



Note

Chilmington Green – Appellants’ Response to Inspector’s Queries on Openings

1 Introduction

- 1.1 This document responds to viability related queries raised by the Inspector in relation to the parties’ Opening Statements. Each query is noted together with a response.

2 Queries and Responses

Which core document / where is it explained as to what the trajectory of the Peak Debt Burden of the scheme is?

- 2.1 The Proof of Evidence of Chris Wheaton (CD2/23) includes the cashflow profile for the scheme at Figure 5.2, with commentary at paragraphs 5.11 and 5.12.
- 2.2 For ease of reference, both Quod and BPC have now added their views on the cashflow profile to a single graph and table, appended to the Viability Statement of Common Ground, which is anticipated to be agreed and shared with the Inspector shortly.

Are parties in agreement that the paragraphs set out in paragraph 32 of ABC’s opening are applicable within the s106A and B context / consideration?

- 2.3 The relevant paragraph from ABC’s Opening Statement is extracted below for reference:

“The PPG makes clear that viability assessments must be transparent and publicly available¹; and that the weight to be given to a viability assessment is determined having regard inter alia to “the transparency of assumptions behind evidence submitted.”² Nor is there doubt as to the importance of transparency of information to professional conduct and competency under the RICS ‘Professional Standard on Financial Viability in planning: conduct and reporting’ (2019)³; and the subsequent ‘Assessing Viability in planning under the National Planning Policy Framework 2019 for England’ (2021).⁴ Indeed the crucial importance of transparency has been emphasised recently by the High Court in R (Holborn Studios Ltd) v London Borough of Hackney (No. 2) [2020] EWHC 1509 (Admin) at [64]-[71], per Dove J.”

- 2.4 It is agreed that viability assessments should be transparent and publicly available. For the avoidance of doubt, the Appellants have not raised any objection to the submitted viability and supporting evidence base being made public in full.
- 2.5 In broad terms, it is noted that the guidance referred to by ABC is clearly intended to ensure that viability assessments and the evidence supporting these is available for public scrutiny. This is to avoid situations such as the Holborn Studios case that ABC refer to in which viability evidence relied on by the applicant as part of its submission was not in the public domain. This

¹ Paragraph 10-010-20180724.

² Paragraph 10-008-20190509.

³ Paragraphs 1.2, 2.4, 2.10, section 4.

⁴ Paragraphs 1.2.12, 2.5, 3.4.12, A1.1.



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circumstance does not exist for the Chilmington scheme – the viability assessment and the evidence for the inputs to this (including all viability evidence which the Appellant seeks to rely on) have all been shared.

- 2.6 Table 2.1 below addresses the specific guidance / decisions referenced within ABC Opening Statement at paragraph 32. The viability information submitted is contained within the Proof of Evidence of Chris Wheaton (CD2/23) and the Quod Viability Report (CD2/17).

Table 2.1 – Policy and Guidance Review

Reference	Relevant Text (avoiding repetition)	Comments
PPG Paragraph 10-010-20180724	Any viability assessment should follow the government's recommended approach to assessing viability as set out in this National Planning Guidance and be proportionate, simple, transparent and publicly available	The PPG approach to assessing viability has been followed, including the approach to benchmark land value, expenditure and revenue. The viability appraisal and evidence (build cost plan, sales value comparables) is transparent and the Appellants have raised no objection to this being publicly available.
PPG Paragraph 10-008-20190509	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.	The submitted viability evidence clearly demonstrates compliance with each requirement – the changes since the date of the plan / permission, the transparency of assumptions and the evidence behind these (each expenditure / revenue input being justified and supported by evidence as appropriate).
RICS Financial Viability in Planning: Conduct and Reporting	Transparency and fairness are key to the effective operation of the planning process. The PPG (paragraph 021, reference ID 10-021-20190509) states that: 'Any viability assessment should be prepared on the basis that it will be made publicly available other than in exceptional circumstances.'	The viability information has been prepared on the basis that it will be made publicly available and there is no objection to this. The viability is in general based around market rather than client-specific information (supported by evidence). The Master Developer Finance cost reflects the Appellants' actual cost, secured following a competitive process and considered to be a market rate. This has been adopted given the absence of other public benchmarks for



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	Although certain information may need to remain confidential, FVAs should in general be based around market- rather than client-specific information.	this type of finance (the risk of Master Developer activities differing from general housebuilding).
RICS Assessing Viability in Planning under the NPPF 2019	All FVAs should be prepared on the basis that they will be made publicly available in full, to ensure that FVAs follow the principles set out in paragraph 010 of the PPG. Case law since the introduction of the 2018 NPPF and PPG confirms that FVAs, where they are justified, should reflect the approach set out in the PPG. Secondly, standardised inputs should be used. Thirdly, the inputs and findings should be set out in a way that aids clear interpretation and interrogation by decision-makers. Finally, as the PPG makes clear, FVAs need not contain commercially sensitive data but, even if some elements are commercially sensitive, they can be aggregated in a published FVA in order to avoid disclosure of this sensitive material. FVAs have a direct bearing on the provision of community infrastructure and services, and are of great interest to the public, so are expected to be placed in the public domain.	The FVA has been prepared on the basis that it will be publicly available and includes inputs in line with PPG guidance, set out clearly and with findings summarised.
High Court in <i>R (Holborn Studios Ltd) v London Borough of Hackney</i> (No. 2) [2020]	The relevant issues considered were (i) whether viability information should be placed in the public domain (ii) whether discrepancies and inconsistencies in figures prevented understanding of these and (iii) whether it was sufficiently clear	None of these points are relevant in this case – all viability information is clearly presented and publicly available.



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	how the benchmark land value had been arrived at.	
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2.7 It is noted that two specific further points have been made by ABC in suggestion that the Appellants have not met the required standards of transparency:

- Infrastructure expenditure to date – this information involved many years of records and works undertaken by various sub-contractors which took some time for the Appellants to collate. The information was provided to BPC on the 17th February 2025.
- Sales of land – information on relevant sales of dwellings has been provided and supports the Residual Land Value assessment undertaken. ABC has requested information on sales of land. In this respect the guidance within the RICS International Valuation Standards (paragraph 70.01-70.02) is noted:

Some types of development property can be sufficiently homogenous and frequently exchanged in a market for there to be sufficient data from recent sales to use as a direct comparison where a valuation is required (see para 100.09-100.16 of this standard).

In most markets, the market approach may have limitations for larger or more complex development property, or smaller properties where the proposed improvements are heterogeneous. This is because the number and extent of the variables between different properties make direct comparisons of all variables inapplicable, although correctly adjusted market evidence (see IVS 103 Valuation Approaches, section 20) may be used as the basis for a number of variables within the valuation.

In essence, the above means that where land sales are not sufficiently recent and similar, the recommended approach is to instead to use comparables in order to inform inputs to a residual land value appraisal – this is what has been undertaken at Chilmington, with recent evidence on residential dwelling sales values used to inform the appraisal.

The approach adopted is considered to be the most robust and in line with guidance. The land sales previously made date from 2017 to 2021, therefore falling before recent substantial increases in build costs and numerous regulatory and taxation changes. The land sales also often reflected special purchasers, for example Jarvis Homes already owned its plots whilst BDW purchased land but within this included agreements for Hodson Developments to deliver elements of works. Similarly, the sale of land to Man Group did not represent a normal 'serviced land parcel' transaction. Hodson Developments had planned and started construction of this land, then stopped and sold to Man Group. Accordingly, the following matters had been resolved:

- The land was purchased with full reserved matters planning with the majority of planning conditions discharged (all done by Hodson Developments).
- The land was purchased with Hodson Developments architects, civil, structural engineers and landscape consultants working drawings as part of the package (i.e. Man Group did not have to do any significant amounts of design works/fee expenditure).



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- Man Group built out Hodson Developments house types – using exactly the same materials and manufactures as Hodson Developments use at Chilmington.
- Man Group tapped into Hodson Developments material procurement contracts and technical designs – saving considerable time and design costs.
- All archaeology works, Site Investigations, Ecology, the majority of internal estate roads (to binder course) and storm and foul drainage within land parcels were done by Hodson at Hodson costs

Overall, it is not considered that the sales are sufficiently recent or similar to the current situation to provide a useful reference. Instead, an evidenced residual land value has been prepared which is robust and transparent.

- 2.8 In summary, the approach taken by Quod and the Appellant meets the transparency requirements of PPG in full and enables review of the appraisal / supporting evidence by the Council's team (which has occurred) and any interested parties. The approach draws on market (rather than applicant-specific) inputs and arrives at an indication of the viability of the scheme in line with the PPG requirements.