson Homes, Persimmon Homes, Oakmere Homes, Eric Wright Group, Taylor Wimpey and Rowland Homes ('our Clients') in response to Matter 8 of the Inspector's Matters, Issues and Questions ('MIQ's') published in June 2022 relating to the examination of Lancaster City Council's ('the Council's') Climate Emergency Local Plan Review ('the Local Plan Review').
- 1.2. Our Clients are established active housebuilders in Lancaster and/or neighbouring authorities and are therefore important local stakeholders in the plan-making process. Our Clients wish to ensure that the Local Plan is robust and meets the tests of soundness as set out at Paragraph 35 of the National Planning Policy Framework ('NPPF'), namely that the Local Plan is:
 - Positively prepared;
 - Justified;
 - Effective; and
 - Consistent with national policy.
- 1.3. We have submitted two detailed representations on behalf of our Clients (ref: PINS 13.1.2) to the Regulation 18 and Regulation 19 consultations in respect of the Climate Change Local Plan Review Viability Assessment ('CCLPRVA') (May 2021) and CCLPRVA Addendum (January 2022) prepared by Three Dragons ('3D') on behalf of the Council.
- 1.4. These representations set out our detailed comments and concerns in respect of the approach to assessing viability and the proposed appraisal assumptions in the CCLPRVA, and provided a series of recommended amendments to the assumptions so as to promote greater transparency and more appropriate viability testing based on market-facing inputs. The Regulation 19 representation also included a response to 3D's / the Council's comments in the Regulation 18 Statement of Consultation ('SoC').
- 1.5. This Statement should be read in conjunction with the previous representations. This Statement expands on the submitted representations in light of the Inspector's specific issues and questions relating to viability. This Statement responds to those questions raised by the Inspector insofar as they are of relevance to our Clients' interests.
- 1.6. We have had specific regard to the NPPF tests of soundness in preparing this Statement, as well as the relevant viability guidance in the Planning Practice Guidance for Viability ('PPGV'), the RICS Professional Statement¹ and Guidance Note². The mandatory RICS reporting requirements are set out at Appendix 1.
- 1.7. We trust that this Statement assists the Inspector in respect of the Examination.

¹ Financial Viability in Planning: Conduct and Reporting (May 2019)

² Assessing Viability in Planning Under the National Planning Policy Framework 2019 for England (March 2021)

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Market Conditions Explanatory Note

Despite the initial recovery of the economy from the COVID-19 pandemic, the UK is currently experiencing heightened uncertainty due to the wider global impacts from the war in Ukraine, increased inflationary pressures with inflation being at a 40 year high and employees in several sectors threatening industrial action in response to the higher costs of living expenses. The Bank of England has increased interest rates in response to inflation resulting in higher borrowing costs.

These factors are impacting on growth and consumer confidence. In recognition of the potential for market conditions to move rapidly in response to wider political and economic changes, and the impact that such could have on development appraisal variables, we highlight the importance of the date of our advice.

2. Matter 8 – Viability and First Homes

Main Issue

Do the Plans take a justified and effective approach to the viability and deliverability of sites and policies?

Question 8.1

Is the Council's approach to viability consistent with national policy, the PPG, and RICS guidance?

- 2.1. The CCLPRVA does not fully accord with the NPPF, the PPGV and the RICS requirements for the reasons explained in our representations. Therefore, the Council's viability evidence is **not consistent with national policy**.
- 2.2. There are three core and related aspects where we consider that the CCLPRVA is non-compliant:
- 1) Meaningful stakeholder engagement;
 - 2) Transparent and robust evidence; and
 - 3) Transparent and robust appraisal assumptions.
- 2.3. Meaningful stakeholder engagement is requisite under the PPGV and RICS guidance which has not been carried out (see Question 8.3). Further, many key appraisal assumptions are regarded as inappropriate and/or insufficiently evidenced, with multiple important omissions in the evidence base.
- 2.4. Without reiterating our previous comments, a brief, non-exhaustive list of key requirements under the NPPF, PPGV and RICS guidance include:

NPPF / PPGV / RICS Requirement(s)	Satisfied by the Council / 3D?
Viability assessment supported by appropriate available evidence informed by engagement with local stakeholders	No – Stakeholders consulted but their comments, local market evidence and recommendations repeatedly overlooked. No changes to the CCLPRVA appraisal assumptions since Regulation 18 stage despite repeated stakeholder concerns. Iterative process not followed. 3D have not even yet responded to all issues raised and necessary areas of clarification.
Full transparency of evidence and clarity of assumptions	No – Lack of transparency with respect to the appraisal model (including multiple costs aggregated under singular and/or misleading headings), cash flows and presentation of results which precludes proper analysis and interpretation ³ . Lack of transparent evidence to support a wide range of key appraisal assumptions and multiple outstanding areas of clarification.
Typology approach to viability testing	Partially – Some concerns with approach to, and evidence for site size, densities, dwelling mix and dwelling sizes ⁴ .
Appropriate and market-facing “standardised inputs” (eg. GDV, costs, developer’s profit, land value)	No – Key concerns are summarised in the Executive Summary tables in each of our representations.

³ Paragraphs 6.31 – 6.39 and Appendix 3, Regulation 19 Representation (March 2022). Other stakeholders have highlighted similar concerns (eg. CBRE, paragraphs 2.17 – 2.26, Regulation 19 Representation (March 2022))

⁴ Paragraphs 6.6 – 6.34, Regulation 18 Representation (September 2021)

EUV+ approach to benchmark land value ('BLV')	Partially – EUV+ methodology adopted but insufficient evidence for all EUVs and landowner premiums ⁵ . Also appears that BLV is adopted as a cost in the appraisal which departs from the recognised residual methodology. Clarification was requested on this point ⁶ .
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- 2.5. Despite highlighting the key issues and evidential gaps within our representations, as well as providing robust local market evidence to assist 3D in refining their assumptions, 3D have not accounted for stakeholder concerns or amended any appraisal inputs. This does not comply with the collaborative and iterative approach to viability testing required under the PPGV and RICS guidance.
- 2.6. In addition, a key issue is the lack of clarity and transparency in respect of the appraisal modelling, evidence base, assumptions and results⁷. The PPGV⁸ advises that:
- “The inputs and findings of any viability assessment should be set out in a way that aids clear interpretation and interrogation by decision makers. Reports and findings should clearly state what assumptions have been made about costs and values”*
- 2.7. To seek to address concerns regarding the modelling approach, 3D provided an annotated appraisal summary and example cash flows which was welcomed however there are still numerous areas where further explanation is required to enable proper analysis and interpretation of results⁹. These issues have been highlighted by other stakeholders¹⁰ and our collective concerns have not been addressed.
- 2.8. The PPGV¹¹ advises that the weight to be given to a viability assessment is a matter for the decision maker having regard to factors including the underpinning evidence and transparency of assumptions.
- 2.9. In our view, the collective deficiencies in the viability evidence limit the weight to be given to the CCLPRVA and the results cannot currently be supported. We remain of the view that, in order for the viability evidence to be found sound, significant amendments to the CCLPRVA are required as set out in our representations.

Question 8.2

Does the Council’s viability work adequately reflect local circumstances? Were appraisal inputs appropriate?

- 2.10. A recurring theme throughout the CCLPRVA is the lack of transparent local market evidence and justification for assumptions. It is imperative that all inputs are based on up-to-date, locally-specific evidence relevant to Lancaster to ensure that the viability testing reflects the market in this location.
- 2.11. In our view, the appraisal inputs are not all appropriate for the purposes of testing residential viability in Lancaster, with insufficient evidence and concerns relating to build costs, external works, developer’s profit, policy costs including building standards and BLV in particular¹². The wide-ranging issues associated with the evidence base and the assumptions have been referenced by other stakeholders¹³.

⁵ Paragraphs 6.322 – 6.431, Regulation 18 Representation (September 2021), Paragraphs 6.50 – 6.53 and Appendix 3, Regulation 19 Representation (March 2022)

⁶ Paragraphs 6.40 – 6.44, Regulation 19 Representation (March 2022)

⁷ Section 6 of Regulation 18 Representation (March 2022) and Section 6 of Regulation 19 Representation (March 2022)

⁸ Paragraph 20, Reference ID: 10-020-20180724

⁹ Section 6 of Regulation 19 Representation (March 2022)

¹⁰ For example CBRE’s Regulation 19 Representation (March 2022)

¹¹ Paragraph 8, Reference ID: 10-008-20190509

¹² The tables in the Executive Summary of our representations succinctly summarises these concerns.

¹³ For example CBRE’s and the HBF’s Regulation 19 Representations (March 2022)

- 2.12. This means that the CCLPRVA is not **justified, consistent with national policy** and the Local Plan will not be **effective** as the policy requirements have not been robustly tested as viable and deliverable.
- 2.13. One useful example to assist the Inspector in response to this question is 3D's greenfield EUV assumptions¹⁴. Here, 3D's "comparables" sample of 18 greenfield sites¹⁵ included agricultural land in locations as distant as Bacup based on a 40 mile search radius. This information does not provide a reliable indication of agricultural land values in Lancaster. 3D also refer to broad regional (North / North West) and national averages for agricultural land.
- 2.14. As noted in our representations, the burden of proof lies with the party preparing the evidence. Nevertheless, in accordance with the collaborative approach envisaged in the PPGV and RICS guidance, we provided robust up-to-date market evidence to support our recommendations. For the greenfield EUV example, this included drawing on the extensive experience of established local agents and publicly available local market evidence to provide transparent information on agricultural EUVs in Lancaster¹⁶.
- 2.15. Despite this, 3D have repeatedly overlooked the local evidence and stakeholder concerns, and have utilised less relevant and/or inappropriate evidence including from much wider geographies. In this respect, 3D have consistently highlighted that their in-house viability model and certain proposed assumptions have been found sound "elsewhere", therefore implying that the same assumptions should be accepted for the CCLPRVA, irrespective of the concerns raised by established local stakeholders and their submitted local market evidence.
- 2.16. For example, the only evidence which 3D have referred to for many assumptions is the 'Standard Inputs Analysis' at Appendix H¹⁷, however we noted that **22 of the 32** studies referenced are southern-based authorities in completely different and more affluent geographies when compared to Lancaster.
- 2.17. The residential market and economics of development in Lancaster would be different to many authorities in the south where land values are, generally, considerably higher. The form of development also often differs, comprising higher density, apartment-led schemes in urban areas where different assumptions may be appropriate in comparison to standard estate housing in Lancaster. Moreover, the studies at Appendix H were carried out in different market conditions prior to COVID-19 and the recent economic pressures.
- 2.18. Therefore, whilst 3D's model and certain assumptions may have been found sound elsewhere, that does not necessarily mean that the assumptions remain appropriate in current market conditions in Lancaster. It is also relevant to note that, as far as we understand, 3D do not have substantial recent experience of assessing plan-wide or site-specific viability in Lancaster, neighbouring authorities or the North West ('NW').
- 2.19. If undertaking the form of analysis at Appendix H, we highlighted that more relevant evidence of area-wide "standardised" viability assumptions for Lancaster would be recent NW LPVAs as referenced throughout our representations. This evidence demonstrates numerous inconsistencies in respect of 3D's assumptions and those adopted in other NW authorities. Whilst we do not necessarily agree with

¹⁴ This is one example only when there are similar issues associated with many other assumptions as set out in our representations.

¹⁵ 3D originally omitted to provide transparent details of the "comparables" and we highlighted other concerns and inconsistencies associated with the greenfield EUV assumptions (paragraphs 6.334 – 6.350, Regulation 18 Representation (September 2021))

¹⁶ This included a full schedule of local land evidence at Appendix 5 of our Regulation 18 Representation supplemented with detailed commentary in Section 6

¹⁷ We noted that the full analysis has not been provided hence the average figures calculated in Appendix H cannot be checked for accuracy and that 3D's assumptions for certain inputs are inconsistent with their own analysis, in particular the developer's profit (Paragraphs 6.435 – 6.436, Regulation 18 Representation (September 2021))

all assumptions adopted in other NW studies, the evidence provides a better illustration of the potential range of appropriate assumptions compared to Appendix H.

- 2.20. We have also highlighted that 3D have departed from the Council's existing viability evidence which was found sound in Summer 2020 under the national viability regime prevailing at that time, which is very similar to the current regime. No explanation has been provided for this deviation, particularly the BLV, where an arbitrary fixed multiplier/percentage uplift approach has been adopted. There is no evidence to demonstrate how the substantial reductions in land value are justifiable and will still incentivise landowners to release land in Lancaster bearing in mind the existing LPVA assumptions which were found sound in 2020¹⁸. This is of significant concern and risks compromising residential land supply.
- 2.21. Crucially, and in contrast to every other recent NW LPVA we have recently reviewed¹⁹, local market land transactional evidence has not been considered which is an important cross-check for the BLV²⁰ to ensure appropriate assumptions.
- 2.22. There is also a contradiction in 3D's approach, as 3D state that they have relied on the previous sound viability evidence to inform other assumptions in the CCLPRA.
- 2.23. In summary, it is inappropriate for 3D to disregard stakeholder concerns and their submitted evidence based on detailed local market knowledge and to continue to adopt **unjustified** assumptions. By consequence, the viability evidence is not regarded as robust and is not based on a proportionate assessment of the cumulative cost of all relevant policies.

Question 8.3

Has there been meaningful engagement with stakeholders on viability assumptions?

- 2.24. We consider that there has been *consultation* on the viability assumptions, but not *meaningful engagement*. 3D have not made any changes to their approach and/or appraisal assumptions despite repeated wide-ranging stakeholder concerns at Regulation 18 and 19 stages, and have not provided sufficient justification for maintaining all assumptions.
- 2.25. This does not accord with the NPPF, PPGV and RICS requirements in respect of stakeholder engagement and full justification for the inputs. By consequence, the viability evidence is not **justified, consistent with national policy** and the Local Plan will not be **effective** and deliverable.
- 2.26. 3D's decision not to amend assumptions should be viewed not only in the context of stakeholders concerns, but also the Council's decision not to proceed with introducing CIL in Lancaster, despite the CCLPRVA concluding that CIL was comfortably viable for most typologies.
- 2.27. The SoC includes 3D's/the Council's responses to consultees but these are high level and partial only and do not reflect the full range of issues raised, nor the new evidence provided to support comments²¹. It is highly concerning that 3D appear intent on maintaining the assumptions irrespective of local stakeholder concerns and evidence. We have never seen any other qualified viability consultant maintain every single assumption unchanged throughout the Local Plan consultation process.

¹⁹ Paragraphs 6.385 – 6.393, Regulation 18 Representation (September 2021) and Appendix 3, Regulation 19 Representation (March 2022)

²⁰ PPGV, Paragraph 16, Reference ID: 10-016-20190509

²¹ Section 5 and Appendix 3, Regulation 19 Representation (March 2022)

- 2.28. Further, 3D/the Council have not provided a response or any updated evidence following the Regulation 19 consultation where stakeholders reinforced their concerns and highlighted new issues associated with the CCLPRVA Addendum.
- 2.29. To justify their approach, 3D stated that certain stakeholders attended an initial viability workshop in March 2021 and did not raise any material challenges to the assumptions, therefore seemingly these assumptions were accepted or cannot now be amended based on evidence provided at Regulation 18 and/or 19 stage.
- 2.30. As previously stated, C&W's Viability Team were not in attendance at the initial workshop and were not made aware of the event until after it had taken place, not were all of our Clients. Therefore, it cannot be stated/implied that there was universal industry agreement to the assumptions when all relevant stakeholders were not present. Our Clients also confirmed that of those who did attend, concerns were raised relating to several assumptions²².
- 2.31. Importantly, the initial workshop would form a first stage of the necessary stakeholder consultation under the NPPF and PPGV. From our review of the workshop slides, there was limited information/evidence provided to support many proposed assumptions which would have made it difficult to provide meaningful comments in any case.
- 2.32. This was compounded by the fact that just 2 weeks were provided for responses which was an insufficient timeframe for meaningful review, particularly given that the request was made alongside the Council's consultation on the Viability Protocol SPD which had the same deadline and contained an extensive number of issues to address²³.
- 2.33. For the above reasons, it is inappropriate for 3D to advocate the initial first stage workshop consultation as full support for their assumptions. Further, even if no comments were initially raised, it is inappropriate to reject legitimate concerns raised, and new evidence submitted, at Regulation 18 and/or 19 stages. This would defeat the objective of these consultations.
- 2.34. 3D produced an Addendum at Regulation 19 stage which we expected to include the updated viability testing based on the necessary revisions to the assumptions as recommended in our representations. Instead, the Addendum contains missing information and explanation of assumptions which required clarification. However, there are still various concerns and ambiguities associated with the evidence base and assumptions where the Addendum has not fully addressed each issue²⁴.
- 2.35. The Regulation 18 and 19 consultations are crucial aspects of the iterative process envisaged in the PPGV. The RICS guidance note further emphasises the importance of stakeholder engagement in supporting LPAs to reach sound judgements on viability. The guidance is clear that assessors should update the FVA if consultees provide new information that causes the assessor, using their professional judgement, to adjust their assumptions.
- 2.36. We do not believe that the above processes have been followed in preparing the CCLPRVA.

²² Paragraphs 5.13 – 5.14, Regulation 19 Representation (March 2022)

²³ This can be seen through the extensive changes made to the first draft SPD compared to the now adopted version.

²⁴ Section 6, Regulation 19 Representation (March 2022)

Question 8.4

Taking account of the Council's viability work, would the requirements of the Plans' policies put the viability of the implementation of the Plans at serious risk? Have all of the Plans' policy requirements, including requirements of Policies CC1, T2, T4, SC4, SP8, DM29, DM30a, DM30b, DM30c, DM33, DM34, DM45, DM59, and DM62 been factored in?

- 2.37. For the reasons explained in previous representations, the CCLPRVA should not be viewed as an accurate assessment of residential development viability in Lancaster. The results which suggest that development is viable with the full existing policy burden and the costs of Part L 2021, the FHS and BNG are misleading in our view.
- 2.38. Our Clients fully recognise the importance of building sustainably and for development to meet improved environmental standards. At the same time, there are cost implications associated with more stringent standards and as such, the additional requirements need to be balanced against development viability to ensure that housing supply is not compromised.
- 2.39. Based on our representations, our Clients have significant concerns that the introduction of more stringent climate-related policies will result in other policy requirements being compromised, as it has not been robustly demonstrated that development can viably support all new proposed standards in addition to existing policy requirements. The results for all typologies would be different, potentially significantly different, if more reasonable assumptions were adopted as recommended in our representations.
- 2.40. The Local Plan is therefore not **justified** or **effective**. We consider that the requirements of the policies put the viability of the implementation of the Local Plan at serious risk.
- 2.41. In respect of Part 2 of this question, our representations clearly demonstrate that not all policy requirements – both new and existing – have been factored into the testing. This includes the building standards cost being understated with significant concerns relating to Passivhaus and net zero carbon costs in particular²⁵, the design requirements in Policy DM29 and DM30a²⁶, the new standards relating to water efficiency (DM30b), sustainable design and construction (Policy DM30c), drainage (DM34) and vehicle charging (DM62)²⁷.
- 2.42. We also noted that key policy amendments were made at Regulation 19 stage after publication of the CCLPRA²⁸, with no changes made to any assumptions which clearly demonstrates that these policies cannot have been factored into the CCLPRVA.
- 2.43. The omissions are in fact illustrated in 3D's own evidence at Appendix C where they have undertaken a "Policy Review". This shows that only Policy DM30a and DM62 have been explicitly factored into the testing, but we have significant concerns relating to these assumptions as referenced above.

²⁵ Paragraphs 6.9 – 6.30, 7.10 – 7.38, Regulation 19 Representation (March 2022)

²⁶ Paragraphs 7.39 – 7.55, Regulation 19 Representation (March 2022)

²⁷ Paragraphs 7.56 – 7.62, Regulation 19 Representation (March 2022)

²⁸ Paragraph 7.62, Regulation 19 Representation (March 2022)

2.44. In response to the policies specifically referenced by the Inspector, a summary table is provided below for ease of reference:

Policy	Tested in CCLPRVA?	3D Comment / Assumption	C&W Comment
DM33, DM34	No	<i>“SUDS is now a normal part of typical development” and “Flood risk along with other constraints will be reflected in site value”</i>	Not accepted as the policy requirements are site-specific and above ground SUDS are not required on every site. SUDS are a site-specific abnormal cost. Full evidence is required to substantiate 3D’s assertion. It is inappropriate to assume that the costs of flood risk mitigation will be deducted from the BLV on a pound for pound basis. This methodology does not accord with the PPGV as set out in our previous representations and the costs of such mitigation could be significant.
DM30b	No	<i>“Water efficiency can normally be achieved through design with minimal cost”</i>	Not accepted as the policy requires measures such as green roofs, low flow taps and showers and rain gardens, which our Clients do not consider to represent “minimal costs”. Full evidence is required to substantiate 3D’s assertion.
T2, T4, SC4, SP8, DM29, DM30c, DM45, DM59	No	No impact as shaded green	The failure to test these policies is highly concerning, particularly in respect of policies T4, DM29 and DM30c for the reasons set out in our previous representations and as referenced above.
DM62	Partially but allowances regarded as insufficient	Testing includes an allowance of £865 per dwelling for 3 bed+ units and 50% of 1-2 beds.	Unclear why a cost has not been applied to every dwelling when policy requires 1:1 provision. New text in the Plan introduces specific design requirements for EV charging infrastructure and also requires electricity provision to be provided through renewable and/or low carbon energy generated on site “wherever possible”. Cost allowance in CCLPRVA regarded as insufficient to cover the policy requirements ²⁹ .
DM30a	Partially but allowances regarded as insufficient	Costs associated with the new building standards proposed on adoption of the plan, by January 2025 and by January 2028	Wide-ranging concerns associated with the both the methodology and the costs for each staged requirement as set out in our previous representations ³⁰ .
CC1	Partially but allowances regarded as insufficient	<i>“Typologies will need to consider the detailed policies which arise from this ‘parent’ policy”</i>	This is a holistic plan-wide policy which covers the sustainable development principles and requirements set out in the more specific policies elsewhere in the Plan. Our concerns associated with the relevant policies therefore also apply to this policy.

2.45. Given that none of the existing local policy requirements (eg. affordable housing) are being varied as part of the Local Plan Review, it is quite possible that the number of site-specific FVAs in Lancaster may increase as a result of more stringent sustainability standards.

²⁹ Paragraphs 6.264 – 6.275, Regulation 18 Representation (September 2021) and Paragraph 7.61, Regulation 19 Representation (March 2022)

³⁰ Paragraphs 6.282 – 6.307, Regulation 18 Representation (September 2021) and Paragraphs 7.1 – 7.38, Regulation 19 Representation (March 2022)

- 2.46. This **conflicts with national policy** which seeks to reduce site-specific viability testing at the application stage where possible. Further, we have concerns that there is insufficient flexibility in the relevant policies to prevent development from stalling due to viability constraints (see Question 8.6 below).
- 2.47. It is regarded as crucial that the CCLPRVA assumptions are fully re-considered based on the issues identified in our representations. All new proposed policy requirements will need to be reviewed in light of the revised findings and only those aspects which have been demonstrated as viable and deliverable should be maintained, subject to the addition of a viability clause to provide the requisite flexibility where site-specific circumstances result in additional viability constraints that prevent compliance with base policy requirements.

Question 8.6

Is there scope for any requirements to be relaxed in instances where development would not be viable? Is the appropriate mechanism for this within Policy DM58 or should it be included in other policies throughout the Plans?

- 2.48. As the CCLPRVA does not represent a robust and credible assessment of viability and policy requirements have not been adequately demonstrated as viable, it is imperative that all relevant policies which could threaten viability include a robust mechanism to enable the requirements to be relaxed where justified on viability grounds through submission of a site-specific FVA at the application stage.
- 2.49. Furthermore, even after the CCLPRVA has been revised in line with our recommendations, it is still regarded as essential that there is sufficient flexibility in all relevant policies to enable policy requirements to be relaxed where necessary. This is because a plan-wide FVA cannot account for every eventuality or the changing circumstances over the plan period which means that it will still be necessary for site viability to be assessed at the application stage in some instances, to account for site-specific circumstances where these differ from the CCLPRVA³¹. This is consistent with the NPPF and the PPGV³² which recognise that there could be sound reasons for site-specific viability evidence to be brought forward at the delivery stage as part of ultimately finalising the development details and the quantum of planning obligations that can be supported.
- 2.50. Stakeholders have identified a range of policies where it is considered that a viability clause should be included to provide the requisite flexibility. The Council provided a response to stakeholder comments³³ but this does not resolve the ambiguity in that there is currently no clarity in the relevant policies that the requirements can be relaxed where robustly justified on viability grounds.
- 2.51. We referred to the existing mechanism in Policy DM58 and suggested that this should be applied to all new policy requirements with viability implications to provide the necessary flexibility for the requirements to be relaxed, therefore ensuring that delivery is not compromised³⁴.

³¹ This does not however preclude or downplay the importance of having a robust LPVA with fully evidenced and market-facing assumptions, so as to limit the extent of site-specific viability testing at the application stage and the associated delays in delivering new housing in Lancaster.

³² NPPF Paragraph 58 and PPGV Paragraph 7 Reference ID: 10-007-20190509

³³ Regulation 18 Statement of Consultation

³⁴ Paragraph 7.69, Regulation 19 Representation (March 2022)

Question 8.8

Should there be any transitional arrangements ('TAs') for the introduction of additional policy requirements for viability reasons?

- 2.52. Our Clients consider that TAs should be applied to avoid the inevitable viability and practical difficulties which would arise without such arrangements, particularly as the additional policy requirements have not been demonstrated as viable and deliverable.
- 2.53. The Council's approach to immediate introduction without TAs also contradicts the government's approach to the building regulations changes where TAs apply.
- 2.54. The government previously consulted on the importance of TAs during the Part L consultation in 2019. As set out in the government's consultation response, stakeholders highlighted a number of issues which could arise without TAs which we expanded on in our representations³⁵. The government's response went on to note the importance of such arrangements in providing certainty to developers³⁶.
- 2.55. We therefore recommended that TAs are included in the relevant policies, notably Policy DM30, in line with the government's approach to the interim Part L uplifts to provide the industry with sufficient time to adjust to the new requirements and to minimise adverse impact on build quality, saleability and pace of delivery.

³⁵ Paragraph 7.78, Regulation 19 Representation (March 2022)

³⁶ Paragraph 7.79, Regulation 19 Representation (March 2022)

Appendix 1 – RICS Professional Statement: Financial Viability in Planning – Mandatory Reporting Requirements

The relevant mandatory reporting requirements specified in the RICS Professional Statement *Financial Viability in Planning: Conduct and Reporting* (1st edition) are set out below. Where we have not commented on a Section number, this is because the relevant section relates to how an FVA/representation should be carried out rather than a reporting requirement, and/or because the reporting requirement has been dealt with separately earlier in this document (eg. author sign-off), and/or because the reporting requirement is not considered to be directly relevant to a representation (eg. sensitivity analysis).

Section 2.1: Objectivity, Impartiality and Reasonableness Statement

We confirm that this Statement has been prepared by RICS members who have acted with objectivity, impartially, without interference and with reference to all appropriate available sources of information.

We further confirm that the RICS members are suitably qualified practitioners and RICS Registered Valuers with sufficient skills, expertise and knowledge to provide a robust and objective Statement.

The RICS members have extensive experience in advising on viability across the North West and up-to-date knowledge of the planning system gained through previous viability experience and work alongside our local and national Planning Teams.

Section 2.2: Confirmation of Instructions and Absence of Conflicts of Interest

Our terms of engagement are appended to the rear of this Statement.

We are currently advising, and have previously advised some of the Clients on site-specific FVAs in support of planning applications for residential development. We are also currently advising, and have previously advised some of the Clients in respect of representations to area-wide viability FVAs.

We do not consider that any conflict of interest, or risk of conflict of interest, arises as a result of the interests which we have disclosed. We therefore confirm that, to the best of our knowledge, no conflict of interest, or risk of conflict of interest, arises in preparing the advice requested.

Section 2.3: No Contingent Fee Statement

In preparing this Statement, no performance-related or contingent fees have been agreed.

Section 2.5: Confirmation Where the RICS Member is Acting on Area-Wide and Scheme-Specific FVAs

As outlined above, we are currently advising, and have previously advised some of the Clients on site-specific FVAs in support of planning applications for residential development and representations to area-wide FVAs.

We are advising the following LPAs in respect of the area-wide FVA to assist in formulating policy in their emerging Local Plans:

- Warrington Borough Council
- Wakefield Council
- South Tyneside Council
- Solihull Metropolitan Borough Council

We are also advising developers in respect of representations to the following area-wide FVAs:

- Greater Manchester Places for Everyone Viability Assessment
- Blackburn Local Plan Viability Assessment
- Lancaster Local Plan Viability Assessment
- Eden Local Plan Viability Assessment
- Hyndburn Local Plan Viability Assessment
- Wyre Local Plan Viability Assessment
- St Helens Local Plan Viability Assessment
- Copeland Local Plan Viability Assessment
- Wirral Local Plan Viability Assessment

We confirm that we have not undertaken an area-wide FVA concerning existing or future planning policies against which the proposed scheme could be assessed in future.

Again, we do not consider that any conflict of interest, or risk of conflict of interest, arises as a result of the interests which we have disclosed.

Section 2.6: Justification of Evidence

All inputs into this Statement have been reasonably justified as explained in further detail throughout this document. It is noted that where the appointed reviewer disagrees with elements of the submission, the parties should always seek to resolve differences of opinion where possible.

Section 2.10: Engagement

We confirm that we have advocated, and will advocate reasonable, transparent and appropriate engagement between the parties at all stages of the viability process.

Section 2.14: Timescales

We confirm that adequate time has been allowed to produce this Statement having regard to the scale of this particular project.

Section 4: Duty of Care and Due Diligence

We confirm that this Statement has been carried out in accordance with Section 4 – Duty of Care and Due Diligence of the Professional Statement and that full consideration has been given to the matters referenced in Section 4.

Appendix 2 – Terms of Engagement

20 July 2022

Our Ref: DRN/HG/kja/2226BS00

XXXX

XXXX

XXXX

Dear XXX

Lancaster CER Local Plan Examination

We are pleased that you have requested Cushman & Wakefield to provide you with a fee proposal in relation to the above matter. The schedule to this letter details the services we will provide, the basis of our appointment, our fees and anticipated expenses, together with other information relevant to our services (the "**Services Schedule**" and together with this letter, the "**Engagement Letter**").

Enclosed are our standard terms of business containing exclusions and limitations on our liability and detailing our respective obligations (the "**Terms of Business**") which, together with the Engagement Letter, comprise the terms of our engagement (the "**Engagement**"). Please take a moment to check that you are happy with the contents of the Engagement Letter, the Services Schedule and the Terms of Business and understand the basis of the Engagement.

I will have overall responsibility for the provision of our services to you, assisted by Hannah Gradwell, MRICS and such other professional staff as it may be appropriate for us to involve. Hannah will be your first point of contact on this matter.

Market Conditions

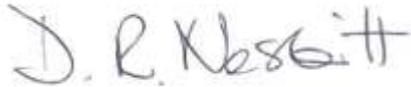
Despite the initial recovery of the economy from the pandemic, the UK is currently experiencing heightened uncertainty due to the wider global impacts from the war in Ukraine, increased inflationary pressures with inflation being at a 40 year high and employees in several sectors threatening industrial action in response to the higher costs of living expenses. The Bank of England has increased interest rates in response to inflation resulting in higher borrowing costs.

These factors are impacting on growth and consumer confidence. In recognition of the potential for market conditions to move rapidly in response to wider political and economic changes, and the impact that such could have on development appraisal variables, we highlight the importance of the date of our assessment.

Specifically in respect of build cost inflation, Cushman & Wakefield is currently seeing significant variation in tendered build costs across all sectors driven by supply chain shortages affecting the construction industry. As a result, the build cost assumptions that have been applied in this appraisal/assessment are susceptible to short term changes. As a matter of prudence we recommend that where not already provided, sensitivities should be examined to test the effects of such variations and that further advice should be sought to market test such cost assumptions to inform decision making and prior to any investment commitments. It is also recommended that changes in build costs are closely monitored and the impacts on development viability kept under review.

Should you wish to instruct Cushman & Wakefield on this matter, I would be grateful if you would return a signed and dated a copy of the Engagement Letter as soon as possible to confirm that you accept the basis of the Engagement. Please be aware that your continuing instructions in relation to this matter will amount to your acceptance of the terms of the Engagement. If there is any matter that requires clarification, please do not hesitate to contact me.

Yours faithfully,



Derek Nesbitt, MRICS APAEWE

Partner

RICS Registered Valuer

For and on behalf of Cushman & Wakefield Debenham Tie Leung Limited

Direct: +44 (0)161 455 3790

Mobile: +44 (0)7747 008426

derek.nesbitt@cushwake.com

Acceptance of Cushman & Wakefield Engagement Letter and Terms of Business

I have read the Engagement Letter (including the Services Schedule and incorporating the Cushman & Wakefield Terms of Business (Version 3.2 - April 2021) and hereby accept the terms and confirm this Engagement.

XXX
XXX

Date: _____

Please check the information on the Customer Information Form.