



Ms A Apar
Civic Offices
High Street
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16th May 2020

Dear Amanda

Validation Reports Epping Forest College Sites - Fairview New Homes

You have sent me two documents prepared by Kift Consulting Ltd:

- Validation Of the: Viability Assessment Dated December 2019, Prepared By Fairview New Homes Ltd, In Respect of the Proposed Redevelopment At Epping Forest College Playing Fields (Site A), Borders Lane, Debden, Essex, IG10 3SA
- Validation Of the: Viability Assessment Dated December 2019, Prepared By Fairview New Homes Ltd, In Respect of the Proposed Redevelopment At Epping Forest College Playing Fields (Site B), Borders Lane, Debden, Essex, IG10 3SA

I have not seen any of the original documentation submitted by Fairview Homes.

You have asked me a very specific question:

We would appreciate it if you could to look at the attached KIFT reports on these to see how assumptions vary from those used from the local plan work and also to reassure us that they are approaching the assessment in accordance with latest government guidance etc.

You have not asked us to carry out a viability assessment submitted by Fairview Homes. Having said this HDH Planning & Development Ltd is a firm regulated by the Royal Institution of Chartered Surveyors (RICS), as such it is necessary to have regard to RICS Professional Standards and Guidance. There are two principle pieces of relevant guidance, being the *Financial viability in planning: conduct and reporting RICS professional statement, England (1st Edition, May 2019)* and *Financial Viability in planning (1st edition), RICS guidance note 2012*.

Financial Viability in planning (1st edition), RICS guidance note 2012 is currently subject to a full review to reflect the changes in the 2019 NPPF and the updated PPG. As part of the review, *Financial viability in planning: conduct and reporting. 1st edition, May 2019* was published in May 2019. This includes mandatory requirements for RICS members and RICS-regulated firms.

Whilst this review is not a viability study, HDH confirms that the May 2019 Guidance has been followed. In essence the guidance requires us to be objective (i.e. to seek the correct answer, rather than the best answer to support a particular argument), and to be transparent with the expectation for our comments and conclusions to be evidenced and the expectation that our advice may be published.

I have separated your question into two parts – and am responding in reverse order.

Before responding I think that I should comment on what you have asked Kift to do. Kift set out their instructions at the start of their report:-

The validation exercise that we want from you in relation to this development should be based on the following summary brief:

- 1) To review the documentation submitted by the applicant for the proposed development, in particular, the financial viability appraisal attached above.*
- 2) To obtain from the applicant direct any required evidence or information you require to validate the appraisal;*
- 3) To provide a draft written report to the Council for comment, on your professional assessment of the applicant's financial appraisal within 10 working days of formal appointment;*
- 4) To include in your draft and final written reports:*
 - a. Your validation of the viability appraisal, using assumptions (including where appropriate the applicant's), evidence and any other information you consider appropriate;*
 - b. Your professional view on whether the proposed development could viably provide the level of affordable housing required by the Council's emerging Local Plan as part of the overall proposed housing provision;*
 - c. If the Council determined that the site was not deemed suitable for on-site affordable housing provision, the amount of financial contribution the applicant would be able to provide, for off-site provision elsewhere in the district, subject to the scheme remaining viable;*
 - d. If a review mechanism can be applied or used to secure the maximum level of affordable housing or contribution when viability improves.*
- 5) To provide your final report within 3 working days of receiving the Council's comments on the draft report.*

I have not seen the full brief, but these instructions are typical of those from before the PPG was updated in 2018. They do not specifically require the assessment / validation to be carried out following the approach set out in the PPG. They are for a technical review of appraisal submitted – rather than consideration of whether an appraisal should be submitted and how it should be considered.

Has the assessment been prepared in line with the latest government guidance?

The NPPF was updated in 2018. This contained new provisions around viability which came into immediate effect and there were no transitional arrangements (unlike other areas – for example setting the housing target). The NPPF was further updated in 2019. It is therefore necessary for viability to be considered in the context of the 2019 NPPF.

As in the 2012 NPPF (and 2018 NPPF), viability remains an important part of the plan-making process. The 2019 NPPF does not include detail on the viability process, rather stresses the importance of viability. The main change is a shift of viability testing from the development management stage to the plan-making stage.

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. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. 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.

2019 NPPF Paragraph 57

Looking at the various components of this:-

- a) 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.

The Council's adopted Local Plan (1998) is rather old, however when read with the Local Plan Alterations (2006) and the wider documents is considered to be an up to date plan and in compliance with the 2019 NPPF and updated PPG.

The new Epping Forest District Council Local Plan was submitted to the Secretary of State for examination in public during September 2018. The hearings took place last year and the Council has responded to the Inspectors initial findings. Bearing in mind the advanced stage of the Plan it is appropriate it give it weight.

As set out below, the PPG provides advice in regard to the viability evidence in this regard.

- b) It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.

As set out below, the PPG provides examples of what circumstances may apply. We have not seen the applicant's submissions so can not comment in this regard, and Kift have not addressed this in their reports.

- c) The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force.

The purpose of Kift's report is to consider the viability papers submitted by the applicant. This will be used by the Council – as the decision maker – in determining the application. Kift's advice stops short of considering the weight to be given to their report and the applicant's evidence, saying in Section 13 of both reports:

We should stress that for the purposes of this report, any assumptions made regarding affordable housing units (on or off site, or financial contribution) or documents submitted by the applicant and referred to here are for the purposes of financial viability alone.

Nothing in this report should be interpreted as being either supportive or unsupportive of the planning application or in terms of planning policy

They are specifically not advising whether or not the affordable housing be adjusted for these sites. Generally, we would now (i.e. following the publication of the 2019 NPPF and updated PPG) expect the assessment of an applicant's viability evidence to conclude with comment on the weight to be given to it. It would appear that Kift has taken the approach that this is beyond the scope of their instructions.

- d) 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.

Kift to not make an assessment of whether the applicant's submissions '*reflect the recommended approach in national planning guidance, including standardised inputs*'. We have not seen the applicant's submissions so cannot comment whether that complied with this part of the NPPF.

The 2019 NPPF does not include technical guidance on undertaking viability work. This is included within the PPG, the viability sections of which were updated in July 2018 and again in May 2019. The CIL sections of the PPG, which cross reference viability, were updated in September 2019.

The PPG is divided into sections on plan-making, development management and 'standardised inputs, which are common to both stages. The key paragraphs are 10-007 and 10-008.

Should viability be assessed in decision taking?

Where up-to-date policies have set out the contributions expected from development, planning applications that fully 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. Policy compliant in decision making means that the development fully complies with up to date plan policies. A decision maker can give appropriate weight to emerging policies.

Such circumstances could include, for example where development is proposed on unallocated sites of a wholly different type to those used in viability assessment that informed the plan; where further information on infrastructure or site costs is required; where particular types of development are proposed which may significantly vary from standard models of development for sale (for example build to rent or housing for older people); or where a recession or similar significant economic changes have occurred since the plan was brought into force.

Paragraph: 007 Reference ID: 10-007-20190509

Whilst the adopted Plan is somewhat aged, for the purpose of viability, in relation to these sites, the Plan is up to date. If that position is not actually the case, then because the new Local Plan is well developed it can be given substantial weight. The adopted Local Plan (Policy H7A) seeks 40% affordable Housing (on the basis Debden has a population of more than 3,000) and requires

development (Policy I1A) to provide appropriate infrastructure and mitigation. These policies, in terms of the determination of these applications, are broadly similar to the Affordable Housing policy (H2) and the Delivery of Infrastructure policy (D1) in the Draft Epping Forest District Council Local Plan. I am sure lawyers could argue about this – but both plans ask for much the same.

Under 10-007, the first stage is for the Applicant to demonstrate whether one of the four following circumstances has occurred:

- The site is of a wholly different type to those used in the plan-wide viability assessment.
- Further information on infrastructure or site costs is required.
- Where the scheme is under a non-standard model (for example build-to-rent or housing for older people).
- There has been a recession or similar significant economic change.

We have not seen the applicant's submissions, however the Kift reports do not consider whether or not it is appropriate to consider viability. If the applicant has made the case (under one of the 4 tests), then it is appropriate to go on and consider the viability assessment. Conversely if the applicant has not made the case for considering viability, then there is little justification for the Council (if following the PPG) to consider viability.

Whilst straying from the question you ask, bearing in mind these sites are the redevelopment of a school so they will be of 'a wholly different type to those used in viability assessment that informed the plan'. I don't have sufficient information to comment further on this.

The PPG then sets out the process for considering viability at the development management stage.

How should a viability assessment be treated in decision making?

Where a viability assessment is submitted to accompany a planning application this should be based upon and refer back to the viability assessment that informed the plan; and the applicant should provide evidence of what has changed since then.

The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and viability evidence underpinning the plan is up to date, and site circumstances including any changes since the plan was brought into force, and the transparency of assumptions behind evidence submitted as part of the viability assessment.

Any viability assessment should reflect the government's recommended approach to defining key inputs as set out in National Planning Guidance.

Paragraph: 008 Reference ID: 10-008-20190509

The process now required is a compare and contrast exercise, between the information submitted by the applicant and the assumptions set out in the Council's evidence. Bearing in mind that, in terms of viability for assessing these two applications, the policy requirements under the adopted Local Plan and the Draft local plan are similar, the relevant viability studies are:

- EFDC Stage 1: Assessment of the Viability of Affordable Housing, CIL and the Local Plan (Dixon Searle, June 2015).
- EFDC Stage 2: Update Assessment of the Viability of Affordable Housing, CIL and the Local Plan (Dixon Searle, November 2017).
- Harlow and Gilston Garden Town Strategic Viability Assessment (HDH, April 2019)

There is a crossover between the Dixon Searle work and our work (hence the Local Plan Inspector's advice to bring the reports together). Bearing in mind the location of the sites it would seem sensible to use the Dixon Searle work for now (i.e. pending the completion of our consolidation and update report).

Before the PPG was updated a developer would typically prepare a development appraisal (using one of the industry models such as Argus) setting out their view of the economics of a scheme. Bearing in mind the requirements of the PPG, such an approach is now inappropriate. The evidence submitted needs to be based on what has changed since the Local Plan Viability Study and by extension, why that matters.

A review of a viability assessment should follow the same approach. Kift have set out their approach in Section 3 of the reports:

It is KCL's usual practice to model a proposed scheme using the latest version of the Home England (previously the Homes and Communities Agency) Development Appraisal Tool (DAT) as this provides EFDC with a consistent approach across all validations. Therefore, KCL has taken all of the inputs made by FNH from their bespoke financial appraisal model and input them into the DAT.

Rather than following the approach set out in 10-008 of the PPG, it would appear that neither the applicant nor Kift have followed the approach set out in 10-008. In defence of Kift, it was usual to take this approach before the 2018 NPPF was changed and the PPG updated and specifically set out a different approach.

The PPG goes on to set out the standardised inputs that are used in the above compare and contrast process. As the compare and contrast process has not been followed, the standardised inputs have not been used.

The third stage of the process is about 'weight' and how the viability evidence is used. Where viability evidence is submitted at the Development Management stage, we would suggest that more weight should be given to a viability assessment that is prepared in line with the updated PPG as set out above. We have not seen the viability assessments submitted by Fairview so cannot comment whether or not they have followed the guidance, but we can say that Kift have not assessed the viability assessments in line with the PPG. On this basis alone, we have concerns about weight being given to Kift's reports.

You asked if Kift's the assessment been prepared in line with the latest government guidance? I am afraid that it has not and as such would be concerned if you were to put significant weight on it in determining the planning applications.

It is important to caveat this response – Kift’s instructions were not actually to follow the PPG. It is timely to mention the RICS Guidance. Whilst Kift is not a firm of Chartered Surveyors there is no reason why they could not work to the RICS’s *Financial viability in planning: conduct and reporting. 1st edition, May 2019 was published in May 2019*. One of the requirements of this is to work within the framework of the NPPF and PPG.

How assumptions vary from those used from the local plan work.

It is relevant to note that, in this regard, that the PPG says.

Where a viability assessment is submitted to accompany a planning application this should be based upon and refer back to the viability assessment that informed the plan; and the applicant should provide evidence of what has changed since then.

Paragraph: 008 Reference ID: 10-008-20190509

For viability assessment of a specific site or development, market evidence (rather than average figures) from the actual site or from existing developments can be used. Any market evidence used should be adjusted to take into account variations in use, form, scale, location, rents and yields, disregarding outliers. Under no circumstances will the price paid for land be a relevant justification for failing to accord with relevant policies in the plan.

Paragraph: 011 Reference ID: 10-011-20180724

Bearing in mind the draft status of the our consolidation and update of the viability evidence we have referred to Appendix 1 of Dixon Searle’s 2017 Viability Assessment.

Undertaking a viability assessment is not simply a matter of taking the assumptions from the Local Plan viability assessment and applying them to this site. The applicant’s viability assessment should start with assumptions in the Local Plan viability assessment and explain what has changed and justify the assumption used. Kift do not mention whether or not the applicant has been through such a process.

In the following table we have compared the assumptions in Kift’s reports with those in the Dixon Searle work. This is needs to be treated with some caution as we are really commenting on Kift’s comments on Fairview’s assumptions, rather than their own assumptions.

Comparison of assumptions					
<u>Kift – December 2019</u>					<u>Dixon Searle 2017</u>
Open Market Value					£3,500/m ² to £7,500/m ² – not specifically attributed to an area
Type	Site B		Site A		
1 bedroom flat (small)	£7,050	£7,309	£6,243	£7,169	
1 bedroom flat (large)	£6,684	£7,266			
2 bedroom flat (small)	£6,060	£6,469	£6,168	£6,437	
2 bedroom flat (large)	£5,059	£6,437	£6,082	£6,372	
3 bedroom flat	£5,156	£5,414	£5,522	£5,662	
3 bedroom duplex	£4,951	£4,951			
2 bedroom house	£5,694	£6,006			
3 bedroom house	£5,091	£5,296			
Ground Rent					
Capitalised at 5%					None
Affordable Housing					
Site A Shared Ownership £3,294 Aff Rent £2,626 Site B Not provided					Not explicit
Build Cost					
Site A Below BCIS Median Site B Appears to include various ‘abnormal costs’ such as substation – unclear.					BCIS based
Contingency					
5%					5%
Professional Fees					
10%					10%
S106 Costs					
£3,000/unit					£3,000/unit
Sales and Marketing					
3% + £750/unit					3% + £750/unit
Finance					

7% +(0.5% on positive balances)	6.5%
Site Purchase	
1.5% + 0.75%	1.5% + 0.75%
Developer's Return	
17.5% + 6%	20% + 6%
Benchmark Land Value	
Site A Based on EUV (as D1) of £3,520,000/ha + 30% proposed by applicant. Not accepted by Kift Site B Based on EUV (D2 playing fields) £600,000/ha proposed by applicant, Accepted by Kift.	No comparable typology Predated updated PPG – EUV Plus not stated.

There are some variations between the assumptions used by Fairview and Kift. This is to be expected (and required by the PPG). Based on what you have sent me I cannot really comment in more detail on the assumptions used by Kift.

I would like to touch on abnormal costs. The treatment of abnormal costs are always a controversial subject – not least deciding what is and what is not abnormal. With regard to abnormal the PPG says:

abnormal costs, including those associated with treatment for contaminated sites or listed buildings, or costs associated with brownfield, phased or complex sites. These costs should be taken into account when defining benchmark land value

Paragraph: 012 Reference ID: 10-012-20180724

Benchmark land value should: ... reflect the implications of abnormal costs; site-specific infrastructure costs; and professional site fees and ...

Paragraph: 014 Reference ID: 10-014-20190509

The consequence of this, when considering viability in the planning system, is that abnormal costs should be added to the cost side of the viability assessment, but also reflected in (i.e. deducted from) the BLV. This has the result of balancing the abnormal costs on both elements of the appraisal.

In this case I would have expected to see a debate around the treatment of the demolition costs and the substation that is mentioned. The demolition costs are certainly abnormal and the substation may be. I would have expected to have seen a discussion around whether these costs should have been allowed for in determining the Benchmark Land Value. Kift do not appear to have done this, rather they seem to have taken the cost, simply as a cost.

Conclusions

As I set out at the start, you have asked me a very specific question:

We would appreciate it if you could to look at the attached KIFT reports on these to see how assumptions vary from those used from the local plan work and also to reassure us that they are approaching the assessment in accordance with latest government guidance etc.

I am afraid that Kift have not followed the steps set out in the 2019 NPPF and updated PPG, as such would be concerned if you were to put significant weight on it in determining the planning applications. It is important to caveat this response – Kift's instructions were not actually to follow the PPG. I can not provide you with the reassurance you are seeking.

There are some variations between the assumptions used by Fairview and Kift. This is to be expected (and required by the PPG). Based on what you have sent me I cannot really comment in more detail on the assumptions used by Kift. I do have particular concerns about the treatment of abnormal costs, and whether these have been treated as prescribed in the PPG.

I would like to stress that I cannot comment on whether or not the affordable housing requirement should be adjusted on these sites. The fact that they are somewhat different to the Typologies used in the plan-wide viability assessment does suggest that it would be appropriate to consider viability now.

Please do not hesitate to call me if you want to talk this through.

Yours ever

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