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Viability and the National Planning Policy Framework
Anthony Lee

- How were policies tested before the NPPF?
- What are the new requirements in the NPPF?
- Potential impacts?
- Emerging guidance for planning policy testing
- Relationship with Community Infrastructure Levy (CIL)

NPPF



**Plan making/site allocation
Planning policies**

**Development
Management**



**Application of planning
policies to proposed
developments**

How were policies viability tested before the
NPPF was published?

Pre NPPF requirements

- PPS3 para 29:

“Set an overall (ie plan-wide) target for the amount of affordable housing to be provided... reflect[ing] an assessment of the likely economic viability of land for housing within the area, taking account of risks to delivery and ... the likely levels of finance available for affordable housing, including public subsidy and the level of developer contribution that can reasonably be secured”

- PPS12 para 4.27:

“Local authorities should undertake timely, effective and conclusive discussion with key stakeholders on what option(s) for a core strategy are deliverable”.

Pre NPPF requirements

- Blyth Valley decision
 - Pre PPS3 publication
 - Sought to justify Aff Hsg target on needs alone, no test of viability
 - LPAs must test affordable housing policies in line with PPS3
- Wakefield decision
 - Developers argued against taking account of future market conditions
 - LPAs can adopt target based/aspirational affordable housing policies
 - Set policy on future housing markets over life of Core Strategy
 - Made viability testing of a significant proportion of schemes inevitable

Viability and planning policy – what has changed?

2. Post NPPF requirements

Para 173:

“Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking.

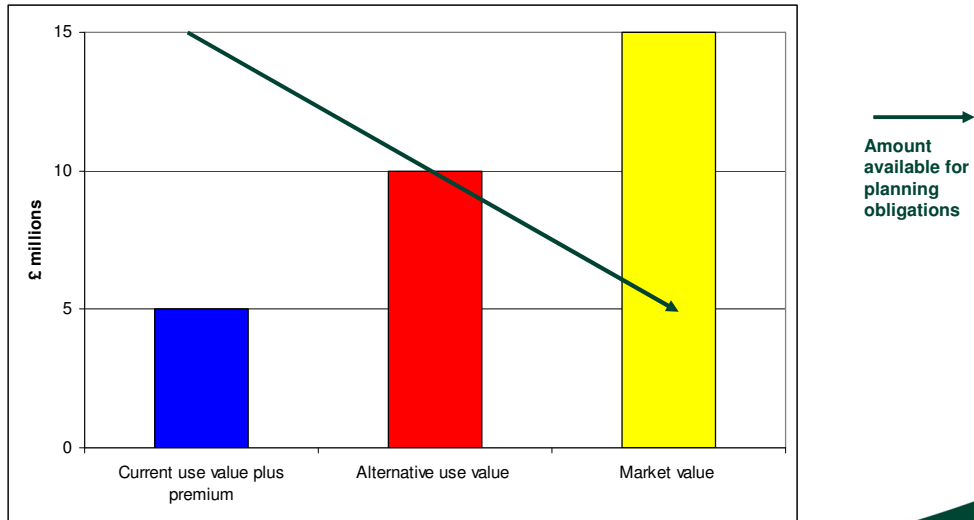
*Plans should be **deliverable**.*

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 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.”*

Implications of the NPPF

What constitutes a 'competitive return'



Impact of NPPF - reactions to the Draft

- Select Committee report focuses on viability issue:

LGA: *“the final NPPF needs to make clear that sustainability must always trump the need to reduce costs to ensure viability not the other way round”*

- A danger that LPAs might have to approve schemes that are unacceptable in planning terms to make them viable

POS: *“The worst-case scenario for the local community is that they get the development but there is not enough value coming forward from the development to mitigate it in terms of roads and all the other facilities that are required”*

- Impact on affordable housing delivery:

Shelter: NPPF offers an *“effective exemption for developers”* putting LPAs in a weak position when trying to secure AH

Key changes from the draft to the final NPPF

- Does the NPPF put an end to 'Wakefield' approach of target based policies?

Para 47: *"LPAs should...identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing..."*

Footnote 5 (**Draft** NPPF):

*"To be considered deliverable, sites should... be available **now**...and in particular that development of the site is viable... based on **current values**..."*

Footnote 11 (**Final** NPPF)

*"To be considered deliverable, sites should be available now... and be achievable with a **realistic prospect that housing will be delivered** on the site within five years and in particular that development of the site is viable.*

- Draft implied that Aff Hsg targets may need to have been reduced
- In northern districts – no affordable housing delivery at all in first 5 years
- Concerns addressed? Only in part – still emphasis on planning, not land value

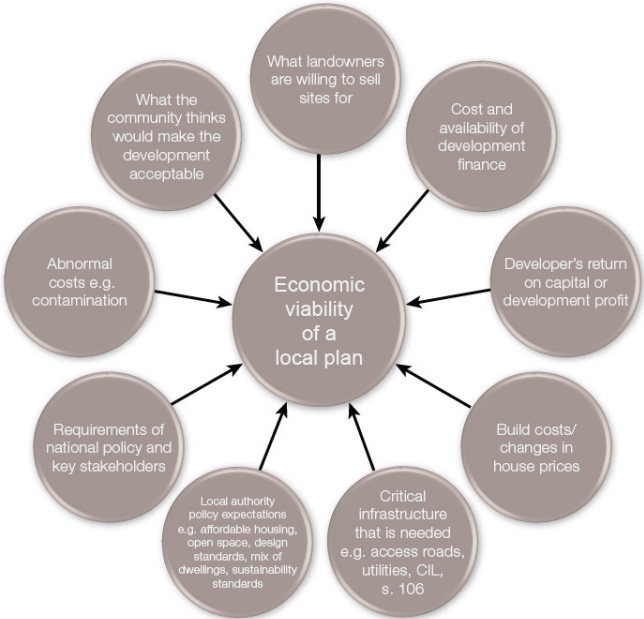
Still no position on land value 'benchmarks'
(other than 'competitive returns')

Filling the viability void in government policy

Recently published guidance



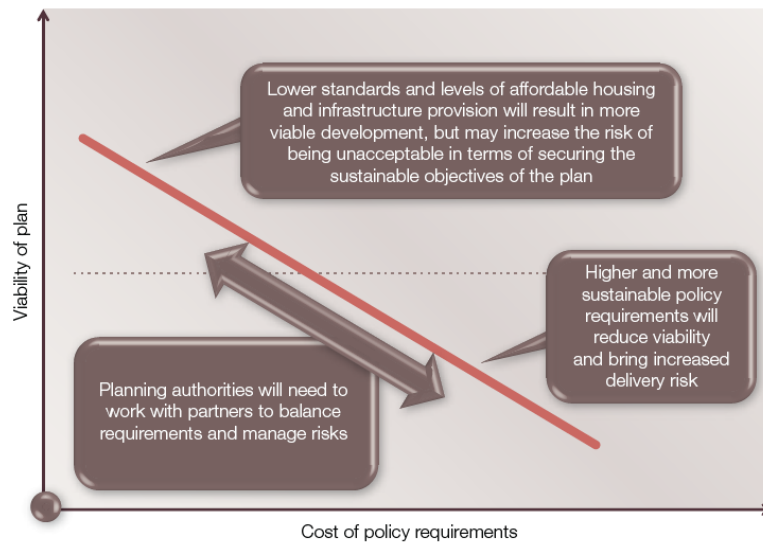
LHDG – viability considerations



Source: 'Viability testing local plans' Local Housing Delivery Group/LGA/HBF

LHDG – acknowledging trade-offs

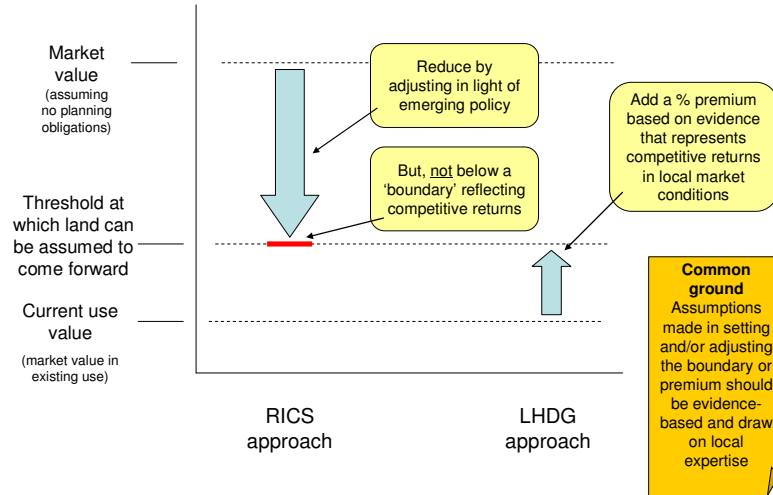
Balancing delivery risk and sustainable plan policies



Source: 'Viability testing local plans' Local Housing Delivery Group/LGA/HBF

Issue of benchmark land value

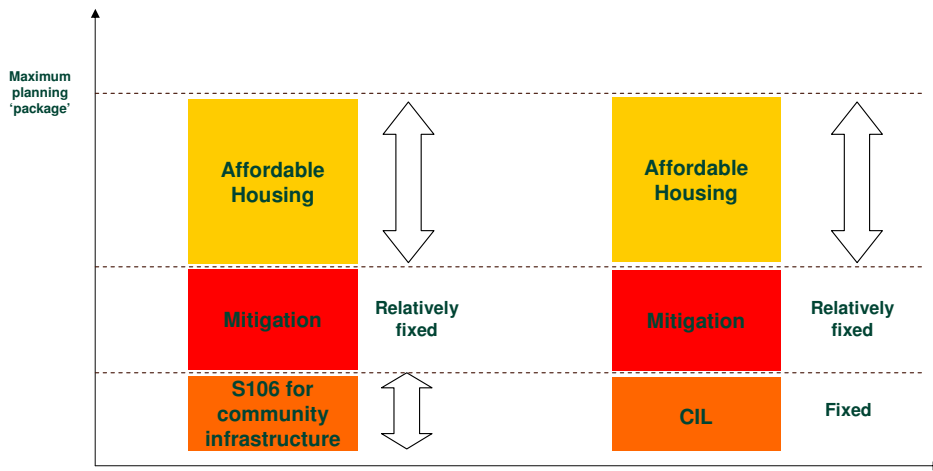
Establishing a site value benchmark for viability where plan policies are being tested



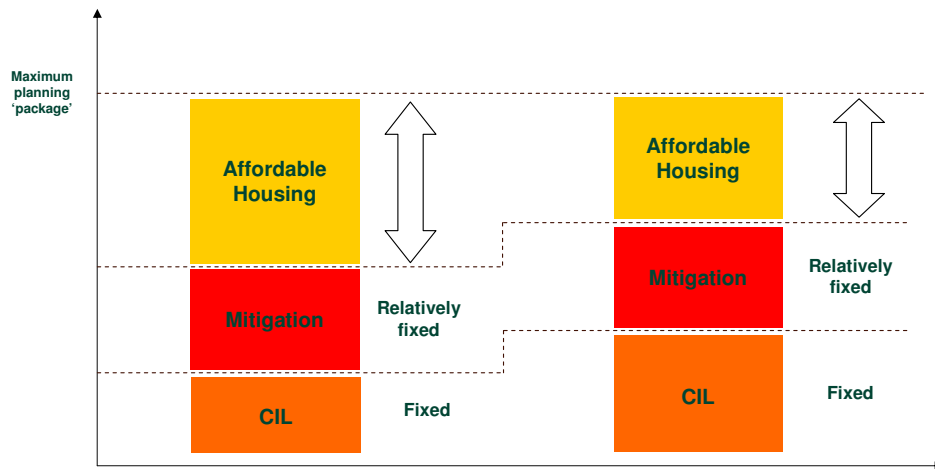
What happens after CIL is adopted?

Will CIL not impact on affordable housing?

CIL and the delivery of other planning policies



CIL and the delivery of other planning policies



CIL and the delivery of other planning policies

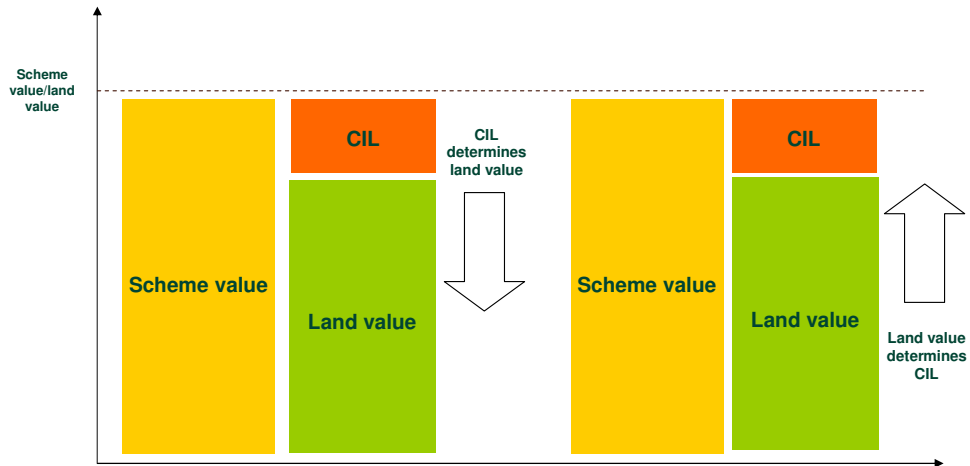
- So CIL is fixed, but what is the real impact on Aff Hsg?
- Bristol's CIL – Savills challenge – too much focus on infrastructure
- Rates of £70 psm (City Centre) and £50 psm (outer areas)
- CIL will be less than 2% of development costs
- Lower burden compared to S106 tariff (AH and existing floorspace)
- Reduce Aff Hsg from 40% to 38% to fully mitigate CIL

- Savills 'viable' CIL - £50 psm (City Centre) and £30 psm (outer)
- Reduce Aff Hsg from 40% to 38.6% to fully mitigate CIL
- Council's judgement is that it would prefer to raise extra funding

- Key message – if CIL set sensibly, little impact on Aff Hsg delivery

Planning policy and land values

- Two very distinct schools of thought:
 - Land value determines extent of planning obligations
 - Extent of planning obligations determines land value



- Mayoral CIL Examiner's report:

'the price paid for development land may be reduced....a reduction in development land value is an inherent part of the CIL concept. It may be argued that such a reduction may be all very well in the medium to long term but it is impossible in the short term because of the price already paid/agreed for development land. The difficulty with that argument is that if accepted the prospect of raising funds for infrastructure would be forever receding into the future. In any event in some instances it may be possible for contracts and options to be re-negotiated in the light of the changed circumstances arising from the imposition of CIL charges.'

Concluding thoughts

- Is the NPPF a game changer?
- Does not fundamentally shift emphasis – ‘competitive returns’ can be taken to mean current use values or alternative use values
- Likely to be a debate on policies during first 5 years of plan period
- Caution on CIL rates – potential impact on affordable housing
- What has supremacy? Land value or planning policies?



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