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ESSENTIAL REFERENCE PAPER 'C'

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Prepared By: Shilpa Rasaiah and John Baker
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1.1 Introduction

1.1.1 Work is underway by Peter Brett Associates advising East Herts District Council on the deliverability of the East Herts District Plan which is currently at a draft stage. This note provides some background on the approach to the study, and a commentary on some of the issues encountered in undertaking the work. It would be fair to say that the issues in East Herts are complex, with, for example, significant cross-boundary issues given the pattern of settlements in the wider area relative to administrative boundaries, and a considerable range of possible locations being considered as part of the supply of development land, including some very big potential sites. We are engaging with the promoters of some of the most significant potential development sites. Whilst this is vital, we are encountering different levels of familiarity amongst promoters with the plan making process as it has evolved in recent years, and with the importance of an evidence based demonstration of deliverability.

1.2 National planning policy framework and whole plan viability

1.2.1 The National Planning Policy Framework (NPPF) recognises that the 'developer funding pot' from viable development schemes is finite. Decisions on how money is obtained from development and used have to take account of the differing demands of local plan policy requirements, such as the provision of affordable housing, as well as the delivery of infrastructure needed to make development work and implement the overall area strategy. This will be a critical issue in developing, testing and implementing the East Herts District Plan.

1.2.2 The National Planning Policy Framework (the Framework), advises that cumulative effects of policy should not render plans unviable:

'Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that

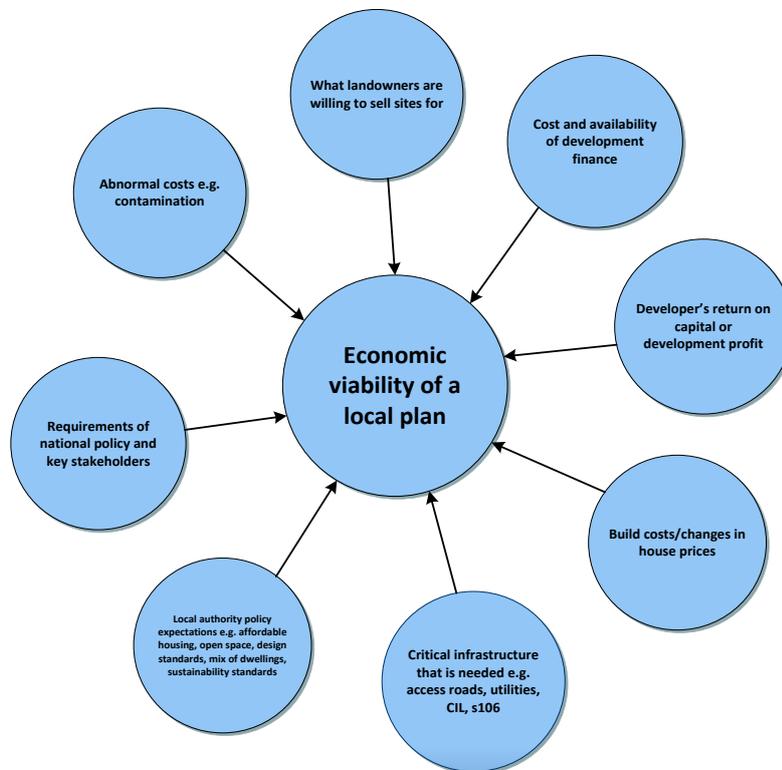
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their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable'.¹

- 1.2.3 The central objective of whole plan viability approach is to ensure that the overall development aspirations of the strategy for the plan area should not be put at serious risk when the local planning authority has taken account of the cumulative burden of policy costs such as affordable housing provision, space standards, green infrastructure, flood mitigation measures, and design standards, as well as the funds needed to meet infrastructure requirements. The tests for demonstrating the deliverability of the first five years housing supply are particularly stringent.
- 1.2.4 The guidance contained in the 'Viability Testing Local Plan Report - an advice note for Planning practitioners' prepared by the Local Housing Delivery Group, and chaired by Sir John Harman in June 2012 (the Harman Report) provides the basis of our approach to the whole plan viability assessment (WPV) of the East Herts District Plan. Figure 1 below from the Harman report illustrates the range of viability input considerations including the various policies and standards that need to be taken account of in the WPV assessment.

¹ DCLG (2012) National Planning Policy Framework (41, para 173)

Figure 1: Inputs informing whole plan viability assessment



Source: Viability Testing Local Plans – Advice for Planning Practitioners – June 2012

- 1.2.5 We are working with EHDC officers to identify which of the emerging District Plan policies would be likely to impose costs on development – particularly residential development – and how significant these costs might be in relation to the viability of development. This process may lead to suggestions for changes to policies when these are considered within the overall balance to be struck between plan deliverability, infrastructure provision and policy aspirations.
- 1.2.6 Viability assessments, whether undertaken by the Council or by developers, are very sensitive to the costs imposed on development by some types of policies. Requirements for developments to provide particular infrastructure and perform to specified standards need to be set out as District Plan policies so they have appropriate weight, and need to be clearly expressed. Such policies cannot be left to some form of SPD. SPDs can only explain and expand on local plan policy, but cannot set policy.
- 1.2.7 From our discussions with the strategic site promoters, none are currently proposing to provide any on-site community based energy generation, as this is not seen as a practical or viable approach by developers. Policy CC3 Renewable and Low Carbon Energy is an example of a policy in the draft District Plan that might need reconsideration therefore, with the Council

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looking at whether its objective might be achieved by other more practicable and cost effective means, taking account of technological developments.

- 1.2.8 The Government has recently consulted on the Housing Standards Review. The aim is to simplify requirements and channel these through national Building Regulation requirements in a standardised form. There is often the potential for duplication of nationally set standards in local policy in relation to low carbon and energy efficiency measures, and now potentially with water efficiency measures. Our advice to authorities generally is not to go beyond building regulation standards in local plan policies, as these tend to have disproportionate cost implications, and are in any case very difficult to justify. For this assessment we have taken the view that where a policy is likely to be taken forward as part of the Housing Standards Review, then it should be left to building regulations which has a strong monitoring mechanism incorporated.

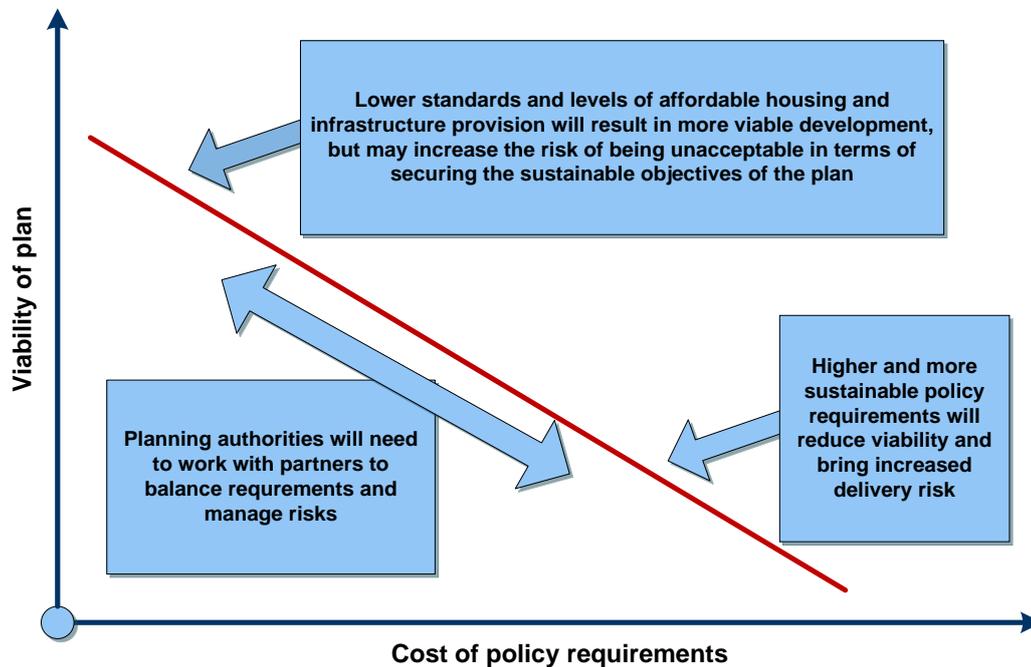
Difficult policy trade-offs are likely to be needed especially between achieving affordable housing and other local policy demands.

- 1.2.9 The Harman Report recognises, that except for the highest value areas, it is unlikely that all policy aspirations will be met from developer funding and important policy choices will need to be made. This challenge is also highlighted in the Framework at para. 54:

‘The challenge for planning authorities is to balance this (sustainable development) with the realities of economic viability and develop plans that can deliver sustainable development – that is, to balance aspirational objectives with realistic and deliverable policies’.

- 1.2.10 The East Herts elected members will need to make important decisions about the local plan policies, based on the right balance for their area. In particular, choices are likely to be required between meeting affordable housing needs and funding for infrastructure, because these are the highest cost items.
- 1.2.11 The WPV assessment is to help inform the decisions made by elected members when preparing and adopting a Local Plan. The Harman Report uses the illustration in figure 1.3, included below, to demonstrate the important trade-offs between delivering viable development and securing policy requirements.

Figure 2: Balancing delivery risk and sustainable plan policies



Source: Viability Testing Local Plans – Advice for Planning Practitioners – June 2012

1.2.12 Within the WPV work we will make recommendations to help guide officers and members on policy requirements that would have significant cost implications, and also on those that might duplicate national requirements, and seek to show how the Council’s objectives can be best pursued within the overall balance to be struck with infrastructure funding within a demonstrably deliverable plan.

1.3 Distinction between plan-wide and site-specific viability

1.3.1 The Harman Report distinguishes viability at two levels as follows:

- *‘An individual development can be said to be viable if, after taking account of all costs, including central and local government policy and regulatory costs, and the cost and availability of development finance, the scheme provides a competitive return to the developer to ensure that development takes place, and generates a land value sufficient to persuade the land owner to sell the land for the development proposed.’*
- At a Local Plan level, viability is very closely linked to the concept of deliverability. In the case of housing, a Local Plan can be said to be deliverable if sufficient sites are viable (as defined in the previous paragraph) to deliver the plan’s housing requirement over the plan period.

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- 1.3.2 It is important to note the approach to local plan viability assessment does not require all sites in the plan to be viable. The Harman Report says that a site typologies approach to understanding plan viability is sensible. Indeed the report also acknowledges that a *'plan-wide test will only ever provide evidence of policies being 'broadly viable.'* This is what an Inspector examining the East Herts District Plan would expect to see. The report continues: *'the assumptions that need to be made in order to carry out a test at plan level mean that any specific development site may still present a range of challenges that render it unviable given the policies in the Local Plan, even if those policies have passed the viability test at the plan level'*. This is one reason why our advice advocates a 'viability cushion' in setting developer contribution rates to manage these risks.
- 1.3.3 As part of the WPV work, we hosted a developer workshop on 9 October to seek views on a range of development viability assumptions to inform the testing of the 'generic' sites. The discussion with representatives of the development industry active in the area provided greater familiarity with market conditions and will reduce the scope for later challenges to the assumptions used in the viability assessments. A note of the meeting has been prepared, and feedback received at the workshop and subsequently as written responses will be considered and account will be taken of these inputs in helping to refine the assumption inputs.
- 1.3.4 In the case of East Hertfordshire, there is also a need to distinguish between 'strategic sites' which are the proposed major allocations or identified 'broad locations' at East of Welwyn, Gilston, and Ware, South of Bishop's Stortford, and at the Bishop's Stortford Good's Yard. The strategic sites will all have a need for substantial on site infrastructure requirements to meet their development needs. These will have costs in the form of site enabling or opening up costs to bring a site to a readily developable state, and also in terms of site specific infrastructure requirements such as transport measure, education, social and health facilities, and open space, sports and leisure provision. The cumulative impact of the development of these sites will have to be considered too, with for instance the likely need for investment in measures to address the consequences of substantial new development combined with the growth in travel demand generated from existing development.
- 1.3.5 The approach to viability assessment and how developers will be required to contribute towards the cost of infrastructure needs arising from specific development site has to be carefully considered as there is now the possibility of a variety of approaches, using either CIL or s106 alone, or the two together in some combination.
- 1.3.6 We have agreed with the officer group on which sites are to be treated as 'strategic sites for the viability appraisals. We have also sought views at the developer workshop on the site typologies to be tested for the WPV assessment and amended the mix to reflect the feedback received. It is

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important to note that some variation of the viability considerations will inevitably arise in negotiation at site specific level when and if these sites become the subject of planning applications.

1.4 Guidance on infrastructure planning and delivery

1.4.1 The Framework states the following with regard to infrastructure planning:

- Plan making should include strategic policies, not only for *'the homes and jobs needed in the area'* but for *'the provision of infrastructure'* (para. 156), and that Local Plans should crucially *'plan positively for the development and infrastructure required in the area to meet the objectives, principles and policies'* of the Framework (para. 157)
- It is *'important to ensure that there is a reasonable prospect that planned infrastructure is deliverable in a timely fashion ... For this reason, infrastructure and development policies should be planned at the same time, in the Local Plan'* (para. 177).

1.4.2 The proposed development will require the provision of a range of infrastructure that is emerging through the preparation of the Infrastructure Delivery Plan. To ensure the timely delivery of infrastructure, there will be a requirement to proactively plan, prioritise and manage the delivery of infrastructure.

1.4.3 This process for managing the delivery of infrastructure starts at the policy preparation stage. There are a number of policies which refer to the need for developer contributions to provide infrastructure. Having reviewed the various policies that relate to infrastructure planning, we consider there is scope to simplify and strengthen the infrastructure delivery policy by doing the following:

- Merging the two separate overarching policies that relate to infrastructure into one single Infrastructure Delivery and Developer Contributions Policy
- Removing any reference to securing developer contributions from individual policies and cross referencing these to the single overarching policy
- Supporting this overarching policy with a 'live' infrastructure delivery plan, kept under review annually and reflecting the changes taking place in infrastructure requirements and priorities, as well as completions
- Establishing an internal arrangement to help support the delivery of infrastructure such as nominating a lead officer with responsibility for infrastructure planning
- Establishing a joint 'Infrastructure Delivery Group' made up of key service providers such as the transport and education authorities, utilities

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companies, the emergency services, and the health authorities, together with developers, to inform infrastructure requirements, to consider priorities for spending, and to explore opportunities to bid for new funding sources and innovative means to secure investment. Given the strong cross boundary impact of the growth on neighbouring authorities, and vice versa, as well as the remit of the participants, this group may be established over an area greater than East Herts district.