

A Local Plan for

Lancaster District

2020 – 2031

Plan period 2011 - 2031



**Viability Protocol Supplementary
Planning Document**
[February 2022]

Contents

| | |
|--|----|
| Executive Summary | 2 |
| 1.0 Introduction | 3 |
| 2.0 Viability Assessment | 4 |
| 3.0 Viability Assessment Inputs | 7 |
| 4.0 Revising Affordable Housing Provision and Contributions | 10 |
| Appendix A –Agreement to Pay for Independent Review and Declaration in Relation to the Information Submitted | 13 |
| Appendix B – Independent Review | 15 |
| Appendix C – Example Table for Viability Assessment..... | 16 |

Executive Summary

This Viability Protocol Supplementary Planning Document (SPD) sets out overarching principles for how the Council will approach development viability, where this is a consideration as part of the planning process. It provides guidance on the details that should be included in Viability Assessments and the Council's approach to considering viability matters. The guidance and the approach are consistent with the National Planning Policy Framework (NPPF), national Planning Practice Guidance (PPG) and the RICS - Assessing viability in planning under the National Planning Policy Framework 2019 for England 1st edition, March 2021.

Where an applicant seeks to reduce the affordable housing and/or S106 contributions required by planning policies for viability reasons, the onus is on the applicant to provide evidence to support the case. The evidence set out in this SPD must be made publicly available, an approach which supports accountability for communities by enabling them to understand the key inputs to and outcomes of viability assessments.

This SPD provides detailed guidance about the information and evidence which will be required to be submitted with an application. It must be accompanied by an executive summary which should include the following information:

- Gross development value (i.e. the scheme revenue)
- Benchmark land value including landowner premium (the Planning Practice Guidance: Viability, available online, sets out the required approach to establishing the Benchmark Land Value)¹
- Costs:
 - Plot construction costs (i.e. foundations to roof)
 - Standard external costs (i.e. plot externals, roads, paving, landscaping, drainage, service connections)
 - Abnormal costs
 - Site Specific infrastructure
 - Policy requirements (Section 106/Community Infrastructure Levy)
 - Financing (e.g. loans)
 - Professional fees (e.g. marketing, legal, architects, overheads)
 - Contingency
 - Other (Please Detail)
- Developer return (the Planning Practice Guidance: Viability provides guidance on suitable developer profit levels)²
- An explanation of how the values and costs have been arrived at including supporting evidence
- How the viability assessment has informed the planning application
- Developer contributions compared to policy requirements
- An explanation of the exceptional circumstances why the proposal would be unviable if a policy compliant scheme was to be provided

Further detail is provided within the body of this document.

¹ Planning Practice Guidance Paragraph: 014 Reference ID: 10-014-20190509, Paragraph: 015 Reference ID: 10-015-20190509, Paragraph: 016 Reference ID: 10-016-20190509, Paragraph: 017 Reference ID: 10-017-20190509

² Planning Practice Guidance Paragraph: 018 Reference ID: 10-018-20190509

1.0 Introduction

1.1 The Lancaster Local Plan (the Local Plan), consists of the following documents:

- Strategic Policies and Land Allocations Development Plan Document (DPD) (2020)
- Development Management DPD (2020)
- Arnside and Silverdale Area of Outstanding Natural Beauty DPD
- Morecambe Area Action Plan DPD

Once adopted the Climate Emergency Review of Strategic Policies and Land Allocations Development Plan Document and the Climate Emergency Review of Development Management Development Plan Document will supersede the currently adopted. The Council is also drafting a Lancaster South Area Action Plan which on adoption will form part of the Local Plan.

1.2 There are also a series of Neighbourhood Plans which contain policies for development management purposes.

1.3 The Local Plan can be viewed on the Council website:

<http://www.lancaster.gov.uk/planning/planning-policy/about-local-plan>

1.4 The policies in the Local Plan seek to ensure that development is sustainable. It does this by focusing development in locations which reduce the reliance on the private car and ensuring that new development provides the infrastructure it needs, such as education places and schools, sustainable travel (including cycleways, footpaths, public transport) and outdoor recreation space. Policies also seek to ensure development meets environmental criteria, provides for affordable housing and contributes to or provides for the delivery of other strategic infrastructure where appropriate. Policies DM3 and DM58 address the provision of affordable housing and infrastructure. They refer to cases where there may be viability issues and state that in these cases an open book Viability Assessment will be required. Both policies refer to this Viability Protocol and the need to accord with the guidance and principles within it.

1.5 The Local Plan is supported by an evidence base, including the Local Plan Viability Assessment (Stage One and Stage Two) and the Arnside and Silverdale AONB DPD Viability Assessment. These documents considered the combined effect of the policy requirements in the Local Plan to ensure that their impact does not threaten the delivery of housing and employment growth together with the associated infrastructure envisaged in the Local Plan. As part of the Climate Emergency Local Plan Review (CELPR), a new Local Plan Viability Assessment has been produced to consider the impact of enhanced policies to address climate change on viability and the margin available for the introduction of a Community Infrastructure Levy. This Viability Assessment will be subject to consultation and examination as part of the CELPR process.

1.6 There may be exceptional circumstances³, such as when the abnormal costs associated with a scheme, result in a policy compliant development not being considered viable by the developer. In such cases, the developer may ask for policy requirements to be relaxed to enable a development to go ahead. It is up to the developer to provide robust viability evidence to support their case. The PPG places the onus on an applicant to justify these circumstances stating, '*It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the planning application stage*'⁴.

³ Planning Practice Guidance Paragraph: 007 Reference ID: 10-007-20190509 identifies example circumstances

⁴ Planning Practice Guidance Paragraph: 007 Reference ID: 10-007-20190509

- 1.7 This Viability Protocol Supplementary Planning Document (SPD) sets out the overarching principles for how the Council will approach development viability, where this is a consideration as part of the planning process. The protocol does not alter planning policy but provides guidance on the details that should be included in Viability Assessments and the Council's approach to considering viability at the planning application stage. Using this SPD should help minimise delays in determining a planning application. The guidance and the approach are consistent with the National Planning Policy Framework (NPPF) and national Planning Practice Guidance (PPG).
- 1.8 This SPD is being producing in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012. Once adopted, this SPD will be afforded appropriate weight in decision making.

2.0 Viability Assessment

When Is A Viability Assessment Required?

- 2.1 The Local Plan includes a range of policies to ensure that development is sustainable, makes appropriate arrangements for the provision of strategic and local infrastructure and affordable housing and does not adversely affect existing services and infrastructure. The PPG is clear that the onus is upon the applicant to justify why they seek to reduce affordable housing and/or other S106 contributions. It states, *"It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage."*⁵
- 2.2 Where an applicant seeks to reduce policy requirements and infrastructure contributions (such as those set out in policy DM3: Affordable Housing, DM27: Open Space and Recreational Facilities and DM58: Infrastructure Delivery and Funding) for potential viability reasons, the Council will require applicants to submit an open book viability assessment in line with government guidance as part of the planning application submission. This will allow the Council to determine whether the proposed departure from policy is justified. Where financial contributions, onsite infrastructure or off-site works (such as flood mitigation measures or highway safety and transport capacity measures and other strategic infrastructure) are necessary to ensure that a proposal is sustainable, applications will normally be refused, unless alternative appropriate arrangements can be made to secure the mitigation necessary to make the development acceptable in planning terms.
- 2.3 The applicant should discuss the scope of the Viability Assessment as part of the pre-application advice process. The requirements outlined in sections 3.0 and 5.0 of the SPD reflect those necessary for major development schemes. A pared down version may be appropriate for minor development where affordable housing is required in the district's two Areas of Outstanding Natural Beauty.

⁵ Planning Practice Guidance – Paragraph:007 Reference ID: 10-007-20190509

2.4 A Viability Assessment should include:

- An executive summary, including the information outlined at paragraph 5.2.
- A detailed financial viability assessment in accordance with the RICS guidance⁶ containing as a minimum the information set out in Section 5 and Appendix C of this SPD.
- Supporting evidence and an explanation which demonstrates how the assumptions have been determined to inform the viability assessment together with supporting evidence.

Further detail is provided in Section 5.

2.5 Where the viability case is supported by an independent review, the Council will expect the developer to explore and present to the Council possible changes to the scheme to improve viability. The Council will consider a range of options to ensure that the development provides the highest level of affordable housing and infrastructure provision (including, where appropriate, strategic infrastructure) viably possible. Amendments could include changing the tenure of the affordable housing, the phasing of affordable housing delivery, the house types, layouts and materials to reduce costs and/or increase revenue. The Council will consider the application in the context of proposed mitigation, any justifiable circumstances which result in affordable housing and infrastructure contributions required by planning policies not being viable, benefits arising from the scheme and the Local Plan and national planning policies as a whole.

Transparency

2.6 The NPPF states, '*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.*'⁷

2.7 The Planning Practice Guidance (PPG) states that viability assessments should be '*transparent and publicly available*'⁸ and the RICS guidance states, '*All FVAs should be prepared on the basis that they will be made publicly available*'.⁹ The Environmental Information Regulations (2004) recognise the benefits of public participation and include a presumption in favour of disclosure. This approach has been upheld in the High Court.¹⁰

2.8 It is important to note that this information will be made available in the public domain. In submitting development viability information, applicants do so in the knowledge that this will be made publicly available. A planning application will not be made valid where it is indicated the applicant is seeking to reduce affordable housing provision or S106 contributions, unless it is accompanied by an 'open book' viability assessment.

2.9 As viability assessments usually contain standardised inputs in line with the PPG, data will not usually be specific to a developer and they will not contain commercially sensitive information. Even if some elements are commercially sensitive, they can be aggregated and published to avoid disclosure of sensitive material. In exceptional cases, where the disclosure of commercially sensitive data is necessary and an applicant requests that a redacted version is made public, clear

⁶ ⁶ Assessing viability in planning under the National Planning Policy Framework 2019 for England 1st edition, March 2021

⁷ National Planning Policy Framework (Feb 2019) – Paragraph 57

⁸ Planning Practice Guidance - Paragraph: 010 Reference ID: 10-010-20180724

⁹ Assessing viability in planning under the National Planning Policy Framework 2019 for England 1st edition, March 2021

¹⁰ The Queen on the application of Holborn Studios Limited and London Borough of Hackney and GH (Eagle Wharf Road) Limited - [2020] EWHC 1509 (Admin)

justification showing the adverse effect publication of the sections to be omitted would have, must be given. The Council will consider the justification in the context of the 'adverse effect' and 'public interest' tests within the Environmental Information Regulations.

- 2.10 As land value should be reached in accordance with the guidance in the PPG and not on the price agreed between the applicant and landowner, this information will not be considered commercially sensitive.
- 2.11 The Council will require a declaration to minimise the submission of inaccurate or misleading information (see Appendix A). The statement should confirm that:
- The information provided is accurate.
 - The applicant has not instructed any agent to formulate the viability assessment under an arrangement where their fee is increased if they are successful in reducing infrastructure contributions and affordable housing provision.
- 2.12 An executive summary, as outlined at paragraph 5.2 should be included which explains the costs and gross development value in layman's terms to ensure that the financial data is accessible to members of the public without a financial or development background.
- 2.13 The transparency of the applicant's approach may have a bearing on the weight to be attached to a Viability Assessment in decision making.

Independent Review

- 2.14 Where an applicant seeks to reduce the policy compliance of the proposed development including affordable housing obligations and section 106 contributions they must be prepared for the financial data and supporting evidence to be independently reviewed, the cost of which must be met by the applicant. The applicant must enter into an agreement to reimburse the cost to the Council when the application is submitted. If material changes are made to an application after submission that could affect scheme viability, a revised viability assessment may be required and subsequent costs will be incurred.
- 2.15 The Council will commission an independent review which will appraise the assumptions made in the financial data, the proposed construction work costs and supporting documents supplied by the applicant. The assessment will review the sales prices, all development costs including site specific abnormal/infrastructure costs, engineering proposals, developer profit, finance and site value to determine whether the assumptions and proposals are acceptable or whether revisions are required in order to make the development more policy compliant and which may result in an increased amount of affordable housing and/or S106 contributions.
- 2.16 The independent review will require one or all of the following:
- a) Assessment of the viability assessment/financial data submitted by the applicant, by the Councils appointed RICs qualified viability consultant.
 - b) Assessment of the build costs, abnormal and external costs by an Engineer and/or Quantity Surveyor appointed by the Council.
 - c) Assessment of the proposed abnormal works to determine if they are the most appropriate and cost-effective method to address on site issues by appropriate qualified consultants appointed by the Council.

- 2.17 It is expected that the viability assessment of financial data and the assessment of costs by a Quantity Surveyor will be required in all cases. The scope of the independent review can be determined as part of the pre-application advice service.
- 2.18 An agreement for cost reimbursement and declaration with regard to the accuracy of information submitted is attached at Appendix A. The fees for independent viability assessments are published on the Council website together with information with regard to the costs associated with Quantity Surveyor and engineer assessments. Additional information can be found at Appendix B and on our website.
- 2.19 The independent viability assessment, Quantity Surveyors and engineers' assessments will usually be commissioned once the layout, design and engineering works have been agreed and information is available with regard to the infrastructure contributions required. This will ensure that the viability assessment is carried out using the scheme which is likely to proceed to a decision. The assessments can be commissioned earlier to avoid delays. For this to be effective an application will need to be submitted with comprehensive financial and costs information. If further amendments or revisions to the applicant's viability appraisal are submitted following the independent assessment, a further fee for an update will be required.

3.0 Viability Assessment Inputs

General Requirements

- 3.1 The assumptions used in a viability assessment should usually be sourced from evidence from an independent expert or publicly accessible resource.
- 3.2 The information submitted should be consistent with the information the applicant has used to decide whether to proceed with the development. For example, where BCIS is used, the quartile etc. used should reflect the expected build cost.
- 3.3 The inputs referred to below are not an exhaustive list of requirements. This section aims to add guidance and detail about some of the inputs required.

Development Values

- 3.4 Assumptions should be justified with references to up-to-date transactions and market evidence comparable to new builds within a reasonable distance of the site. Where directly comparable information is not available, transactions should be adjusted to ensure it reflects site circumstances.
- 3.5 Applicants should engage with Registered Providers (RPs) early on in the process to ensure that the type, size, tenure and specification of new the homes are appropriate for transfer. Affordable housing values should reflect discussions with and offers made by RPs. RPs generally pay 70% of open market value for shared ownership properties and 50% for affordable rented properties and these figures should be used in viability assessments unless evidence and justification for a lower figure is provided.

Land Value

- 3.6 Benchmark Land Value (BLV) should be determined in accordance with the PPG and RICS guidance primarily using the 'existing use value plus' (EUV+) approach. The plus or premium, should be adjusted to provide a minimum incentive to landowners to bring forward land while providing policy compliant contributions and also appropriately reflecting the abnormal/s/site

specific infrastructure costs associated with the site.

- 3.7 The existing use value must reflect the existing use of the land/property (for example agricultural use) and must exclude any 'hope value' for future development. The value should be assessed with all the policy requirements, including the full infrastructure and affordable housing requirements, and take account that previous land sales would not necessarily reflect the policy requirements in the adopted Local Plan.
- 3.8 Development costs, including abnormal costs and site-specific infrastructure costs should be taken into account when defining BLV. Where this results in a BLV below the minimum required to bring a site forward for development, a balance must be struck between the value required to bring a site forward for development and providing a policy compliant scheme.
- 3.9 The guidance suggests that benchmark land values agreed on other schemes can provide a useful source of evidence. It also states that land transactional evidence can be used as a general 'sense check', however the guidance does suggest that benchmark land values can vary significantly from prices paid, which reduces the weight that should be applied to land transactions when assessing benchmark land values. Market evidence must be adjusted to take account of planning policy requirements to comply with paragraph 16 of PPG which states, '*any data used should reasonably identify any adjustments necessary to reflect the cost of policy compliance (including for affordable housing)*'¹¹ This approach has been supported in the High Court¹².
- 3.10 Research published by RICS found that the 'market value' approach is not being applied correctly and "*if market value is based on comparable evidence without proper adjustment to reflect policy compliant planning obligations, this introduces a circularity, which encourages developers to overpay for site and try to recover some or all of this overpayment via reductions in planning obligations*"¹³ Use of a market-based approach based upon previous non-policy compliant sales, for determining land value is therefore not acceptable.
- 3.11 In summary, in accordance with the RICs guidance, when presenting land value, the following should be considered:
- Current Use Value or Existing Use Value.
 - The Premium.
 - Total Benchmark Land Value.
 - Market Evidence adjusted for policy compliance.
 - Policy compliant value assessed by the residual method.
 - Alternative Use Value (where appropriate).
- 3.12 '*A statement must be included in the FVA¹⁴ or review of the applicant's FVA or area-wide FVA that explains how market evidence and other supporting information has been analysed and, as appropriate, adjusted to reflect existing or emerging planning policy and other relevant considerations.*'
- 3.13 '*Under no circumstances will the price paid for the specific site be a relevant justification for failing*

¹¹ Planning Practice Guidance - Paragraph: 016 Reference ID: 10-016-20190509 Revision date: 09 05 2019

¹² Parkhurst Road Ltd v Secretary of State for Communities and Local Government and London Borough of Islington – [2018] EWHC 991 (Admin)

¹³ RICS Financial Viability Appraisal in Planning Decisions: Theory and Practice (April 2015)

¹⁴ Financial Viability Appraisal

to comply with relevant policies in the plan'. 'This means that the actual price paid for a site cannot be used to reduce developer contributions'.¹⁵

3.14 Alternative Use Value (AUV) can be used to determine BLV. In using AUV, the Viability Assessment must:

- Explain how the proposed use would comply with planning policy.
- Provide evidence that there is market demand for the alternative use.
- Provide evidence that it could be implemented.
- Explain why the alternative has not been pursued.
- Take account of the development costs for the alternative use.
- Take account of cost savings arising from Vacant Building Credit.

3.15 Land value based on AUV already includes the premium for the landowner, this should not be included to prevent double counting.

Development Costs

3.16 The NPPF¹⁶ and PPG¹⁷ recommends the use of standardised inputs into a viability assessment. Build costs should be provided as follows:

- BCIS figures. Justification for the rate used should be provided. These should be quoted per internal square metre and for each house type. It should be stated when the BCIS figures were dated, what they were rebased to and whether this was based on the default or 5 year figure.
or
- Actual build cost data, provided per square metre and for each house type. The build costs should be supported by evidence in the format of a Quantity Surveyor Cost Report.

3.17 Where a developer wishes to use BCIS figures, there may be specific parts of a development, such as the use of natural stone or bespoke design features to reflect a sensitive location which will increase costs above BCIS. In these cases, the cost evidence can be contained to those areas. The costs should be provided for each item per square metre (or equivalent), the amount of each item to be used and the overall cost of each item.

Abnormal and External Costs

3.18 Abnormal costs should be taken into account when agreeing the value of the land. Abnormal costs include those relating to the treatment of contaminated sites, listed buildings, abnormal foundations, cut and fill abnormal drainage works, demolition etc. (this list is not exhaustive).

3.19 Abnormal and external costs must be accompanied by robust and costed specialist reports (Engineer/Quantity Surveyor reports), including full technical data and justification to support the costs. Simply including costs will not suffice. All the supporting information should be submitted at the outset with the planning application.

Policy and S106 Costs

3.20 Costs associated with planning policies such as open space contributions, education

¹⁵ Assessing viability in planning under the National Planning Policy Framework 2019 for England 1st edition, March 2021

¹⁶ National Planning Policy Framework (Feb 2019) - Paragraph 57

¹⁷ Planning Practice Guidance - Paragraph 010 Reference ID: 10-010-20180724 Revision date: 24 07 2018

contributions, costs which may arise from carbon reduction requirements in the Climate Emergency Local Plan Review and S106/S278 infrastructure costs.

Affordable Housing

- 3.21 Affordable housing values should be based upon 70% of open market value or shared ownership and 50% of open market value for affordable rented. Where proposed values fall below these figures, confirmation from the Registered Provider will be required in the form of a transfer agreement or informal offers from Registered Providers. Developers usually approach more than one Registered Provider. Where details of informal offers are provided to support a lower value for affordable housing, a developer will be expected to provide details of all informal offers or responses received.

Profit

- 3.22 All profit should be applied to the net sales revenue and be in keeping with the requirements of the viability guidance.
- 3.23 Profit levels for affordable housing should reflect significantly lower risk levels. Lower levels of return would also be expected for commercial and private rented accommodation.

4.0 Revising Affordable Housing Provision and Contributions

- 4.1 Where it is agreed that a reduction in the affordable housing provision is justified, the Council will first consider amendments to the tenures, size and type of housing or amended phasing triggers to determine if an alternative mix or delivery structure would improve viability and provide the affordable housing to meet local needs.
- 4.2 In some cases, flexible arrangements relating to the timing and level of planning obligations (including nature of provision – financial or ‘in kind’) may be considered if the scheme would otherwise not be able to proceed.
- 4.3 On large sites that are expected to be built out over a period of time or in phases, viability may need to be re-assessed at different points (such as prior to the commencement of each phase). The Council will consider whether viability needs to be assessed at various stages throughout the development and may include requirements for a review of the assessment prior to the commencement of each stage. This kind of review mechanism would normally be included in a S106 agreement. A viability review mechanism may also be required to be incorporated within S106 agreements for larger sites that do not provide a policy compliant level of planning obligations at the outset, due to viability. This will be triggered by specified development milestones, with a view to reassessing whether the Council can secure policy compliant developer contributions later in the development.
- 4.4 Where a developer seeks an extension to a site they are developing, or have recently developed, and they seek to reduce affordable housing or infrastructure contributions, a new viability assessment will be required. The viability assessment must re-assess the whole site. Actual build and sales costs arising from the original site can be used and should be supported by evidence.
- 4.5 The Council will carefully consider the range of developer contributions to ensure any reductions justified by viability are made with reference to the specific policy priorities for the area.

5.0 Viability Assessment Requirements

- 5.1 Viability Assessments submitted in support of a reduction in affordable housing or other infrastructure contributions should be in accordance with the RICS guidance, the PPG and contain the following information, all of which should be supported by evidence:

| |
|--|
| Land values – for the existing use, the benchmark land value and residualised land value (per acre/hectare and for the site as a whole), the premium applied and market evidence where this has been used. Where a value has been agreed with a land owner the agreed price may also be provided but this will not form the basis of the viability assessment. |
| Gross and net area of development (in hectares and acres) |
| Number of and floor area of each unit type (in metric) The split between market and affordable homes GIA for residential, GIA for industrial, both for offices and retail |
| Build costs based BCIS per square metre together with justification for the rate used or actual build costs where they are supported by evidence, such as a Quantity Survey Cost Report, and compared with published BCIS costs |
| Abnormal, external and infrastructure costs should be supported by robust and costed specialist reports, including a Quantity Survey Cost Report and full technical data to support the costs, all inputs should be provided in metric |
| Planning policy costs such as carbon reduction uplift and biodiversity net gain supported by evidence, education and health contributions |
| Contingency costs |
| Costs such as design, legal, consultants, planning, marketing and legal etc |
| Build programme and phasing |
| Finance rates and fees |
| Developers profit and an explanation of what it is made up of – company or financiers' requirements |
| Anticipated sales and/or rental price for each unit type – supported by evidence of market sales prices for similar products and locations |
| Assessment showing the development finances with the affordable housing requirements within the Local Plan and any associated infrastructure contributions |
| Evidence of engagement with RPs |
| The RP price agreed for purchase or if not agreed, the assumed price in accordance with this SPD |

Confirmation that the applicant will pay the cost of the independent review prior to it being commissioned and confirmation that the information submitted is accurate (see template in Appendix A)

5.2 An Executive Summary, which explains the costs and net development value in layman's terms, to ensure that the financial data is accessible to members of the public without a financial or development background will be required. The Executive Summary should also set out the required and proposed affordable housing and other S106 contributions and an explanation of the exceptional circumstances why the proposal would be unviable if a policy compliant scheme was to be provided. The Executive Summary must also include the following information:

- Gross development value (i.e. the scheme revenue)
- Benchmark land value including landowner premium (the Planning Practice Guidance: Viability, available online, sets out the required approach to establishing the Benchmark Land Value)¹⁸
- Costs:
 - Plot construction costs (i.e. foundations to roof)
 - Standard external costs (i.e. plot externals, roads, paving, landscaping, drainage, service connections)
 - Abnormal costs
 - Site Specific infrastructure
 - Policy requirements (Section 106/Community Infrastructure Levy)
 - Financing (e.g. loans)
 - Professional fees (e.g. marketing, legal, architects, overheads)
 - Contingency
 - Other (Please Detail)
- Developer return (the Planning Practice Guidance: Viability provides guidance on suitable developer profit levels)¹⁹
- An explanation of how the values and costs have been arrived at including supporting evidence
- How the viability assessment has informed the planning application
- Developer contributions compared to policy requirements
- An explanation of the exceptional circumstances why the proposal would be unviable if a policy compliant scheme was to be provided

5.3 In some cases, the following information may also be requested to support an applicant's assumptions:

- Developers market analysis report
- Sensitivity analysis showing different assumptions/options
- Information about the costs of non-residential uses (to be provided in the same format as residential data)

Where this additional information is agreed to be commercially confidential/sensitive, the documentation will not be published, or appropriate redactions will be made prior to publication.

¹⁸ Planning Practice Guidance Paragraph: 014 Reference ID: 10-014-20190509, Paragraph: 015 Reference ID: 10-015-20190509, Paragraph: 016 Reference ID: 10-016-20190509, Paragraph: 017 Reference ID: 10-017-20190509

¹⁹ Planning Practice Guidance Paragraph: 018 Reference ID: 10-018-20190509

Appendix A – Agreement to Pay for Independent Review and Declaration in Relation to the Information Submitted

An undertaking will be expected as part of a viability submission to ensure that the developer agrees to pay for the independent review and confirms that the information submitted is accurate. The Council will expect undertaking to be in the form and of the substance of the template below.

Agreement to pay the Council’s Costs of Independent Review [and to provide a declaration in relation to the viability assessment]

Date:

Parties:

- 1) **[Name]** of [registered office address] and registered in England and Wales with company number [number] (**‘the Applicant’**)

- 2) **Lancaster City Council** of Town Hall, Dalton Square, Lancaster LA1 1PJ (**‘the Council’**)

Definitions:

Development: means [INSERT DESCRIPTION OF DEVELOPMENT] on the land know as [INSERT SITE ADDRESS]

Planning Application: means the planning application known to the Council by reference number [INSERT REFERENCE] relating to the Development

SPD: means the Council’s Viability Protocol Supplementary Planning Document 2011 – 2031 (January 2021) as amended from time to time.

The Review: an assessment of the Applicant’s data and information for the purpose of viability assessment following application for planning permission by Independent professionals appointed by the Council.

Background:

- A. The Council is to appoint a suitably qualified and skilled professionals to make an independent review (**‘the Review’**) of the data and information provided by the Applicant in its Planning Application and viability assessment, in accordance with the terms of its SPD.
- B. The Review will be carried out prior to the determination of the Planning Application.
- C. The costs of the Review shall be in accordance with the Schedule on the Council Website and in accordance with Appendix C of the SPD.
- D. In most cases, the Applicant will be required to pay the costs of the Review in advance of its commissioning.

- E. Where in the Council's reasonable opinion the scope of the Review requires it, the Applicant may be called upon to reimburse the Council for additional fees incurred in consequence of any revision of the scope of the Review and the further work need to complete the Review.
- F. The Council has requested a declaration from the Applicant in the form given at clause 5.

The Review:

- 1. The Council will use reasonable endeavours to inform the Applicant about:
 - a. The scope and indicative costs prior to the Review; and/or
 - b. Any additional costs incurred throughout

as soon as reasonably practicable.
- 2. The Applicant agrees to pay the reasonable costs incurred by the Council of the Review in full (and inclusive of any VAT charged to the Council, where applicable) within 30 days upon written request by the Council.
- 3. The Applicant agrees that if it fails to pay the Council's costs after 28 days of the written request, the Council may charge interest on top of the costs of the Review at 4% above the Barclays Bank's base rate.
- 4. The Applicant acknowledges that this agreement forms a legally binding commitment to pay the Council's costs in order to enable the Council to commission and obtain the Review.

Declaration by the Applicant in relation to the information provided in its viability statement:

- 5. The Applicant confirms that the following is true to the best of its knowledge:
 - a. That the information provided in its viability assessment (along with all supporting evidence and documentation) is true and accurate;
 - b. That it has not instructed any agent/professional to formulate the viability assessment under any arrangement whereby that agent/professional receives any kind of inducement or benefit (financial or otherwise) should the Applicant be successful in reducing its planning contributions or the extent of the planning obligations linked to the Development.

I confirm that I am authorised by the Applicant to sign this agreement on its behalf.

Signed on behalf of the Applicant:

Name and position:

Date:

Signed on behalf of the Council:

Name and position:

Date:

Appendix B – Independent Review

In submitting a Viability Assessment with a view to reducing the provision of affordable housing and/or S106 contributions, the applicant agrees to pay the reasonable costs for independent assessment.

The Council has contracted an independent Viability Consultant to carry out the assessment of the financial information submitted with an application. The fees for the independent viability assessment are published on the Council website.

The costs are fixed and under them the viability consultant will:

- Carry out a detailed review of the planning file and all background information (including the feasibility report, cost consultant reports and viability assessments);
- Prepare a viability appraisal;
- Prepare a draft report, detailing their review of the applicant's assessment, identified evidence, appraisal and conclusions/recommendations. The draft report will be issued to the applicant for their review and rebuttal but not made public.
- Respond via email to any reasonable post-report queries/challenges raised by the applicant.
- At the discretion of the Council, 1 post report Teams meeting with the Council and applicant to discuss any queries to challenges.
- Issue the final report and appraisal which will be made public in accordance with Planning Practice Guidance, RICS Guidance and the Environmental Information Regulations 2004.

In most cases, an independent Quantity Surveyor's assessment of costs will also be required to support the viability assessment and in some cases an engineer's assessment may also be necessary to consider whether the extent and costs associated with engineering operations proposed are appropriate. The costs associated with these pieces of work will be agreed with the applicant on a case by case basis prior to the assessments being commissioned. The commissioning of a Quantity Surveyor/Engineer will take additional time as quotes will be obtained and an agreement sought with the applicant. Submission of appropriate information with the application will help speed up the process.

Appendix C – Example Table for Viability Assessment

| Viability Assessment Spreadsheet | |
|----------------------------------|--|
| Site Address | |
| Application Number | |
| Number of Units | |
| Number of Affordable Units | |
| % of Affordable Units | |
| Gross Site Area | |
| Net Site Area | |

| Gross Development Value | | | | | | | | | | | |
|-------------------------|----------------|---------|------------|----------------------------|-------------|-----------------------|----------------------|---------------------------|-----------------------------|---------------------------------|-------------------------------------|
| Unit Type | | | | Floor Area (m2) (per unit) | No of Units | Total Floor Area (m2) | Sales Value (per m2) | OM Sales Value (per unit) | Sales Value for Affordables | Total Sales Value for Unit Type | Clarification of Details |
| House Type Name | Semi, Flat etc | Bed No. | OM /AR /SO | | | | | | | | |
| | | | | | | | | | | | |
| | | | | | | | | | | | |
| | | | | | | | | | | | |
| Totals | | | | | | | | | | | Gross Sales/Development Value (GDV) |

| Gross Development Costs | | | | Clarification of Details |
|-----------------------------------|-----------|-----------------|--------|--|
| Acquisition Costs | £/Hectare | Area in Hectare | Totals | |
| Existing Use Value | | | | |
| Benchmark Land Value | | | | Site value to be based upon EUV+ to take full account of all costs, including planning policy requirements and contributions |
| Proposed Premium (£ per acre & %) | | | | |
| Residualised Value | | | | |
| Stamp Duty | | | | Actual based on HMRC current rate |
| Agent Fees | | | | |
| Legal Fees | | | | |
| Total Acquisition Cost | | | | |

| Construction Cost | | | | |
|---------------------------|-----------------------|----------|--------|--|
| Build Cost Per Unit Types | Total Floor Area (m2) | £ Per m2 | Totals | |
| | | | | Basic build costs to be supported by the evidence outlined at 5.1. Where not available, the BCIS figure should be used with supporting justification used. |
| | | | | |
| Garages | | | | |
| Build Cost Total | | | | |
| Contingency on Build Cost | | | | |
| Total Build Cost | | | | |

| External Works | | |
|-----------------------------|--------|---|
| Description of Item | Totals | Detailed costs supported by the evidence outlined at 5.1. |
| | | |
| Contingency | | |
| Total External Costs | | |

| Abnormal Costs |
|----------------|
| |

| Description of Item | Totals | Abnormal costs to be supported by the evidence outlined at 5.1. |
|-----------------------------|--------|---|
| | | |
| | | |
| Total Abnormal Costs | | |

| Policy/S106 Costs | | |
|---------------------------|--|---|
| Description of Item | | For example carbon reduction costs, open space contributions and education contributions, S106/S278 contributions |
| | | |
| | | |
| Total Policy Costs | | |

| | | |
|---------------------------------|--|---|
| Total Construction Costs | | Total of Build, Abnormal, External, Policy and Contingency Costs |
|---------------------------------|--|---|

| Other Costs | | | | |
|-----------------------------------|--|--|--|---|
| Description of Item | | | | The preference is for incentives to be taken off the sales values |
| Professional and Regulatory fees | | | | |
| Legal Fees (Open Market) | | | | |
| Legal Fees (Affordbale) | | | | |
| Marketing and Sales (Open Market) | | | | |
| Arrangement Fee | | | | |
| Total Other Costs | | | | |

| Finance | | | |
|------------------|-------------------|-------------------|--|
| Timescale | Duration (months) | Commencement Date | |
| Pre-Construction | | | |
| Construction | | | |
| Sale | | | |

| | | | |
|---|--|--------|--------------|
| Total Duration | | | |
| Debit Rate and Credit Rate % Nominal | | Totals | |
| Land | | | |
| Construction | | | |
| Other | | | Define other |
| Total Finance Costs | | | |

| Totals – GDV / GDC / Profit / Residual | | |
|--|-----------------|------------------------------|
| Net Development Value (after incentives) | | Total Sales |
| Gross Development Cost | | Total of all costs |
| Developer Profit | | As a % of net sales value |
| Residual | | GDV – GDC – Developer Profit |
| Benchmark Land Value | | |
| Development Viability | Viable/Unviable | |

| Performance Measures | | |
|----------------------------------|--|-------------------|
| Profit on Cost% | | |
| Profit of GDV% | | |
| Profit on NDV% | | |
| IRR | | |
| Profit Erosion (finance rate 6%) | | In years / months |