



## **North Devon Council & Torrige District Council**

Report Date: 14 October 2022

### **Topic: Local Plan Review - Approach to Strategic Viability Assessment**

Report by: Helen Smith, Planning Manager, Torrige District Council

#### **1. INTRODUCTION**

1.1 There are challenges for planning authorities seeking to develop plan policies that both provide for acceptable, sustainable development and at the same time avoid placing unrealistic pressures on the cost and deliverability of development.

1.2 There are many factors that the Partner Authorities need to consider and balance in carrying out a review of the Local Plan. Local plans need to deliver development that reflects community aspirations, is of high-quality, protects the natural environment, is serviced by the necessary infrastructure and supports the transition to a low carbon economy in order to mitigate the impact of climate change. However, consideration of viability is also a key factor. Local plans should be aspirational but realistic and should ensure that the impact of the policies when read as a whole should be such that the plan is deliverable.

1.3 At the local plan level, viability is very closely linked to the concept of deliverability. In the case of housing, a local plan can be said to be deliverable if sufficient sites are viable to deliver its housing requirements over the plan period.

1.4 This report seeks to set out and explain the required process for the strategic viability assessment of the new Joint Local Plan and highlights matters that any such assessment would need to address and consider. Commentary is also provided on the achievability of the affordable housing target set out within the North Devon and Torrige Local Plan (NDTLP).

1.5 Regard has been had to guidance and national policy requirements contained in the National Planning Practice Guidance (NPPG) and the National Planning Policy Framework (NPPF) together with best practice and technical guidance provided by the Planning Advisory Service (PAS) and the Royal Institute of Chartered Surveyors (RICS).

#### **2. RECOMMENDATIONS**

2.1 That the Committee note the report and agree for it be used as the basis for embedding viability considerations within the plan-making process, in a proportionate manner at the various stages of preparation.

2.2 Furthermore, it is recommended the suggested approach and principles shall inform any future brief to go out for tender.

### 3. REASONS FOR RECOMMENDATIONS

3.1 To acknowledge the need for a comprehensive review of the viability of local plan policies and development options and the need to commission expertise at the appropriate stage(s) of plan preparation, should a comprehensive review of the Local Plan be progressed.

### 4. REPORT

#### National Policy and Guidance

4.1 The primary role of a strategic viability assessment (SVA) is to provide evidence to show that the requirements set out within the NPPF and NPPG are met. That is, that the policy requirements for development set out within the Local Plan do not threaten the ability of the sites and scale of that development to be developed viably. Demonstrably failing to consider this issue will place the Local Plan at risk of not being found sound. SVA should provide high level assurance that the policies within the plan are set in a way that is compatible with the likely economic viability of development needed to deliver the plan's aspirations.

4.2 Paragraph 34 of the NPPF states: *'Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan.'* The NPPF additionally states at Paragraph 58: *'Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.....All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.'*

4.3 NPPF Paragraph 124(b) requires that *'planning policies and decisions should support development that makes efficient use of land, taking into account: local market conditions and viability.* The NPPF definition of *'developable'* requires sites to be in a *'suitable location for housing development with a reasonable prospect that they will be available and could be viably developed at the point envisaged.'*

4.4 Paragraph 68 of the NPPF states: *‘Strategic policy-making authorities should have a clear understanding of the land available in their area through the preparation of a strategic housing land availability assessment. From this, planning policies should identify a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability.’*

4.5 The NPPG requires that local plans set out the contributions expected from development and that this should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). The NPPG further states: *‘these policy requirements should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability that takes into account all relevant policies, and local and national standards, including the cost implications of the Community Infrastructure Levy (CIL) and section 106.’*

4.6 The NPPG further directs that *‘the role for viability assessment is primarily at the plan making stage. Viability assessment should not compromise sustainable development but should be used to ensure that policies are realistic, and that the total cumulative cost of all relevant policies will not undermine deliverability of the plan.’*

4.7 It is the responsibility of the Partner Authorities, in collaboration with the local community, developers and other stakeholders, to create realistic, deliverable policies. Drafting of plan policies should be iterative and informed by engagement with developers, landowners, and infrastructure and affordable housing providers. Importantly, and to guide on the scope of viability testing at plan-making stage, the NPPG states: *‘Assessing the viability of plans does not require individual testing of every site or assurance that individual sites are viable. Plan makers can use site typologies to determine viability at the plan making stage. Assessment of samples of sites may be helpful to support evidence. In some circumstances more detailed assessment may be necessary for particular areas or key sites on which the delivery of the plan relies.’*

4.8 The NPPG puts forward a typology approach to viability, to support plan-makers to create realistic, deliverable policies based on the type of sites that are likely to come forward over the plan period. The typology approach requires plan makers to first group sites by shared characteristics such as location, whether brownfield or greenfield, size of site and current and proposed use or type of development. The NPPG further states the characteristics used to group sites should reflect the nature of typical sites that may be developed within the plan area and the type of development proposed for allocation in the plan. The

typology approach utilises average costs and values to make assumptions about how the viability of each type of site would be affected by relevant policies.

4.9 The NPPG places importance on considering the specific circumstances of strategic sites and suggests plan makers can undertake site specific viability assessment for sites that are critical to delivering the strategic priorities of the plan. It notes large sites, sites that provide a significant proportion of planned supply, sites that enable or unlock other development sites or sites within policy regeneration areas. The NPPG notes that information from other evidence informing the plan (such as the HELAA) can help inform viability assessment for strategic sites.

4.10 The NPPG provides guidance on the required methods for viability assessment, which any future consultant commission would be expected to follow. The future brief to commission this work will set an expectation and requirement for the SVA to follow the guidance, approach and requirements set out in the NPPF and the NPPG.

4.11 In addition to the above referenced national policy and guidance, further support is available in the form of published guidance by the Royal institute of Chartered Surveyors (RICS), which considers financial viability in planning, and the Planning Advisory Service (PAS), most notably their guidance on 'Development Viability', which provides advice for councils on procuring viability evidence.

#### Current Local Policy Position

4.12 Any shortfall in infrastructure for proposed development should be funded by developer contributions in accordance with Policy ST23 (infrastructure) of the NDTLP, which requires development to provide or contribute toward the timely provision of physical, social and green infrastructure made necessary by the specific or cumulative impact of these developments.

4.13 Policy ST18 of the NDTLP sets a requirement of 11 or more dwelling to provide on-site delivery of affordable housing equal to 30% of the number of the dwellings on site. Affordable housing is sought at a tenure split of 75% social rent and 25% intermediate. Policy ST18(5) states that '*negotiation to vary the scale and nature of affordable housing provision, along with the balance of other infrastructure and planning requirement, will be considered on the basis of a robust appraisal of development viability.*'

4.14 At the July Joint Planning Policy Committee, Members resolved to adopt a Supplementary Planning Document (SPD) on Affordable Housing. The adopted

SPD recognises at paragraph 1.11 (d) that *'identification of the factors which impact site viability and may reduce the amount of affordable housing sought and the mechanisms that will be used to assess financial viability.'*

4.15 The SPD acknowledges that the NDTLP is informed by wide ranging evidence (most notably in respect of affordable housing is the North Devon and Torrige Housing and Economic Needs Assessment (HENA) and the North Devon and Torrige Housing Economic Viability Assessment) and confirms that this evidence base justified the level of sought affordable housing (30%) on qualifying sites and the tenure mix (75% social rented and 25% intermediate accommodation), referencing NDTLP Policy ST18. Section 9 of the SPD considers 'Assessing Financial Viability', recognising the provisions within Clause (5) of Policy ST18.

4.16 The SPD recognises other infrastructure and planning requirements which need to be considered, including contributions for both education and open space. Paragraph 9.3 of the SPD states: *'if a lack of viability requires a choice to be made between the required level of affordable homes and other planning requirements, the Council will make that decision on a case-by-case basis. The decision will be based on the prioritised needs of the site and the local area.'*

4.17 The NDTLP viability evidence dates from 2015/2016 and it is recognised that this evidence will be required to be revisited as part of a plan review, taking account of current economic conditions and market demand.

4.18 The NDTLP Inspectors Report noted at paragraph 133 that: *'Subject to the above thresholds, Policy ST18 seeks the provision of 30% of all dwellings on site to be affordable, with on-site provision required and off-site delivery or financial contributions of broadly equivalent value only considered if on site provision is demonstrably undeliverable. This proportion is based on the assessment of affordable need in the HEDNA (CE21) and has been tested for viability through the studies undertaken of economic viability of housing development (CE23 and 24).'* It is interesting to note that an upper target of 40% affordable housing was discounted on the basis of such a level being likely to prohibit growth.

4.19 With regard to the viability assessment evidence base informing the preparation of the NDTLP, the Inspector recognised at Paragraph 134 that: *'the requirement for 30% provision of affordable housing is generally higher than the levels which were achieved in the years from 2011 – 2015 which range between 15% - 34%, giving an average delivery of 26% (CE6 para 3.1). The question therefore arises as to whether it is reasonable to set the level at 30% when this has not yet been achieved in the early part of the plan period.'* At paragraph 135



of her report, she further commented: *'there will inevitably be locations in which housing values are lower, or where there are significant levels of development cost in terms of the provision of infrastructure or site remediation, in which residential development would not be viable with a provision of 30% affordable housing. However, any reduction in the overall requirement in the Policy is likely to further reduce the overall average that can be achieved across the plan area as a whole. Furthermore, any attempt to address such variations on a site by site basis in the Plan policies would require a disproportionate level of detail.'* In conclusion, the Inspector accepted a Plan wide figure of 30% affordable housing target as an aspirational figure for residential development above the relevant Policy thresholds noting that to address variation in housing values or site development costs, there is provision within Policy ST18 for the proportion of affordable housing to be negotiated on the basis of a site-specific development viability appraisal.

#### Viability Outcomes during the Plan Period

4.20 The recent review of the NDTLP using the PAS toolkit has considered viability and affordable housing. These findings are set out in the relevant sections of the appendices related to that agenda item as attached to this agenda report.

4.21 Of note, the BCIS All-in Tender Price Index has seen a 10.9% increase since adoption of the plan (Nov 2018 – Aug 2022), with a 64.1% increase over the wider plan period to date (May 2011 – Aug 2022). In recognising the increasing costs associated with site delivery, it is also apparent that the strength of the local housing market is enabling the majority of qualifying housing sites to deliver fully compliant schemes.

4.22 Clearly, while viability is an important consideration, the NDTLP enables the delivery of suitable sites for development having regard to site-specific issues and market conditions that would impact viability. The Partner Authorities seek to ensure policy requirements to the maximum extent, while enabling delivery on allocated and other appropriate sites.

4.23 The NDTLP, reflecting guidance in the NPPG, allows for a consideration of site viability to enable housing delivery. In considering proposals which are not policy compliant, the Partner Authorities seek to ensure maximum gains can be achieved, without prejudicing delivery, which includes ensuring viability appraisals are up to date at the point of decision making and where appropriate review mechanisms are put in place. The recently adopted SPD includes, at paragraphs 9.13 and 9.14, a mechanism to secure an overage clause to allow for

a review of the required level of affordable housing as development progresses. The SPD limits such a mechanism to large housing developments of 100 units or more, or those to be delivered in a phased manner.

4.24 The toolkit analysis refers to an assessment of housing development, prepared in summer 2021, which identified that from 2016, 58% of sites in Torrige District eligible for requiring affordable housing provision secured policy-compliant levels of provision, achieving on average across all eligible developments a provision of 21% rather than the 30% policy requirement. More recently, there is some evidence to suggest improved development viability on housing schemes, witnessing a shift back towards securing policy-compliant levels of delivery (see below). In North Devon, analysis of housing development prepared in spring 2022, identified that from 2017, 38% of sites in North Devon District eligible for requiring affordable housing provision secured policy-compliant levels of provision, achieving on average 22% rather than the 30% policy requirement.

4.25 The toolkit review concludes that whilst viability has had an impact on the levels of affordable housing achieved, there is no evidence to suggest that development viability is constraining or precluding development from being realised across northern Devon; with key allocations across the plan area being progressed towards delivery and many now on site. The toolkit analysis advises that key infrastructure required to support delivery is in some cases being achieved in a timely manner, and viability considerations have not prevented certain key infrastructure projects being delivered with the associated developments.

4.26 Key infrastructure identified for delivery in association with allocations have and are in many, but not all, cases being delivered as required, either funded directly from development, or with the support of external funding. It is recognised that against the Infrastructure Delivery Plan, some proposed schemes have not come forward against the anticipated timeframe. However, many infrastructure requirements necessary to support site delivery are/have been achieved alongside the associated development.

4.27 The Local Plan HEDNA sets out an estimated annual level of Affordable Housing Need of 345 dwellings per annum (northern Devon). In setting the 30% target, it was recognised that given the scale of need, such could not be delivered by the planning system alone.

4.28 Where non-policy compliant schemes are proposed, on the basis of expected contributions, submitted viability evidence is subject to independent

scrutiny. A review of non-compliant sites indicated that the general basis for schemes not achieving the 30% requirement related to the nature of the site, significantly when brownfield/regeneration sites and in respect of greenfield sites, unforeseen abnormal costs and particularly on strategic sites, the need for significant infrastructure.

4.29 Of note in Torrige District, more recent proposals are coming forward, including on part of two strategic allocations (BID01: Bideford West Urban Extension – 750 dwellings and NOR02: Site West of Buckleigh Road 400 dwellings) and further schemes have resulted in affordable housing uplifts consequent of the viability being re-appraised and challenged through independent review. A housing development in Bradworthy saw a significant change in viability over a 6-month period and on further assessment by the external advisor. This demonstrates the impact of market conditions at a point in time. There are significant brownfield sites which have come forward with zero affordable housing, most notably the Brunswick Wharf site in Bideford and the former Great Torrington Creamery (subject to a committee resolution) however the benefits associated with the redevelopment of these sites was considered to outweigh the lack of affordable housing. A further application of interest is the Wooda Road, Appledore site (subject to allocation NOR07), which benefits from outline and reserved matters permission for residential development and is currently under construction. The associated viability appraisal demonstrated that the development was unable to provide any affordable housing due to abnormal development costs. This site is greenfield however unable to deliver on-site drainage attenuation which resulted in the need for a requisition of a new surface water sewer over a considerable distance.

4.30 While schemes continue to be presented with less than 30% affordable housing, there seems to be an improving trend towards achieving the sought 30% of affordable housing on qualifying sites.

4.31 The experience in North Devon is that non plan-led development is generally submitted on the basis of it being policy compliant with many applicants willing to agree short timescales to commence development. In regard to allocated sites, application 65448 (Westacott), which is allocated under Policy BAR01, was supported by a viability appraisal which resulted in affordable housing being secured at a lower level 10%. However, it should be noted that this site carried significant abnormal costs. On a smaller scale, application 73518 (Birch Road, Landkey – allocation LAN01) relates to a proposal for 20 dwellings on a small greenfield site and is currently subject to viability assessment which is indicating that infrastructure, utilities and abnormal costs are very substantial which will likely result in reduce affordable housing and/or contributions as a



result. Finally, application 73654 (Laceworks, Barnstaple) is a further scheme where no affordable housing could be secured due to a combination of viability issues and the application of vacant building credit.

#### Viability Assessment Approach for the Local Plan Review

4.32 Against the above context, it is considered that the following principles should inform the Partner Authorities' approach to SAV should a comprehensive review of the Local Plan proceed:

- As per the recommendation in the toolkit review, early, further analysis of the basis for the under-delivery against the policy ST18 target of 30% would be beneficial to inform the SVA for any Local Plan Review. Further analysis would be beneficial to provide a comparable time period across the two Councils, and to provide a more detailed understanding of the basis for the acceptance of less than 30% affordable housing on qualifying sites. An analysis of recent applications would assist with the indication of trends. This is an exercise that could be done now and reported back to the next JPPC.
- Specific analysis should take place to look at the delivery of strategic allocations within the NDTLP and any barriers to securing infrastructure and planning obligations. As per the guidance set out in the NPPG, it may be appropriate for bespoke and more detailed viability assessment to take place in relation to any future proposed strategic sites.
- The advice and input of local partners, particularly those with knowledge of the local market and development economics, and those who will be involved in delivering the plan, should be sought at each stage. It is incredibly positive that the appointed HELAA panel includes a viability expert so the very early site assessment stage can benefit. It should also be noted that the Duty to Cooperate is relevant to assessing the viability of the Local Plan.
- The SAV should be seen as part of the wider collaborative approach to plan-making and a tool that will assist with the development of plan policies, rather than a separate exercise.
- The approach to assessing plan viability should recognise that it can only provide high level assurance that the policies within the plan are set in a way that is compatible with the likely economic viability. It cannot guarantee that every development in the plan period will be viable, only that the plan policies will be viable for the sufficient number of sites upon which the plan relies in order to fulfil its objectively assessed needs.

- The assessment process should be iterative. Draft policies can be tested based on the assumptions agreed with local partners, and in turn those assumptions may need to be revised if the assessment suggests too much development is unviable.
- In making local judgements, the Partner Authorities will need to strike a balance between the policy requirements they deem necessary in order to provide for sustainable development and the realities of economic viability. Except for possibly in the highest value areas, it is unlikely that all policy aspirations will be capable of being realised, once a realistic account is taken of the costs associated with those aspirations alongside regulatory and statutory compliance.
- Viability evidence should be used to test early policy options to ensure that requirements are aspirational but deliverable. The retrofitting of viability evidence to support planning policies that have already been chosen should be avoided. Therefore, viability evidence should be commissioned in the early stages of the process so proper consideration can be given at the policy options stage. The brief to consultants should set out the need for viability advice to be provided on an iterative basis to include clear stages whereby the appointed consultant will feed into the process.
- Any brief to consultants should emphasise the policy and guidance set out in the NPPF and the NPPG and seek confirmation of appropriate methodologies that take account of guidance to adopt a typology approach.

## 5. RESOURCE IMPLICATIONS

5.1 The work is part of the existing Local Plan Project with specific funds identified.

## 6. EQUALITIES ASSESSMENT

6.1 An Equalities Impact Assessment will be requested as part of the tender package.

## 7. ENVIRONMENTAL ASSESSMENT

7.1 Environmental assessment will be undertaken for the emerging Local Plan and there are no specific environmental implications arising from this report.

## 8. CONSTITUTIONAL CONTEXT

8.1 Schedule 2, paragraph 1.1.2, of the North Devon Council and Torridge District Council Joint Planning Policy Agreement.

## 9. STATEMENT OF CONFIDENTIALITY

9.1 This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.



## 10. BACKGROUND PAPERS

10.1 The following background papers were used in the preparation of this report:

- National Planning Policy Framework (2022)
- National Planning Practice Guidance (2019)
- North Devon and Torrige Local Plan (2018)
- North Devon and Torrige Local Plan Affordable Housing Supplementary Planning Document (2022)
- Report on the Examination of the North Devon and Torrige Local Plan (September 2018).

## 11. CORPORATE PRIORITIES

11.1 The North Devon Council and Torrige District Council Corporate Priorities have been considered in the drafting of the report.

## 12. STATEMENT OF INTERNAL ADVICE

12.1 The author confirms that advice has been taken from all appropriate Councillors and Officers:

- Cllr P. Watson (TDC) Lead member for Planning and Development;
- Cllr M Prowse (NDC) Lead Member for Economic Development and Strategic Planning Policy;
- Sarah-Jane Mackenzie Shapland (NDC) Head of Place, Property and Regeneration