

Matter 1: Policy H7: Review Mechanisms

1 Question - Whether Policy H7: Review Mechanisms is positively prepared, justified, effective and consistent with both national policy and the LPSS.

- 1.1 The Council considers that Policy H7: Review Mechanisms is positively prepared, justified, reflects an approach that is consistent with national policy and guidance and the LPSS, and that it would be effective as a mechanism to secure further contributions to affordable housing provision in Guildford borough.
- 1.2 The NPPF at paragraph 35 defines the meaning of “positively prepared”, “justified”, “effective” and “consistent with national policy”. It states:

“Local plans and spatial development strategies are examined to assess whether they have been prepared in accordance with legal and procedural requirements, and whether they are sound. Plans are ‘sound’ if they are:

- a) Positively prepared – providing a strategy which, as a minimum, seeks to meet the area’s objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
- b) Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
- c) Effective – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
- d) Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant.

Positively prepared

- 1.3 The policy is positively prepared, as it seeks to meet the borough’s ambitions and the Local Plan’s strategic objective ‘to meet housing requirements of the whole community and provide housing of a suitable mix and type’ as reflected in its Sustainability Appraisal¹. It is a deliverable policy that, when engaged, would enable potentially increased delivery of affordable housing to meet the affordable housing requirements of the Local Plan strategy and sites, 2019 (LPSS) and contribute toward meeting the borough’s need for more affordable homes.

¹ See [GBC-LPDMP-CD-007d](#) at Page 56.

Justified

- 1.4 There continues to be a pressing need for affordable housing in the borough. In finding the LPSS sound in 2019 and when referring to housing need, Inspector Bore noted that ‘Guildford has... severe and deteriorating housing affordability and a very serious shortfall in the provision of affordable homes.’² Housing affordability in Guildford borough remains a challenge with its housing affordability ratio³ of 13.2 for 2021 being significantly worse than the average for England at 9.1 and the South East at 11.8⁴.
- 1.5 In this context, the Council is of the view that every possible opportunity should be taken to secure affordable housing provision through the planning system. The proposed review mechanism policy reflects an appropriate and justified approach to seek further affordable housing contributions where the minimum 40% contribution was not able to be met at the point of granting planning permission. The use of review mechanisms reflects a reasonable approach which is in place elsewhere, including in other local authorities where housing affordability is a particular challenge⁵. It is also an approach which would only result in further affordable housing contributions where it is viable to do so and so will not threaten the delivery of housing to meet LPSS requirements.
- 1.6 Further, the Council considers that the proposed policy is consistent with both the LPSS and its incorporation within the plan is aligned to and justified by National Planning Practice Guidance (PPG) on viability.

Effective and consistent with both national policy and the LPSS

- 1.7 LPSS Policy H2(6) enables the Council to consider permitting deviation from the ordinarily required affordable housing contribution, including considering a reduction to the overall number of affordable homes, provided developers satisfactorily demonstrate that providing such would not be economically viable.
- 1.8 In such cases (which are considered to be rare in light of the fact that the Local Plan has been subject to viability assessment⁶), a reduced provision of affordable housing may be agreed and reflected in the associated Section 106 agreement and a planning application may be found to be

² See paragraph 79 of the [Inspector’s Report](https://www.guildford.gov.uk/article/22870/Examining-the-Local-Plan-part-1) available at <https://www.guildford.gov.uk/article/22870/Examining-the-Local-Plan-part-1>

³ Median housing affordability ratio refers to the ratio of median price paid for residential property to the median workplace-based gross annual earnings for full-time workers.

⁴ See Housing affordability in England and Wales: 2021, available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/bulletins/housingaffordabilityinenglandandwales/2021>.

⁵ This includes in London, where the [London Plan](https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/london-plan-2021) (2021) at Policy H5 F includes viability review requirements, (available at <https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/london-plan-2021>) and in Mid-Sussex – see [Development Viability SPD](https://www.midsussex.gov.uk/planning-building/supplementary-planning-documents/) (2018) at section 4 (available at <https://www.midsussex.gov.uk/planning-building/supplementary-planning-documents/>).

⁶ See [GBC-LPDMP-SD-092](https://www.gbc-lpdmp-sd-092) - this is prepared in the context of the NPPF at para 34 which indicates that plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure and that ‘such policies should not undermine the deliverability of the plan.’

acceptable, despite not providing a fully policy compliant level of affordable housing contribution (at least 40% of homes on the site).

- 1.9 The Council considers that proposed Policy H7 is consistent with and would supplement LPSS Policy H2. It would not seek to supplant nor diminish any of the provisions of LPSS Policy H2. Less still would it be an avenue to revisit the acceptability of a planning permission granted in the light of information available at the time including the outcomes of the application stage viability assessment.
- 1.10 The policy is proposed in recognition of the fact that the circumstances that underpinned agreement to a reduction in affordable contributions at the time planning permission is granted may change over time. The review mechanism is intended to confirm that the viability assumptions at the point of planning permission (including relating to development costs and values) remain accurate and whether, at the specified later point, there is any surplus that might be used for (further) affordable housing provision up to the minimum LPSS affordable housing contribution of at least 40% of homes on the site.
- 1.11 This approach is considered to be consistent with the [Viability PPG](#)⁷ which establishes the principle of incorporating a review mechanism within a Local Plan, along with explaining the purpose of doing so. In this regard, the PPG is clear that review mechanisms are a tool 'to ensure policy compliance and optimal public benefits through economic cycles' and 'to strengthen local authorities' ability to seek compliance with relevant policies over the lifetime of the project'⁸. The Council considers that this is precisely what Policy H7 seeks to achieve.
- 1.12 Further, the Viability PPG includes some direction in terms of how review mechanisms should be approached as part of the plan-making process, indicating that 'Plans should set out circumstances where review mechanisms may be appropriate...' as well as 'clear process and terms of engagement regarding how and when viability will be reassessed over the lifetime of the development.' In this regard, the Council considers that, the scope of the policy is sufficiently clear (see response to supplementary question 1.2) and that it is consistent with the PPG in this regard.
- 1.13 The Council considers that the proposed policy would be effective in its operation. Its timing at a 'late stage' is considered appropriate and proportionate, including in relation to 'small scale' development. Further, the policy provides sufficient clarity, including alternate approaches, to enable agreement on the nature of viability review at the point of planning permission as a means to avoid any disagreement at review stage. (see responses to supplementary questions 1.2 and question 1.3).
- 1.14 The Council's view is that the policy provides an adequate level of detail to ensure that it is effective (see response to supplementary question 1.4).

⁷ Available at: <https://www.gov.uk/guidance/viability>

⁸ See [Viability PPG](#) Paragraph: 009 Reference ID: 10-009-20190509, available at: <https://www.gov.uk/guidance/viability#viability-and-decision-taking>

2 Supplementary Question 1.1 - How often has reduced affordable housing provision been agreed? Please provide a list of recent cases. Have review clauses been agreed?

2.1 The Council has sought to review planning permissions, including those granted on appeal, which included a reduced contribution toward affordable housing since the adoption of the LPSS on 25th April 2019. As might be expected, there are reasonably few cases – 3 in total – that reflect these circumstances. A summary of their frequency over the period in question is as follows:

- a. Financial Year 2019/20: 1 case
- b. Financial Year 2020/21: 1 case
- c. Financial Year 2021/22: 0 cases
- d. Financial Year to date (August 2022): 1 case

2.2 Further detail on these recent cases is provided below, along with an indication of whether review clauses have been agreed in the final column:

Financial Year 2019/20

Date approved	Application reference	Address	Description	Affordable housing	Review clause (Y/N)
24/02/2020	19/P/01313	11 Annandale Road, Guildford, GU2 4LR	Demolition of all existing buildings and the erection of two residential buildings comprising of 12 x 1 bedroom apartments, to include the construction of two bin stores and a comprehensive landscaping scheme	None on-site. Contribution of £10,345.00 secured following application stage viability assessment	N

Financial Year 2020/21

Date approved	Application reference	Address	Description	Affordable housing	Review clause (Y/N)
25/03/2021	19/P/01994	Safeguard Bus Depot and 7 Ridgemount, Guildford, GU2 7TH	Redevelopment of the site for 19 residential units (11 x 1 bed, 3 x 2 bed and 5 x 3 bed) and associated access and landscaping.	5 on-site affordable housing units. (26% contribution) following application stage viability assessment	N

Financial Year 2021/22

Date approved	Application reference	Address	Description	Affordable housing	Review clause (Y/N)
None	N/A	N/A	N/A	N/A	N/A

Financial Year to date (September 2022)

Date approved	Application reference	Address	Description	Affordable housing	Review clause (Y/N)
06/08/2022	21/P/02246	Orchard Walls, Beech Avenue, Effingham Leatherhead, KT24 5PG	Demolition of the existing property and erection of 8 dwellings with a new access provided onto Beech Close.	Commuted sum of £178,844 following application stage viability assessment	N

2.3 Further to these permitted schemes, there are two recent cases where a reduced affordable contribution is proposed that were refused permission by the Council but are currently subject to appeals. No appeal decisions have yet been issued. These cases are reflected below:

Financial Year 2021/22

Date approved	Application reference	Address	Description	Affordable housing	Review clause (Y/N)
31/03/2022	20/P/01057	White Horse Yard, High Street, Ripley, GU23 6BB	Erection of 26 houses and flats, associated landscaping, open space, access and parking following demolition of buildings including the partial demolition of the listed curtilage wall	7 on-site shared ownership affordable housing units (27% contribution following application stage viability assessment)	Y*

*not yet agreed

Financial Year to date (as at September 2022)

Date approved	Application reference	Address	Description	Affordable housing	Review clause (Y/N)
05/04/2022	21/P/01306	Land at Effingham	Hybrid planning application for outline planning	22 on-site affordable	N*

Date approved	Application reference	Address	Description	Affordable housing	Review clause (Y/N)
		Lodge Farm, Lower Road, Effingham, Leatherhead, KT24 5JP	permission (only access to be considered) for the erection of 4 self-build dwellings on land at 408-410 Lower Road, Effingham following demolition of all existing buildings; and full planning permission for the erection of 110 dwellings, with access, parking, community assets, landscaping, and associated works on land at Effingham Lodge Farm, Lower Road, Effingham	housing units (20% contribution following application stage viability assessment)	

*not yet agreed

3 Supplementary Question 1.2 - Is the scope of the policy sufficiently clear? Should small scale development (to be defined) be exempt?

Scope of the policy

- 3.1 The Council considers that the scope of the policy is sufficiently clear and in line with the Viability PPG, which indicates that ‘plans should set out circumstances where review mechanisms may be appropriate.’ Proposed policy H7 sets out these circumstances at paragraph (1). The policy would be engaged by any application where a reduced contribution to affordable housing is agreed under LPSS Policy H2(6)(b) – in these circumstances the requirement would be that a review mechanism is secured.
- 3.2 The Council has included within this paragraph (1) the caveat that the review mechanism would be required to be secured ‘where it [the Council] considers [it] appropriate.’ The reason for this caveat is expanded upon under the policy’s reasoned justification at paragraph 2.33 as follows:
- ‘...The Council may choose not to impose a requirement for a viability review mechanism where the developer demonstrates, and the Council is satisfied that the potential for additional contributions is likely to be limited by the circumstances of the case. This could include cases involving smaller scale development where the likelihood of an increased contribution (including offsetting the costs associated with further viability review) is diminished.’*
- 3.3 In short, whilst the inclusion of a review mechanism would be the norm whenever a reduced level of affordable housing provision is agreed, the inclusion of the caveat (or discretion) within the Policy is intended to offer the Council flexibility to assess the appropriateness of doing so on a case-by-case basis. This would mean the Council need not conclude that an application is contrary to policy if there are justified reasons not to secure a viability review mechanism. Being prescriptive about the circumstances in which a review mechanism will not be imposed runs the risk of being both over inclusive and under inclusive. Over inclusive because a development may

fall into an exception category, but a review mechanism be appropriate. Under inclusive because a development may fall outside an exception category, but a review mechanism be inappropriate.

- 3.4 On reflection, should the Inspector consider that this caveat within the policy would lead to a lack of clarity in its scope of application or that it is simply superfluous, the Council proposes that this may be removed from the policy wording under paragraph (1) as per below. Should there be circumstances as outlined in the supporting text to the policy at paragraph 2.33, these could then be considered by the Council on a case-by-case basis as an exception to the policy. Should the proposed main modification to paragraph (1) be accepted, it is suggested that the supporting text at paragraph 2.33 also be modified as per below:

Policy H7, paragraph (1)

- 1) If a reduced contribution to affordable housing than that which is required by the Local Plan is proposed and justified on viability grounds, the Council will, ~~where it considers appropriate,~~ require a viability review mechanism to be secured.

Policy H7 Reasoned Justification, paragraph 2.33

2.33...~~The Council may choose not to impose a~~ Any departure from the requirement for a viability review mechanism will be dealt with on a case-by-case basis but would require substantial and robust justification by the applicant where the developer demonstrates, and the Council is satisfied that the potential for additional contributions is ~~likely to be~~ limited by the circumstances of the case. ~~This could include cases involving smaller scale development where the likelihood of an increased contribution (including offsetting the costs associated with further viability review) is diminished.~~

Small scale development

- 3.5 The Council considers that the policy reflects a proportionate approach to viability review including in relation to ‘small scale’ development⁹. At the outset, it is important to note that affordable housing is only sought under LPSS Policy H2 on sites providing 11 or more homes (gross) save in Designated Rural Areas. The smallest schemes would not be required to provide affordable housing, and therefore Policy H7 would not be engaged. There appears to be little justification in setting a specific threshold for Policy H7 any different to that under LPSS Policy H2 such that a proposal may be subject to a policy requirement to provide affordable housing, but not subject to the review mechanism. The Council’s view is that there is no need to exempt ‘small scale’ development (of a scale that does engage LPSS Policy H2) from the proposed policy requirements. This is for several reasons.
- 3.6 First, the proposed late-stage timing of the viability review is considered appropriate including for ‘small scale’ development. The Council acknowledges that it is not appropriate to seek a viability

⁹ The Council has assumed that ‘small scale’ development, although not defined in the Policy, is a reference to schemes of a size that fall on the lower end of the spectrum of developments that engage Policy H2 (such as a scheme of 11 homes in a location that is not a Designated Rural Area).

review at a point shortly after the application stage viability assessment was undertaken (for example a few months, and potentially prior to commencement of a scheme). This would run the risk of the viability review being superfluous, as there may be very little change in key inputs to the assessment, including (anticipated) values and building costs. It is further acknowledged that typically, 'small scale' development may commence reasonably soon after planning permission is granted, often as there are fewer pre-commencement conditions to be met and less complex Section 106 agreements may be agreed more rapidly than for large schemes.

- 3.7 This is one of the reasons that the Council has sought to introduce a late-stage review¹⁰ trigger (as opposed to one at an earlier stage). This trigger would mean that a viability review would be undertaken only after a meaningful period of time has elapsed following viability assessment at application stage – likely in excess of a year for 'small scale' development. Following planning permission, the scheme would need to agree a Section 106 agreement, address any pre-commencement conditions, undertake groundworks (which are together likely to take to least a year, even in the case of small sites) and then to be built out to a significant extent before viability review is finalised. During this period, it is possible, if not likely, that values and build costs may be materially different from what they were anticipated to be prior to planning permission being granted. Such changes may influence scheme viability between a grant of planning permission and an advanced stage of completion of even 'small scale' development, and hence assist in justifying late-stage review in these cases.
- 3.8 Second, the Council does not consider that the requirement for one, late-stage review would be overly burdensome for 'small scale development' to the point where these schemes should be exempt from the proposed policy. The point at which the review is set should make it relatively easy to source updated viability inputs such as values and build costs as these will be more evident at that point, rather than being estimates (which they would more likely have been if an early stage or pre-commencement review were to be undertaken). Further, the Council proposes flexibility in terms of the format of the viability review including potential agreement to a more limited formula-based approach¹¹. Where this is agreed at planning application stage (with the detailed terms likely set out in a Section 106 agreement), it is considered that the viability review could be undertaken and agreed reasonably easily at this later stage, with updated and verifiable inputs, and not be the source of any undue delay.
- 3.9 In addition, the fact that any further contribution will be by payment in lieu (inclusion of further on-site units is likely to be impractical at this point in the development process) would mitigate against any need for delay to the construction programme, which could proceed in parallel with the viability review process.
- 3.10 Finally, the Council considers that should the circumstances of the case (including in relation to 'small-scale' development) be such that it is agreed that a review mechanism would not be appropriate, this could be considered on a case-by-case basis under proposed Policy H7

¹⁰ See [GBC-LPDMP-CD-006](#) at Policy H7(3)(a)

¹¹ See [GBC-LPDMP-CD-006](#) at paragraph 2.39

paragraph (1), or alternatively as an exception to the policy if the Inspector is minded to agree the Council's proposed modification to paragraph (1) of the policy at paragraph 3.4 above.

- 3.11 For these reasons, the Council considers it unnecessary to set a size threshold below which schemes should be exempt from viability review, as this would be at the expense of potentially achieving optimal public benefits in the form of contributions toward affordable housing.
- 3.12 Beyond these points, the Viability PPG does not suggest setting scheme size thresholds to which viability review should be applied - it also does not limit the use of viability review to large scale or phased development, nor does it limit reassessment of viability to only one point over the lifetime of the development. Furthermore, the Council has also come across little evidence of cases where smaller schemes are exempt from late-stage review mechanisms elsewhere in England. In contrast, there are examples of a greater level of requirement where smaller schemes may be subject to an early-stage viability review if an agreed level of progress on implementation is not made within two years of the permission being granted (this is in addition to late-stage viability review)¹².

4 Supplementary Question 1.3 - Would 'late stage' reviews be effective? What would happen in the event of disagreement?

- 4.1 The Council considers that the 'late stage' reviews would be effective.
- 4.2 The proposed timing of the viability review at a 'late stage' is considered appropriate as described in the policy's reasoned justification at paragraph 2.37 and further elaborated upon in relation to 'small scale' development in paragraphs 3.6 – 3.8 above.
- 4.3 In relation to the potential for disagreement and what would happen in that event, the Council makes three points.
- 4.4 First, the Council has sought an approach which seeks to limit the potential for disagreement by providing sufficient scope and flexibility for agreement on the nature of viability review at the point of granting planning permission. In this regard, the Council has, on the one hand, been responsive to representations that indicated that schemes may reflect differing reasons for lack of viability and that these reasons may not necessarily be captured by any limited formula-based approach to viability review. The Council's approach, which seeks a full viability assessment at review stage¹³ would limit any 'in principle' disagreement regarding considering factors such as agreed scheme deficits as part of viability review as they would be taken into account as part of the full assessment.
- 4.5 Concurrently, the Council has also made allowance for a more limited formula-based approach to the review aimed at reducing the potential for disagreement at the point of review as in these

¹² See [London Plan](https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/london-plan-2021) (2021) at Policy H5 F (2), (available at <https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/london-plan-2021>)

¹³ See [GBC-LPDMP-CD-006](#) at paragraph 2.39

cases, assessment of whether there is a surplus would be based on relatively easily evidenced value and cost data.

- 4.6 Second, whilst the Council has sought to minimise the potential for disagreement, its view is that the most appropriate point to address possible disagreement and/or avoid issues at the later viability review stage is at the point where the detailed terms of the review are agreed (usually as part of the Section 106 agreement) at planning permission stage. In this regard, the Council would foresee any potential disagreement to be less likely at the (later) point of viability review, as the detailed terms would have been agreed at this earlier permission stage (and reflected in the Section 106 agreement)¹⁴. Supporting this view, Royal Institution of Chartered Surveyors (RICS) guidance¹⁵ suggests that if a full review is undertaken, fixing certain inputs (which is not something the policy could or should do) and incorporating these into the Section 106 agreement may streamline the viability assessment process at review stage.
- 4.7 Finally, and despite these measures, the Council acknowledges that there remains at least some potential for disagreement at review stage once the submitted viability review has been independently scrutinised by the Council's specialists. It is foreseen that any such disagreements could be dealt with via negotiation and exchange of information between parties, as tends to be common in such cases. However, in cases where even this is not possible, further mechanisms may be necessary to resolve disagreement. In this regard, the Council considers that it would be desirable to include within the Section 106 agreement a clause on dispute resolution (as often occurs as a matter of course). RICS guidance helpfully indicates that such a 'review clause may need appropriate dispute resolution clauses. This could include reference to RICS or the Law Society to appoint an arbitrator or independent expert for valuation or legal disputes, respectively.'¹⁶ In this light, the Council is minded to propose to the Inspector for consideration the following minor modification to the policy's reasoned justification, which reflects RICS guidance on the matter:

Policy H7 Reasoned Justification, paragraph 2.39

'2.39 ...The approach should be agreed with the Council prior to submission of an updated viability assessment with the terms set out at the time that planning permission is granted, usually as part of the Section 106 agreement. The terms should include appropriate dispute resolution clauses. This could include reference to RICS or the Law Society to appoint an arbitrator or independent expert for valuation or legal disputes, respectively. Any viability assessment should follow the government's recommended approach to assessing viability as set out in National Planning Guidance.'

¹⁴ See [GBC-LPDMP-CD-006](#) at paragraph 2.39, which reflects this approach to setting out the terms of viability review at this stage.

¹⁵ [RICS \(2021\) Assessing viability in planning under the National Planning Policy Framework 2019 for England](#), see paragraph 3.11.9

¹⁶ [RICS \(2021\) Assessing viability in planning under the National Planning Policy Framework 2019 for England](#), see paragraph 3.11.6

5 Supplementary Question 1.4 - Should further details of the review process be included?

- 5.1 The Council is of the view that Policy H7 includes sufficient details of the review process. The Council's approach is considered to be in line with the Viability PPG which indicates that:

'Plans should set out circumstances where review mechanisms may be appropriate, as well as clear process and terms of engagement regarding how and when viability will be reassessed over the lifetime of the development to ensure policy compliance and optimal public benefits through economic cycles.'

Paragraph: 009 Reference ID: 10-009-20190509

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- 5.2 With regard to the Plan setting out 'the circumstances where review mechanisms may be appropriate' the Council has already reflected its view that the scope of the policy is sufficiently clear and aligns to the PPG in this regard. (see response to Matter 1.2).
- 5.3 Further, the Council's view is that the proposed policy sets out sufficient detail on the process and terms of engagement regarding 'how and when viability will be reassessed...' in line with the PPG [emphasis added].
- 5.4 In terms of the latter aspect ('when viability will be reassessed') proposed Policy H7 paragraph (3) sets out detail on the trigger point/s that review mechanisms will be based upon. It is considered that these are clearly articulated and provide sufficient detail for drafting of review clauses to be included in a Section 106 agreement.
- 5.5 In terms of the former aspect ('how...viability will be reassessed'), the policy and its supporting text (particularly paragraphs 2.39 – 2.41) provide this detail. An additional modification to the supporting text following Regulation 19 consultation was included (at paragraph 2.39) aimed at providing greater clarity in terms of how viability should be reassessed i.e. by submission of an updated 'full viability assessment using the same methodology as the original assessment' submitted at the planning application stage.
- 5.6 Further, paragraph 2.39 allows for agreement to an alternative approach to how viability will be reassessed in terms of 'a more limited formula-based approach to the review, focussing on any changes to submitted values and build costs.'
- 5.7 Paragraph 2.40 provides additional detail regarding the principles that will inform how viability will be reassessed through the review to establish whether any surplus exists that may be used toward further affordable housing contributions. It is considered that this provides sufficient basis for undertaking either full viability assessment or formula-based approach at the point of review.
- 5.8 In addition to these fundamental aspects regarding the nature of the review and how it is undertaken, the policy also reflects detail including on the following:
- a) Nature of the contribution (in-lieu or on site) to be sought (Policy H7, paragraph (4))

- b) Capping any further contributions from any surplus that may exist (Policy H7, paragraph (5) and paragraph 2.41)
- c) Setting out the terms of the viability assessment at the time planning permission is granted, usually as part of the Section 106 agreement (Paragraph 2.39)
- d) Reference to using the Government's recommended approach to assessing viability as set out in National Planning Practice Guidance (Paragraph 2.39)

5.9 In this context, the Council considers that the proposed policy includes sufficient detail in order to be effective and that it provides a clear basis for the drafting of review clauses as part of Section 106 agreements. Should the Council be of the view that there is a need to supplement the policy with further guidance at a later stage, the option exists to introduce a Supplementary Planning Document¹⁷ which could provide assistance and consistency in the use of the review mechanism (such as a worked example of a formulaic approach to viability review based on the principles at paragraph 2.40).

¹⁷ The option of introducing SPD is advocated by RICS as per [RICS \(2021\) Assessing viability in planning under the National Planning Policy Framework 2019 for England](#), see paragraph 3.11.7.