

MATTER 6: GENERAL REQUIREMENTS

Recovery of forward-funded infrastructure costs (Policy GEN 4)

104. Have the costs associated with forward funded infrastructure been taken into account in the viability assessments of the LPS and SADPD? If so, do these demonstrate whether or not allocations and future windfall development on which the local plan relies can viably support those costs?

1. The Viability Assessment (July 2020) suggests that Policy GEN4 has been considered, paragraph 10.23 sets out the approach used. Table 10.5 shows the implications of the timing of developer contributions, it continues to show that there are viability issues in the low, medium and some typologies within the high value areas. It also shows that the viability worsens where CIL and S106 costs are required upfront. Paragraph 10.26 also highlights concerns in relation to this policy and the implications for deliverability of home, and suggests that the Council retains flexibility.

105. Given the guidance in the PPG³³ that 'it is not appropriate for plan-makers to set out new formulaic approaches to planning obligations in supplementary planning documents, as these would not be subject to examination', is Policy GEN 4 consistent with national policy in relying on SPD to set out the mechanism for calculating the cost of contributions?

2. Policy GEN 4 states that an SPD will set out the details in relation to the overall amount to be recovered; the individual sites, areas or types of development that will be required to contribute; and the mechanism to be used for proportionately calculating the cost of contributions. That means that these details will not be tested as part of this examination or as part of any other. Therefore, the HBF continues to have concerns in relation to how this policy will be implemented and whether it will be considered effective.
3. The PPG¹ is clear that policies for planning obligations should be set out in plans and examined in public. It also states that policy requirements should be clear so that they can be accurately accounted for in the price paid for the land. The HBF does not consider this to be the case in relation to this policy.
4. The PPG goes on to state that it is not appropriate for plan-makers to set out new formulaic approaches to planning obligations in SPDs as these would not be subject to examination. Therefore, the HBF continues to consider that this policy should be deleted in order to make the document sound.

106. Policy IN 2 of the LPS states that until a CIL Charging Schedule is in place, contributions from S106 agreements may be pooled to meet the costs of strategic infrastructure, subject to meeting legal tests, but once a CIL is in place S106 agreements will be used for site specific costs and affordable housing. Given that Cheshire East adopted a CIL Charging Schedule in February 2019, is Policy GEN 4 consistent with the LPS in now seeking to secure contributions to the forward funding of non-site specific infrastructure through S106 agreements?

¹ ID: 23b-004-20190901

Home Builders Federation response to the
Inspector's Matters, Issues and Questions for the
Examination of the Cheshire East Local Plan Site Allocations and Development Policies

5. The HBF considers policy GEN4 is not consistent with the LPS given that a CIL is now in place, and part vi of Policy IN2 is clear in states that S106 agreements will be used for site specific costs and affordable housing.

Recovery of planning obligations reduced on viability grounds (Policy GEN 7)

107. In the light of the guidance in the PPG³⁴, is Policy GEN 7 justified and consistent with national policy in setting out the circumstances where viability review mechanisms may be appropriate, as well as the process for how and when viability will be reassessed over the lifetime of a development?

6. The HBF considers that there may be some circumstances where deferred planning obligations can be utilised to bring forward the delivery of homes. However, the HBF has significant concerns around the implementation of this policy and how frequently it will be used. It is considered this will add further burdens to any developer who will need to reproduce viability assessments at a potentially regular basis, going against Government initiatives which are looking to reduce the need for viability assessments. The HBF considers that this policy causes unnecessary uncertainty and additional risk for developers, and that such disincentivising of developers could become an impediment to the development process and compromise the deliverability of large sites particularly those phased and implemented over long time periods. *The HBF considers that the policy should be deleted in order to make the document sound.*

Viability of SADPD policies as a whole

108. Does the evidence on viability³⁵ demonstrate whether the additional costs of policies proposed in the SADPD could be viably supported by as yet uncommitted development sites in the borough, in particular for residential development? Is there any substantive evidence to demonstrate that these additional policy costs would put at risk the delivery of the development requirements in the LPS or planned development in the SADPD?

7. Table 12.5 of the Viability Assessments clearly shows that there are viability concerns around a number of site typologies, particularly those in the low and medium value areas and for some typologies in the high value areas, these include the small and medium greenfield sites. Paragraph 12.63 highlights the need for the Council to have a flexible approach to viability, and potentially accept a lower level of affordable housing or other policy requirements.