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# **Proof of Evidence – Chris Wheaton MRICS**

Chilmington Green –  
s106B Appeals

Ref:  
APP/W2275/Q/23/3333923  
and  
APP/E2205/Q/23/3334904

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FEBRUARY 2025

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# 1 Introduction

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- 1.1 My name is Chris Wheaton, I have a BSc in Quantity Surveying from the University of Greenwich and am a chartered member of the Royal Institution of Chartered Surveyors.
- 1.2 I have 24 years of experience, largely advising on residential and regeneration projects. I am a Senior Director at Quod, providing advice to private and public sector clients on viability and housing issues. Prior to joining Quod I was a partner at Arcadis and head of Financial Analysis, leading the firms advice on development appraisal.
- 1.3 I have particular expertise advising on planning viability and housing issues for large scale residential-led development. I am involved in the formulation of development proposals and the preparation of housing and viability advice in support of planning applications. I also advise on issues at delivery stage, including delivery strategies, joint ventures, grant funding applications, appointment of Registered Provider partners for affordable housing and submissions in relation to viability review mechanisms.
- 1.4 My experience includes:
- Gilston Garden Town, East Hertfordshire – I provided housing analysis and strategy advice to Places for People including submissions to the local plan and the housing statement supporting the planning application. The work helped secure the local plan allocation and subsequently planning permission for 8,500 homes in a new garden community. Works have now commenced on site.
  - Barking Riverside, Barking – I advise Barking Riverside Limited, a joint venture between L&Q and the Mayor of London on all aspects of housing and viability. I prepared the viability submission and housing strategy supporting the current permission for 10,000 homes and drafted the viability review mechanism. To date over 3,500 homes have been completed and I have completed the first two viability reviews. I also prepared viability and grant funding reports for the recent new application to increase delivery at the site to 20,000 homes.
  - North East Crawley, Crawley – I prepared financial modelling for Taylor Wimpey and Persimmon Homes to help formulate a viable masterplan and infrastructure delivery strategy for North East Crawley comprising 1,900 new homes. I supported the housebuilders in various planning applications and at the delivery stage for the scheme which is now largely constructed.
  - North West Horley, Horley – I advised Crest Nicholson, Persimmon and Taylor Wimpey on the North West Horley scheme, including housing strategy and development appraisal work for the proposals of 1,500 homes. Planning permission for the scheme was granted and the homes are now largely complete.
  - Heathbourne Green, Hertsmere – I advise TLC Group on its plans for a new intergenerational community of 1,300 homes in Hertsmere including affordable homes and social infrastructure. My role has included financial modelling, Homes England grant funding negotiations, housing strategy and delivery / joint venture strategy.

- Greenwich Peninsula, Greenwich – I have advised on various planning applications, amendments and viability review mechanism submissions for the peninsula. This has included the initial and viability review stage development appraisals for the 15,000 homes, around 3,000 of which are now completed.
  - Otterpool Park, Folkestone and Hythe – I prepared housing strategy advice in support of the site allocation and subsequent planning application for the 10,000 home Garden Town. This included advice on development phasing, housing tenures, infrastructure and liaison with Homes England.
- 1.5 I was first instructed by Hodson (“the Appellant”) in 2022 to review the scheme viability position and support the preparation of an application under Section 106A of the Town and Country Planning Act 1990 to vary or discharge a number of obligations under the Chilmington Green planning permission (reference 12/00400/AS dated 6th January 2017). I have also separately prepared a submission of viability under the viability review mechanism within the permission in relation to viability review phase 2. Most recently in January 2025 I prepared an update to the Financial Viability Assessment supporting the s106A application, accounting for changes since the 2022 submission.
- 1.6 In preparing this Proof of Evidence I have adhered to the relevant RICS guidance and provided required declarations at the end of this document.

## 2 Scope of Evidence

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- 2.1 My evidence focusses on viability and the viability review mechanism. I assess the scheme viability position under the current Chilmington Green planning permission (reference 12/00400/AS dated 6th January 2017) and section 106 agreement, together with the position following the changes sought in the section 106A application. This includes the overall viability position and cashflow profile. I also assess the way in which the viability review mechanism interacts with the scheme delivery strategy and in particular the ability to engage a range of plot developers.
- 2.2 My viability evidence draws on a range of specialist input to the financial appraisal, in particular informing the scheme accommodation schedule, construction costs and sales values. In general, this evidence and my assessment of scheme viability is set out in the Quod Financial Viability Assessment dated January 2025 and appendices.
- 2.3 The Quod Financial Viability Assessment dated January 2025 has been shared with the Councils' viability expert, Bespoke Property Consultants, and various clarifications have been provided during January 2025 in order to aid understanding. A draft Topic Statement of Common Ground covering viability has also been shared.
- 2.4 My evidence is structured as follows:
- Section 1, Introduction
  - Section 2, Scope of Evidence
  - Section 3, The Scheme and Background
  - Section 4, Policy
  - Section 5, Viability
  - Section 6, Analysis and Conclusions

## 3 The Scheme and Background

3.1 This section of my evidence summarises the scheme and background as relevant to viability.

### Delivery to Date

3.2 The Appellant has taken the lead in delivery of the site, acting as “master developer” meaning that it has dealt with infrastructure and s106 works / contributions, site-wide planning matters and overall branding / marketing. This master developer role then creates serviced parcels of development land which can be brought forward by plot housebuilders. The Appellant has delivered one plot of land and engaged Barratt (BDW), Jarvis Homes, Thakeham Homes and Brookworth Homes to deliver 7 other plots. Delivery to date is summarised in Table 3.1 below.

Table 3.1 – Delivery to Date

Plot Ref.	Plot Developer	Total Dwellings	Year of Commence-ment	Year of Completion	Units Sold
Q & R	Barratt (BDW)	165	2018	2024	165
P	Jarvis Homes	99	2019	Ongoing	60
C	Hodson Development	67	2018	2022	67
B, C & J	Thakeham Homes	225	2020	Ongoing	0
A, E & F	Hodson Development	153	2020	Ongoing	72
K	Brookworth Homes	54	N/A	N/A	0
<b>Total</b>		<b>763</b>	<b>2018</b>	<b>Ongoing</b>	<b>364</b>

### Barriers to Delivery

3.3 Whilst infrastructure spend to date has been extensive, the rate of housing delivery has been slow averaging around 50 homes per year. The Appellant has found the viability position increasingly challenging, with the key issues being:

- Cashflow – the triggers for s106 financial contributions and works within the s106 agreement have meant that infrastructure and s106 expenditure has grown well ahead of housing delivery.
- Viability – the total infrastructure and s106 costs are £281m (£394m after the finance costs incurred by the Master Developer on s106, infrastructure and fees, excluding land) which compares to the net value created by the delivery of homes and commercial space of £147m. The delivery and sale of homes and commercial space at the site is therefore unable to repay the infrastructure / s106 costs, even before any cost of the land in its existing use or return for the master developer is accounted for. The finance costs add c.40% to the base infrastructure

and s106 costs, indicating the scale of impact of the differential between expenditure of these costs and receipts from the sale of development plots.

- Review mechanism – the structure and timescales of the current viability review mechanism are a barrier to engagement of multiple plot developers. The review structure also delays delivery due to the limitations on both the earliest date at which a review can be submitted and the number of homes which can be occupied or commenced prior to its approval.

3.4 The figures stated above are evidenced within the Quod Financial Viability Assessment dated January 2025.

## Viability Reviews

3.5 The existing s106 agreement requires regular reviews of viability to be submitted in a prescribed process / template set out in schedules 23, 43, 44, 48 and 49 to the s106. The most recent review was submitted to ABC by the Appellant on the 18<sup>th</sup> October 2024 for Review Phase 2. This submission indicated a £53.7m deficit to the target for the Review Phase, illustrating the viability challenges of the scheme.

## 4 Policy

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- 4.1 This section of my evidence summarises the policy directly relevant to viability and relevant to the analysis and conclusions within this evidence. Further details are included within the Quod Financial Viability Assessment dated January 2025 and Planning Proof of Evidence by Mr John Collins.
- 4.2 In adopting the recent National Planning Policy Framework (NPPF) in December 2024 the Secretary of State for Housing, Angela Rayner, reiterated the need to take bold action to solve the housing crisis and deliver 1.5 million new homes over 5 years, substantially increasing the rate of housebuilding. The Secretary of State's letter introducing the new NPPF<sup>1</sup> acknowledged the relevance of viability to larger strategic sites which carry greater infrastructure costs and emphasised the need to build out faster, whilst supporting SME delivery.

### National Policy and Guidance

- 4.3 The NPPF (paragraph 61) confirms the government's objective to significantly boost the supply of homes and the importance of land with planning permission being developed without unnecessary delay. It is indicated (paragraph 77) that supply of large numbers of new homes can often be best achieved through larger scale development and that opportunities to support rapid implementation should be identified.
- 4.4 National Planning Practice Guidance (PPG) confirms (Paragraph: 007 Reference ID: 10-007-20190509) that the role for viability is primarily at plan making stage. However, viability can be relevant at individual scheme level, for example where further information / detail on infrastructure costs is developed or when significant economic changes have occurred since the local plan was brought into force.
- 4.5 PPG (Paragraph: 020 Reference ID: 23b-020-20190315) confirms that, in line with the Town and Country Planning Act 1990, planning obligations may be changed in certain circumstances. Guidance indicates that changes may be made by agreement of the local planning authority and applicant or, where the obligation is more than 5 years old, a request may be made by the applicant. An obligation may be changed where it "*no longer serves a useful purpose*" or would continue to serve a useful purpose in a modified way.
- 4.6 PPG also includes a full Viability section, setting out a recommended approach to viability modelling and viability inputs. NPPF indicates that viability should be assessed in line with the PPG guidance and supported by appropriate evidence.
- 4.7 Taken together, national policy and guidance seeks to accelerate housing delivery and recognises the balancing process which is required to enable viable development whilst delivering community benefits and affordable homes.

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<sup>1</sup> MHCLG Letter Dated 12<sup>th</sup> December 2024



## ABC Policy and Guidance

- 4.8 The Ashford Local Plan 2030 recognises the importance of Chilmington Green to local housing supply, identifying at Table 1 that the scheme will deliver 2,500 of the 13,544 home target over the plan period. Detailed requirements for Chilmington Green sit separately to the Local Plan within the Area Action Plan.
- 4.9 The Local Plan notes that policies have been viability tested, though recognises that flexibility in affordable housing and other contributions may be required over market cycles. For schemes not able to meet affordable housing requirements in full, policy IMP2 supports reassessment of viability over the delivery period, securing further contributions where possible.
- 4.10 The Chilmington Green Area Action Plan (AAP) recognises the challenges in delivering the scheme, noting at paragraph 1.19 the challenges of front-loaded infrastructure. Policy CG22 and supporting text of the AAP note that viability may dictate a reduced level of affordable homes or infrastructure and use of “deferred contributions” to increase this later in the scheme if possible.
- 4.11 Overall local policy has consistently recognised the financial and cashflow challenges of Chilmington Green. Reliance is placed on sustained delivery rates at Chilmington to meet targeted borough-wide housing delivery.

## 5 Viability

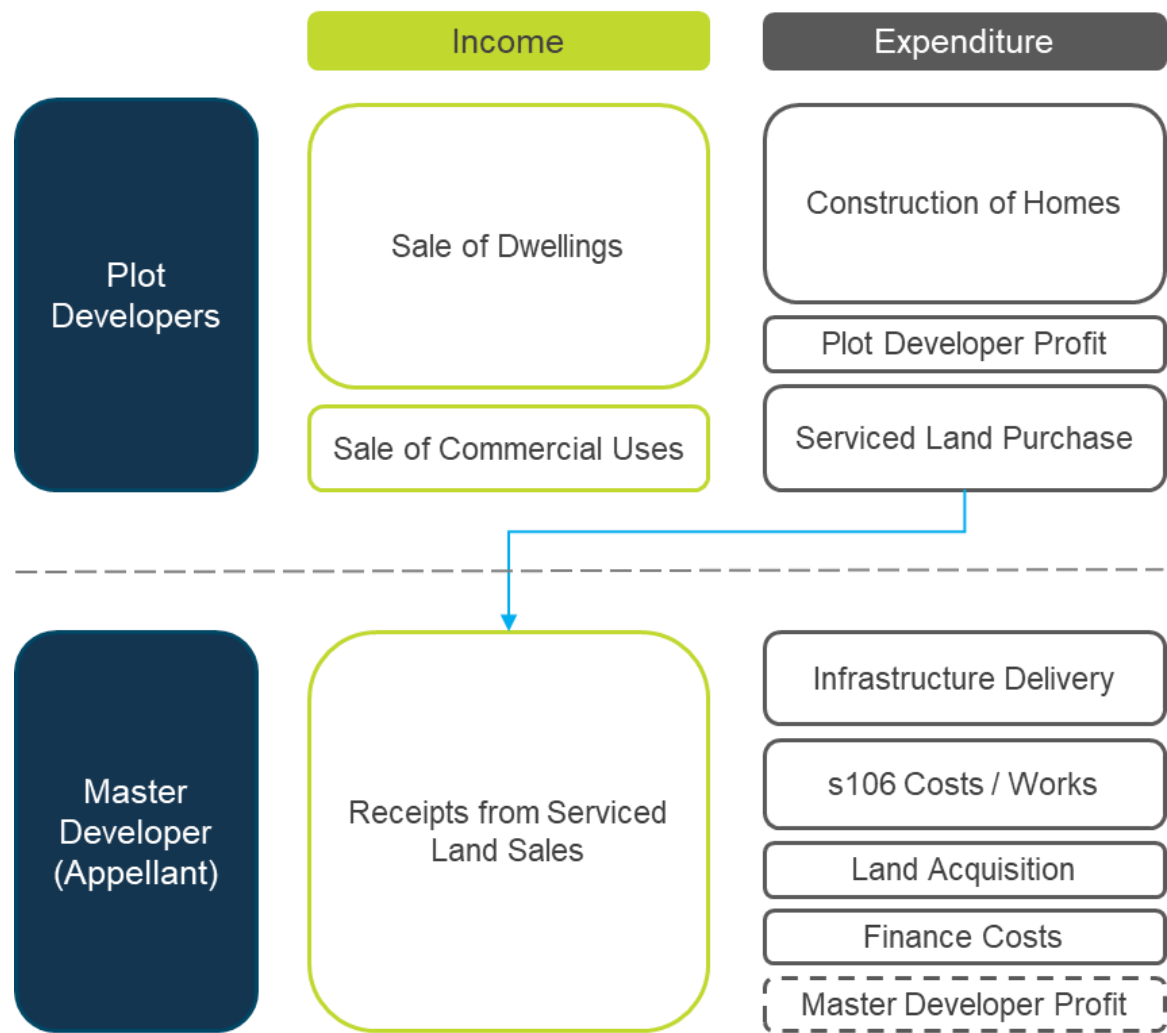
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- 5.1 This section of my evidence summarises the viability position of the site and the relationship of the viability review mechanism to engagement of delivery partners. Scheme viability is assessed in full within the Quod Financial Viability Assessment dated January 2025 which appends relevant supporting evidence. Working Excel versions of the viability appraisals have been shared with ABC and KCC's viability advisor to aid collaboration.

### Delivery Approach

- 5.2 Large-scale development such as Chilmington Green typically requires a masterplan and the coordinated delivery of site-wide infrastructure against this. This could include the delivery of main utilities, roads, drainage etc and also social infrastructure such as education or community facilities. These works serve the site as a whole and enable the formation of "serviced plots" within which homes can be delivered. A site-wide management, funding, marketing / branding and infrastructure delivery role therefore exists which in the case of Chilmington is fulfilled by the Appellant.
- 5.3 Larger sites also require a diversity of housing products and developer types to deliver a reasonable number of homes each year and use receipts from these to repay up-front infrastructure. A large scheme will often have six or more plot developers delivering differing products in parallel within serviced plots from separate sales outlets. To date at Chilmington the Appellant has acted as one plot developer and has also engaged 4 other plot developers.
- 5.4 The approach set out above is generally described as a Master Developer model and in my experience is commonly adopted in the delivery of similar sites. Figure 5.1 below provides a simplified representation of the model. Whilst this model is considered to be the most realistic representation of the site delivery, a single developer approach has also been tested for completeness and is set out within Section 5 of the Quod Financial Viability Assessment dated January 2025, arriving at similar conclusions to the Master Developer Approach.

Figure 5.1 – Master Developer Model



- 5.5 The land acquisition cost for the Master Developer is the Benchmark Land Value (BLV). This figure is set out within the Chilmington s106 agreement and is retained for the testing undertaken by Quod.
- 5.6 All other inputs to the financial model are based on available evidence, including benchmark build costs from the Building Cost Information Service (BCIS), quantity surveyor estimates for infrastructure costs and achieved sale prices for homes sold at the site to date. These are explained in full in the Quod Financial Viability Assessment dated January 2025.

**Changes Under the s106A Application**

- 5.7 Table 5.1 summarises the main categories of change to the s106 items under the s106A.

Table 5.1 – s106 Changes Summary

S106 Heading	Existing s106	s106A Proposal	Movement
Primary Transport	£46,600,000	£4,200,000	-£42,400,000
Education	£56,500,000	£40,400,000	-£16,100,000
Community	£18,100,000	£5,100,000	-£13,000,000
Youth Services	£239,000	£0	-£239,000
Landscaping	£13,700,000	£10,700,000	-£3,000,000
Sports Pitches	£19,400,000	£16,100,000	-£3,300,000
CMO	£18,900,000	£872,000	-£18,028,000
Carbon Offset	£2,300,000	£0	-£2,300,000

## Viability Output

5.8 The output of the viability assessment under the current s106 agreement and incorporating the s106A application changes is indicated in Table 5.2 below.

Table 5.2 – Viability Output

	Current s106	Incorporating s106A Changes
Appraisal Residual Land Value	-£247.1m	-£53.6m
Target BLV	£109.1m	£109.1m

5.9 As indicated in Table 5.1, the scheme generates a negative land value of £247.1m under the current s106 agreement against a target BLV of £109.1m. The scheme is therefore substantially unviable, with no realistic prospect of reaching a deliverable position. As such it would be unlikely to attract further investment and the homes and therefore the s106 contributions / works triggered by housing delivery would not occur.

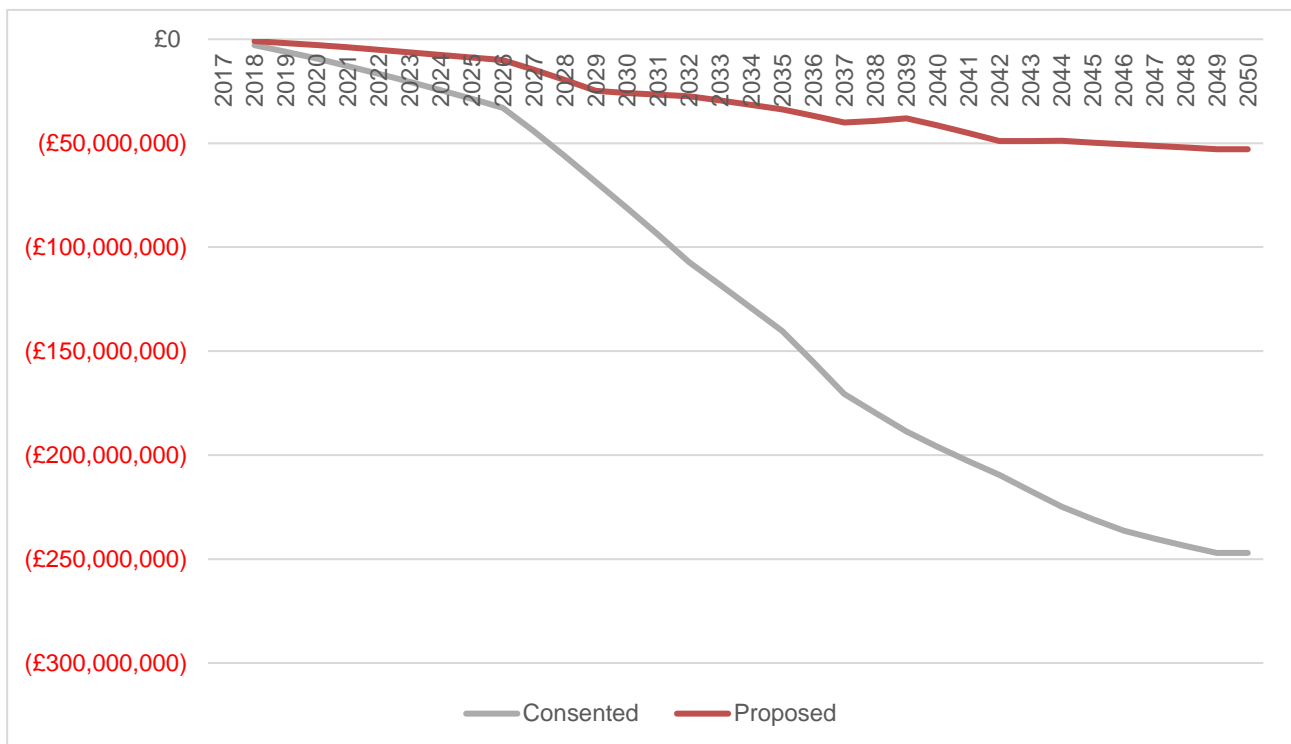
5.10 As also indicated in Table 5.1, the scheme incorporating the s106A changes generates a negative land value of £53.6m, an improvement of £194m from the base case. This is much closer to a neutral position for the Appellant (the Master Developer), though still substantially below the target BLV. The feasibility of this revised scheme reaching a reasonable return is addressed in the deliverability section of my evidence below.

5.11 The scheme cashflow is equally important to overall viability. The profile of infrastructure and s106 spend must be at a level which can be funded commercially, in anticipation of the future land receipts from plot developers. The current s106 requirements result in a peak debt of

c.£130m at the mid point of the scheme (excluding land cost), increasing to the negative £247.1m at the end of the scheme. The finance costs would account for c.40% of the Master Developer's total costs which would indicate to a funder that the scheme viability and / or cashflow was very challenging. Typically finance costs would be closer to 10% of the total costs of this type of appraisal.

- 5.12 The s106A changes reduce the peak debt at the mid point to c.£30m (c.13% of the total Master Developer costs). The level of funds required is also relatively consistent over the delivery period, in contrast to the base case where spend rapidly increases. This is indicated in Figure 5.2 below.

Figure 5.2 – Cashflow Graph

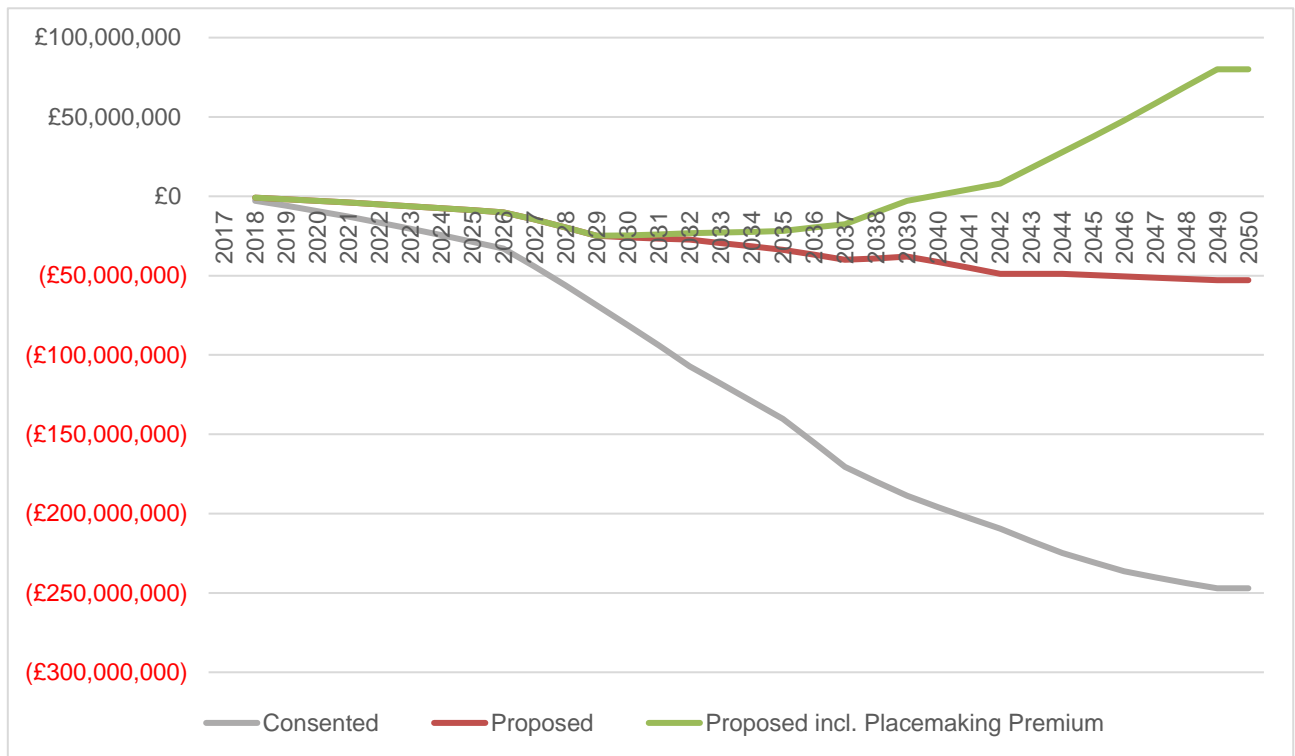


## Deliverability

- 5.13 Taken together, the scheme viability, cashflow and review mechanism changes would enable accelerated, diversified delivery and create the critical mass to achieve placemaking benefits. Increases in delivery rate would help reduce finance costs and placemaking would help achieve improved sales values. These points would offer the Appellant a possibility of achieving a positive land value and overall scheme return, though not for some years. The return and the timings of this would remain below the reasonable market levels which would be required if commencing a new project today but would give the Appellant sufficient incentive to continue the scheme and secure ongoing finance support. Figure 5.3 indicates the potential outcome with placemaking, a positive land value of £80m which, whilst falling below the BLV of £109m, is at a level which offers a positive receipt and some potential for an eventual return. This “placemaking” is a real terms growth in sales values often associated with large scale developments which create a new place by delivering infrastructure and community benefits.

Whilst not certain, potential placemaking growth is a factor which it is reasonable to consider when proceeding with large-scale, longer term development.

Figure 5.3 – Cashflow with Placemaking



## Viability Review Mechanism

5.14 The operation of the viability review mechanism within the s106 agreement (set out at schedule 23 to the s106) is summarised as:

- Reviews occur at specified review stages, with nine reviews in total at review phases two to ten (review phase 1 has a fixed level of affordable homes).
- Occupation restrictions apply broadly every 500 dwellings after the first 851 dwellings, preventing further occupation until submission of the viability review.
- The earliest date at which each viability review can be submitted is specified by a number of occupations.
- Works cannot commence within each viability review phase area until the relevant review outcome (i.e. whether additional affordable homes can be delivered) has been agreed with ABC.

5.15 Table 5.2 below indicates the relevant dwelling numbers for two future viability reviews (stages are similar for the remainder of the site).

Table 5.2 – Review Timings

	<b>Minimum Number of Occupations Required Before Earliest Date of Review Submission</b>	<b>Maximum Occupations Prior to Review Submission</b>	<b>Maximum Occupations Prior to Agreement of Review Outcome</b>
Review Phase 3	1,200	1,351	1,500
Review Phase 4	1,800	1,951	2,100

5.16 As each review determines the number of affordable homes within the review phase, the phase cannot be designed in detail and contracts entered into with a plot developer / registered provider of affordable homes until the review is concluded. The relatively tight tolerance between the earliest date at which a review can be submitted and maximum occupations prior to its conclusion inevitably causes a “stop start” programme and slows overall delivery. For example in the case of review phase 3:

- Earliest submission of Review 3 – 1,200th Occupation.
- Number of homes which can be occupied prior to conclusion of Review 3 – 1,500.
- Maximum homes which can be designed / planned prior to concluding Review 3 – 300 (i.e. 1,500 less 1,200).
- Timescales to bring forward further plots post- submission / conclusion of Review 3 (i.e. when resultant affordable housing is known) – say 3 months to conclude the review outcome, 3 months to engage with developers, 12 months to prepare and gain approval to RMAs, 18 months to construct homes = 36 months.
- Maximum annual delivery which can occur due to review process – 100 (i.e. 300 units divided by 36 months).

5.17 The Appellant has engaged with a range of potential plot housebuilders who would, subject to resolution of the wider scheme viability issues, be prepared to acquire plots and deliver in parallel from multiple outlets. However at present the structure of the review mechanism prevents further plot sales until existing homes are occupied (as the plot cannot be sold without the certainty of the required affordable housing level and that the homes can be occupied).

5.18 The proposed amendments to the review mechanism within the s106A application resolve the current issues by linking reviews to the submission of Reserved Matters Applications (RMAs) for each stage of the development, this enables delivery to accelerate. Protection against front loading of review submissions and therefore failing to capture value growth is included via a restriction on the earliest date at which a review can be submitted and a requirement to re-submit if this is more than 12 months in advance of the relevant RMA. Reviews at each stage

of development through to the final review phase 10 are maintained, ensuring that any viability improvement later in the scheme will enable additional affordable homes.



## 6 Summary and Conclusions

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- 6.1 This section of my evidence brings together the previous sections and assesses the s106A proposals against key policies.

### Viability Assessment

- 6.2 Section 4 of my evidence sets out the relevant policy and guidance relating to the assessment of viability within the planning system. Section 5 provides an assessment of the Chilmington Green viability adopting the required approach and drawing on specialist evidence as appropriate. A Master Developer model is adopted, reflecting a realistic delivery approach for the site and that which is being taken by the Appellant
- 6.3 The viability assessment demonstrates that the scheme is not viable under the current s106 requirements, with a negative value of £247.1m, this being £356.2m below the appropriate Benchmark Land Value (BLV) of £109.1m. As such the scheme is not deliverable and neither the housing and affordable housing or payments and works required under the s106 agreement will occur.
- 6.4 The viability assessment indicates the improvements following the s106A changes, both in overall viability and cashflow. The viability position improves by £194m and the funding requirement at the mid point of delivery reduces from £130m to £30m.

### Deliverability

- 6.5 Section 5 of my evidence sets out the barriers which the current viability review mechanism creates, preventing accelerated delivery by multiple plot developers with differentiated products. The changes sought under the s106A are assessed and it is demonstrated that these will support delivery, whilst still securing the ability to deliver more affordable homes later in the scheme if viability improves.

### Affordable Housing

- 6.6 Incorporating the s106A changes the scheme will secure at least 575 affordable homes (10%), in a mix of social / affordable rent and intermediate tenures agreed with ABC. Homes England grant funding or viability improvements through the review mechanism offer the potential for the total number of affordable homes to reach the s106 cap of 40% in later phases.

### Conclusion

- 6.7 The changes sought under the s106A application are necessary to create a viable scheme and would enable development to proceed if approved. The level of affordable homes and other planning obligations following the s106A changes would remain in excess of that which would be considered the maximum reasonable, assessed in line with relevant policy and guidance.

- 6.8 The changes sought would enable the Appellant to secure ongoing finance and engage a range of plot delivery partners, whilst also giving the potential for a return late in the development. 5,750 homes including 575 affordable homes would be delivered and £182m spent on community, site and social infrastructure. If growth enables the benchmark land value to be reached the review mechanism would secure additional affordable homes.
- 6.9 Overall the proposed approach to delivery and the housing outputs which be secured are exactly what is required to achieve the government's aims to (i) boost the supply of housing (ii) engage more participants in its delivery.

### Statement of Truth and Declaration

I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

I confirm that my report has drawn attention to all material facts which are relevant and have affected my professional opinion.

I confirm that I understand and have complied with my duty as an expert witness which overrides any duty to those instructing or paying me, that I have given my evidence impartially and objectively, and that I will continue to comply with that duty as required.

I confirm that I am not instructed under any conditional or other success-based fee arrangement.

I confirm that I have no conflicts of interest.

I confirm that I am aware of and have complied with the requirements of the rules, protocols and directions of the planning appeal.

I confirm that my report complies with the requirements of RICS – Royal Institution of Chartered Surveyors, as set down in the RICS practice statement Surveyors acting as expert witnesses'.

Signed: \_\_\_\_\_

Chris Wheaton

Date: 5<sup>th</sup> February 2025