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| Item No. 11. | Classification: Open | Date: 2 February 2016 | Decision Taker: Planning Committee |
| Report title: | | Southwark Development Viability SPD | |
| Ward(s) or groups affected: | | All | |
| From: | | Director of Planning | |

RECOMMENDATION

That the Planning Committee:

1. Notes and provides comments to the ongoing consultation on a supplementary planning document setting out detailed guidance on the use of viability appraisals that are submitted with planning applications to influence planning decisions. Consultation runs from 24 November until 16 February 2016.

BACKGROUND INFORMATION

2. Viability is becoming an increasingly important consideration in the planning process when securing affordable housing. In order to ensure consistency and to enhance the transparency of the process the council will seek to introduce local guidance on the use of viability appraisals submitted to influence planning decisions, by means of a new supplementary planning document. Appendix A sets out the proposed adoption programme for the Development Viability SPD.
3. The National Planning Policy Framework (NPPF) (2012) seeks to ensure development is not constrained due to a scheme's viability. In essence, development should proceed where it provides competitive returns to a willing land owner and willing developer to enable the development to be deliverable. Development should not be subject to obligations and policy burdens, such as requirements for affordable housing, quality standards and infrastructure contributions, which make a scheme unviable. Planning authorities are required to apply any such local policy requirements flexibly to ensure their combined total impact does not make a site unviable.
4. Since the introduction of the NPPF, the importance of viability in decision making has considerably grown in significance. This is because it is difficult for a planning authority to refuse a scheme which does not meet planning policy requirements where it is demonstrated, by means of a viability appraisal, that such requirements would make a scheme unviable. The introduction of the Community Infrastructure Levy, which is a fixed development cost, means any flexibility in the application of planning policy requirements is restricted to affordable housing and site specific infrastructure requirements.

5. The level of affordable housing the council can secure on a specific site is dependent on the site's current use value (CUV), development costs and the buoyancy of the property market. Planning authorities must be able to critique viability appraisals to ensure affordable housing contributions achieve at the maximum viable level. There are various guidance notes concerning the preparation of viability appraisals including the RICS' Financial Viability in Planning, however, there are currently no regulations governing the process and there is limited consistency in the procedure.

KEY ISSUES FOR CONSIDERATION

Viability appraisal methodology and assessment

6. Established practice for assessing the value of a site for viability purposes is to use a residual valuation calculated on the basis of a fully policy compliant scheme. This is an assessment of the value of the completed product minus the costs to provide it. This gives a residual land value (RLV) which is then compared to the current use value (CUV) (including an incentive for the landowner to release the site from its current use). Where the RLV exceeds the CUV then the scheme of development is viable at full policy levels. Where the RLV is below the CUV then it is unviable. In these circumstances a reduced quantum of affordable housing and/or a change in tenure is negotiated.
7. The use of the residual valuation method is the approach endorsed by the RICS and is well established for the valuation of development sites. However, it is important to note that the residual valuation method is very sensitive to variations in one or more of its inputs. A minor percentage change in the end values and a similar reduction in costs would result in a significantly different RLV and a significantly different viability scenario. It is therefore essential that an appropriate methodology utilises reliable and robust inputs. Appraisals for different schemes, which are submitted by a number of consultancies, typically apply different methodologies and assumptions.
8. Viability appraisals are typically interrogated by the council's surveyors to assess whether reasonable, accurate and appropriate benchmark data has been used for development costs and revenue and whether the overall valuation assumptions within the viability assessment are reasonable and correct. Reviewing inconsistent appraisals creates a considerable resource burden on the council.
9. In order to ensure consistency, robustness and integrity in the process local guidance will set out the methodology, inputs and process which are acceptable in a viability appraisal used to justify a departure from planning policy requirements. This would include detailed guidance on validation, methodology, evidence, inputs and assumptions, transparency and confidentiality requirements and review mechanisms and monitoring requirements.
10. Introducing local guidance is likely to provide significant benefits to the council in terms of resources because officers will be able to spend less time scrutinising individual viability appraisals where a specific standardised approach is set out. Guidance will also benefit the public and developers by enhancing clarity and transparency, enabling, faster processing and giving more certainty with regard to

the council's expectations and methodology to be adopted.

Community impact statement

11. Viability appraisals are used to negotiate a lower affordable housing contribution than that required by policy. It is therefore important to ensure that viability appraisals are of a consistent high quality and to ensure there is no avoidable loss in affordable housing contributions. Therefore, local guidance should have the effect of supporting the implementation of the council's Housing Strategy and Local Plan which seek to maximise the supply of affordable housing.

Financial implications

12. It is recognised that there are no financial implications directly arising from this work as it can be contained in the normal workload of the Planning division and therefore within existing Planning budgets.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

13. Viability is a material consideration when considering a planning application and in addition the London Plan provides that negotiations on sites should take into account development viability.
14. The report explains that in order for the Council as planning authority to consider the effects of planning requirements, the developer will on larger schemes where the amount of affordable housing is an issue, deliver a financial appraisal to assist the Council in assessing the merits and viability of the scheme. In the past, such assessments have invariably been provided on a commercially confidential basis with the result that the Council has been in difficulties in disclosing the detail to any other party as such disclosure may give rise to a possible claim in damages from the developer for any loss caused.
15. The position has become more difficult following a number of recent decisions by the Information Commissioners and (by way of appeal) the First Tier Tribunal on major schemes across London following requests from members of the public for further information. These decisions have emphasised that there is a presumption in favour of disclosure and furthermore the First Tier Tribunal has expressed the view that a developer's competitors will already be aware of much of the commercial information and that the number of affordable homes is likely to be an important local issue.
16. There is a further complication with the proposed introduction of the Housing and Planning Bill. This Bill has now reached the House of Lords and it had its first reading on 14 January 2016. There is a section (currently s. 143) which deals with Planning Obligations and Affordable Housing which gives the Secretary of State wide powers to vary the affordable housing obligations even after the developer has entered into a planning obligations agreement under section 106, Town and Country Planning Act 1990 and after planning permission has been granted.
17. In the intervening period before the Bill becomes law, there remains the requirement

for greater transparency and Local Authorities have been given a clear direction that the public interest weighs in favour of disclosure of the information and whilst there is also a public interest in protecting commercially sensitive information, the developer by making a planning application and engaging with a public authority will be aware of the statutory requirements in relation to freedom of information.

18. At this stage, Planning Committee is merely being asked to note that a consultation taking place and all sides will have the opportunity to press their argument.

Strategic Director of Finance and Governance (CE/15/022)

19. It is recognised that there are no financial implications directly arising from this work as it can be contained in the normal workload of the Planning division and therefore within existing Planning budgets.

BACKGROUND DOCUMENTS

| Background Papers | Held at | Contact |
|--|---|--|
| National Planning Practice Guidance – Viability and Decision Taking (March 2014) | http://planningguidance.planningportal.gov.uk/blog/guidance/viability-guidance/viability-and-decision-taking/ | philip.waters@southwark.gov.uk |
| National Planning Policy Framework | https://www.gov.uk/government/publications/national-planning-policy-framework--2 | philip.waters@southwark.gov.uk |

APPENDICES

| No. | Title |
|------------|-------------------------------------|
| Appendix A | The Draft Development Viability SPD |

AUDIT TRAIL

| | | |
|---|---|--------------------------|
| Lead Officer | Simon Bevan, Director of Planning | |
| Report Author | Philip Waters, Senior Planning Policy Officer | |
| Version | Final | |
| Dated | 15 January 2016 | |
| Key Decision? | No | |
| CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER | | |
| Officer Title | Comments Sought | Comments included |
| Director of Law and Democracy | Yes | Yes |
| Strategic Director of Finance and Governance | Yes | Yes |
| Cabinet Member | Yes | Yes |
| Date final report sent to Constitutional Team | | 21 January 2016 |