

Iain Painting

Barton Willmore

Planning and Viability

- Is viability a material planning consideration – Policy and Practice?
- What are the options open to you in response to an unviable site?
- What are the issues raised in re-negotiating extant S106 agreements?

Viability and Planning Policy and Practice:

Circular 5/2005

PPS3 & 'Delivering Affordable
Housing (Nov 2006)'

DCLG Letter - 12 May 2009

CiL

Circular 5/2005

“Decisions on the level of contributions should be based on negotiation ... over the level of contribution that can be demonstrated as reasonable ... whilst still allowing the development to take place.” (para B10)

and

“A planning obligation must be:
(iv) Fairly and reasonably related
in scale and kind to the proposed
development”. (para B5)

PPS3

Affordable Housing Target

“... Should ... reflect an assessment of the likely economic viability of land for housing ... taking account the risks of delivery and drawing on an informed assessment of ... (including) ... public subsidy and the level of developer contribution that can reasonably be secured.” (para 29)

Delivering Affordable Housing (Nov 2006)

“The availability of public subsidy...will have a significant impact upon the development viability of a site and the amount of affordable housing which can be provided”

and

If funding is not available ..(alternative options) ..could include reducing the overall number of affordable homes..” (Annex E, para 93)

DCLG Letter – 12 May 2009

“A key issue is how to ensure that the supply of land for housing is deliverable”.“When they are asked to do so, local planning authorities should be carefully reviewing whether obligations secured through Section 106 accord with the five principles set out in B5 of planning circular 05/05.”

The approach of the Inspectorate and Courts

West Bewbush AAP and
Blyth District Council

-v-

Persimmon Homes

Community Infrastructure Levy

Options

- Let permission lapse
- Explore funding
- Partial Implementation
- Vary S106

Partial Implementation

Need to ensure scheme is
capable of partial implementation

Vary S106

- Relax non-revenue land uses
- Relax financial contributions
- Relax off-site improvements
- Vary affordable housing
- (Health Warning re. EIA)

Viability Appraisal

- 'Tool-kit' and 'open book'
- Profit versus Risk
- Land Value
- Interest Costs
- Other Costs

Review and Overage

Not a land banking exercise!
Obligation to implement and review of
subsequent phases

Extend the life of the Permission

DCLG Consultation: Greater flexibility for
planning permissions (June 2009)

Thank you