

Viability and
the Planning
System:
The Relationship
between Economic
Viability Testing,
Land Values and
Affordable Housing
in London



Kingston
University
London



Royal
Agricultural
University
Cirencester

The logo for the Royal Agricultural University, Cirencester, features a crest with a crown and the letters "RA" in a stylized font.

University of
Reading

Viability and the Planning System: The Relationship between Economic Viability Testing, Land Values and Affordable Housing in London

Prepared for:

London Boroughs of Barking and Dagenham,
Brent, Camden, Croydon, Enfield, Greenwich, Islington,
Lambeth, Merton, Newham, Southwark, Tower Hamlets and
Waltham Forest

January 2017



Authors:

Professor Sarah Sayce BSc, PhD, FRICS, IRRV is Professor of Sustainable Real Estate at the Royal Agricultural University and Emeritus Professor of Kingston University. A fellow of RICS she currently is elected to their Governing Council and serves on their Valuation Board. She was the lead author of RICS guidance on sustainability and valuation, both commercial and residential. She has also led research for CLG on evaluation of community land auctions and on the issue of back garden developments. Professor Sayce acted as Team Lead for this project.

Professor Neil Crosby PhD, ARICS is Professor of Real Estate at the University of Reading. He is a member of the RICS Assets Standards Committee and has delivered keynote addresses on appraisal issues at the major real estate academic and professional conferences around the world, including the World Valuation Congress. Professor Crosby is a co-author of the RICS (2012) Guidance Note “Financial Viability in Planning and the RICS (2015) funded research report “Financial Viability Appraisal in Planning Decisions”.

Dr Peter Garside PhD FRGS is Associate Professor at the Department of Geography, Kingston University. He was a co-investigator for national studies on reforming the National Land Use Database, reviewing garden development, PDL definitions and evaluating the Community Land Auction Pilots.

Dr Rob Harris BA(Hons) MPhil PhD is Principal of Ramidus Consulting Limited, which he established in 2003 as a specialist built environment research consultancy. Recent publications have included *Future Workstyles*, *Future workplaces* for the Corporation of London and the *London Office Policy Review* for the GLA.

Professor Ali Parsa Phil, PhD, FRICS is the Dean of the School of Real Estate and Land Management at Royal Agricultural University. Professor Parsa’s recent research has focused on urban regeneration and international real estate markets including the Enfield Garden Project for Enfield Borough Council, and an EU funded project on Commercial Local Urban Districts (CLUDs). He has acted as advisor on housing policy and urban development with government departments in the Middle East and Asia and has worked on numerous RICS projects including on “Greening Real Estate Education” and “Internationalisation of real estate education”.

Executive Summary

A changed planning environment in which economic viability is a key consideration.

- The global financial crisis of 2008 provided a watershed moment at which the property markets, including residential house sales and development suffered significant downturns. However, London recovered more quickly than the rest of the UK, with significant advances in house prices creating an expectation that subsequent increases in land values would enable the delivery of policy compliant development and thus lead to a rise in the delivery of affordable housing. However, this has not happened; the research has therefore sought to analyse the relationship between planning policy, house prices and land values.
- Planning policy changed in 2012 with the introduction of the National Planning Policy Framework (NPPF). This introduced a more pro-development agenda and placed a priority on housing provision. Further changes such as the extension of permitted development rights (PDR) have shared a similar ambition: to increase housing supply.
- A key requirement of the NPPF is that development should be ‘economically viable’ and developers and landowners should achieve ‘competitive returns’. These requirements underscore the encouragement of economic development and were aimed at creating a step change in the delivery of new housing and the prevention of ‘stalled schemes’ where developers argued they could not meet their planning obligations. Yet, overall housing delivery levels have only recently recovered to the pre-recession peak levels of 2008/09 and levels of new affordable housing have fallen in both numerical and percentage terms.

Affordable housing delivery and viability testing

- The provision of sufficient affordable housing is essential to meeting the needs of London’s growing population and ensuring its continued economic success.
- Following cuts in public grant, whilst local government borrowing to build housing remains restricted, there is an overwhelming reliance on the private sector to deliver affordable housing. This is achieved through the placing of planning obligations on new developments secured through so-called ‘S106 agreements’.
- The percentage of affordable housing is set in the development plan, but this is subject to possible negotiation to ensure the economic viability test is met. This is unlike the developer contribution to local infrastructure costs (the Community Infrastructure Levy), which, once set through public examination, is certain and non-negotiable.
- As part of S106 discussions, decisions on individual applications may be tested against Development Plan requirements using development viability assessments. Where these show that it would not be economically viable to comply with affordable housing targets, developer contributions may be reduced¹.
- Concerns have been raised that the interpretation of policy, particularly in respect of viability testing, has had a significant, negative impact on affordable housing provision.
- During a period in which London house prices have risen strongly, these concerns run counter to the normal market expectation that price increases will feed through to land values and encourage land to be brought forward for development that complies with planning policy – particularly the inclusion of affordable housing.

¹ Case studies to support this view are discussed in detail in the main report.

- This research project investigated whether and to what extent the planning policy changes, and in particular the operation of economic viability testing, rising house and land values and the provision of affordable housing within the London context are connected. In particular, whether, in bidding for land, developers are taking full cognisance of Local Plan requirements in terms of the affordable housing contributions, and if not, why not? The research investigated these concerns through market analysis, case studies and interviews with a range of stakeholders.

House price and land value inflation while affordable housing goes down

- Over the study period house prices in London have increased significantly. Land Registry figures indicate that the average London house price has risen by 92.5% since the lowest point in the market in April 2009². This has been accompanied by increases in residential land values at an even higher rate, with one source estimating a 144.8% uplift between March 2009 and September 2015³.
- All things being equal this should mean that developers, whose bids for land are based on the anticipated sales price of their completed developments, less the costs of production, should be able to meet reasonable, plan tested, levels of affordable housing contributions. In theory the levels of required contribution should be reflected in land values.
- However, annual affordable housing delivery has decreased by 37%, despite the sharp rises in both house prices and land values since mid-2009⁴.
- At the same time, the need for affordable housing has increased. The 2013 Strategic Housing Market Assessment (SHMA) for London showed that the need for affordable housing is 52% of London's total housing requirement⁵.

- Evidence from this study suggests that an unintended consequence of changes to the planning system has been to create a series of assumptions and practices that have reduced the delivery of affordable housing whilst indirectly having an inflationary impact on land values.
- However the overall annual level of housing delivery in London has only recently recovered to the level at the previous peak in 2008/9 whilst the overall number of units approved has, at its latest post-recession peak in 2011, already outgrown previous 2008/9 peak levels⁶.
- The relaxation of planning controls and the introduction of the NPPF may have helped to encourage an environment that is supportive of development, but it has not been able to ensure the delivery of the required and planned for affordable housing targets.

Development Viability Appraisals: complex, obscure and subjective

- In exploring the reasons for the 'squeeze' on affordable housing contributions, this research has concluded that one of the major issues relates to the assessment of economic viability, which is embedded firmly and explicitly within the policy framework.
- Economic viability is assessed and examined as part of the plan making process and then tested at the application stage. This complex dual process has its advocates but also its detractors.
- Viability testing, through the use of development appraisals, is a complex process and one that is capable of manipulation through the use of a wide variety of input data, which may remain hidden from public scrutiny and undeclared unless the matter proceeds to appeal.
- Further, there exists a power imbalance between, on the one hand, planners and Inspectors and, on the other, developers and their consultants.

² The Land Registry House Price Index indicates that average London house prices have risen from £245,351 in April 2009 to £472,204 in June 2016.

³ Savills London Residential Development Land Index.

⁴ London Plan Annual Monitoring Report Data, AMR 8-12 shows a decrease in annual average affordable housing delivery of 37% between 2008/9 and 2014/15.

⁵ The Mayor's report concluded that within an overall need of 48,841 new homes each year, there is a demand for 25,624 affordable homes.

⁶ London Plan monitoring Reports show that total completions in 2014/15 were just above 28,000.

The latter are skilled in the process and well resourced. While giving the appearance of a scientific process, the large range of assumptions built into the process means that there is no way of knowing exactly “*at what level the game is being played*”.

- Viability assessments are therefore, in the words of one respondent “*only of use as a negotiating tool*”. As was observed throughout the interviews, that is precisely how they are being used: for negotiation of affordable housing contributions.
- In response to these tensions, local planning authorities have argued for transparency and disclosure, but the research revealed that there is considerable resistance to this. However, some local authorities are seeking greater transparency in response to court decisions.
- The new national planning environment has encouraged a development culture which has involved a shift in power relations, with the focus firmly placed upon increased developer confidence and an understanding that negotiations of planning obligations are an inevitable part of the development process and that a competitive return, set against possible developer contributions, provides the basis for tipping judgements at planning appeal in favour of the developer.
- The cumulative impact of the changes to the planning system since 2012 has been to shift the balance between stakeholders and re-position gains from planning more squarely in the hands of landowners whilst ensuring the developer’s profit, even if this means an erosion of value to the community.
- The certainty inherent in Community Infrastructure Levy (CIL) enables those contributions to be factored in to the bidding process for land. Change and greater certainty in the system is essential. On this there was almost unanimous agreement among stakeholders.

Setting Threshold Land Values: a matter of circularity

- Economic viability testing is undertaken by comparing a ‘residual land value’ derived from a deduction of development costs from the end value of a development with a ‘threshold’ or ‘benchmark’ land value.

Viability testing – residual method of valuation

The value of the completed development - the costs of development including profit and planning obligations = the amount available for the purchase of land (the ‘residual land value’). If higher than a ‘threshold’ or ‘benchmark’ or land value a development is viable.

- The ‘threshold land value’ is normally assessed via an Existing Use Value (EUV) with a premium added (the Local Housing Delivery Group) approach or via an assessment of market value (the RICS guidance) which in turn is based on either analysis of comparable land transactions or a ‘residual’ valuation.
- Overall, the ‘EUV plus’ approach was favoured by the majority of respondents, despite the recognition that the premium element can be difficult to assess in some circumstances.
- The interviews gave strong support to a view that the use of comparable evidence to establish a threshold land value was not valid where such transactions had been predicated on the hope, assumption or prediction that either the plan determined contribution could be reduced through negotiation or on appeal or that the eventual sales figures would be higher than those built into the financial viability assessment.
- It was therefore considered fundamental to the argument that the appraisal should be undertaken “*making sure that it is truly policy compliant*”. If it is not, a transaction at a higher price simply leads to a reduction in affordable housing and a loss to the community.

- Unpacking this issue reveals a ‘circularity argument’. Testing whether or not a development is viable involves establishing a threshold land value. The methods of arriving at this are based on interpretations of professional guidance.
- If market evidence of comparable transactions is relied on, where developers have bid more than the figure that would be arrived at taking into account planning policy, a lack of viability can – and has been – argued. Potentially, the more a developer pays, the less the contribution can be argued to be supportable. This circularity leads to a reduction of affordable housing and what is, in effect, a transfer of risk from the developer to the community.
- The research findings point to a need for change, either minor in the form of greater clarity of guidance, or through a range of more substantial measures, from the setting of fixed contributions, to greater use of ‘claw back’ or ‘review’ clauses where agreed appraisal sales values are exceeded, to radical measures such as the introduction of a tax in lieu of contributions.
- In terms of which was preferred by interviewees, a move towards a simple banded affordable housing target approach which was clear, firm and well-articulated was seen to give strength and credibility to what is, in practice, a system that is not working as intended. Such a fixed or graded solution could, it was argued, speed up the planning process and bring costs down.
- There is a tendency for some landowners to hold back land or release it only at what could be regarded as inflated values. One reason developers have been prepared to pay these figures has been because they considered they could negotiate down the level of contributions below the published plan requirements.
- There was a consensus that the resource base available to local planning authorities is insufficient to enable them to effectively defend their plan position in some cases.

Summary

- There is a generally accepted recognition that some of the gains released by development should be recouped by the community in the form of contributions towards infrastructure (CIL) and affordable housing (via S106). However the cumulative changes to planning policies since 2012, as operated in practice, have had the effect of shifting the balance of power between developers, landowners and community with the result that landowners have been the primary beneficiaries, to the detriment of the delivery of policy compliant development.
- The reasons for this are complex but many relate to the definitions of and interpretations around ‘economic viability’ and the assessment of ‘benchmark land value’. This has produced a circular situation in which the more a developer pays for a site, the lower the S106 contributions can be argued. Such arguments have been accepted by some Planning Inspectors as ‘plan compliant’ even though they fall short of published plan targets.
- These unintended consequences need urgent redress and our recommendations are set out below.

Other Key findings

- The decrease in public sector funding for social housing has placed a reliance on the private sector to deliver the required level of provision that it has not, historically, achieved.
- The complexity around S106 negotiations and the consequent increased need for documentation and justification of appraisals has added both cost and time to the planning process to the detriment of delivery.

Recommendations

Recommendation 1: Approaches to Site Level Economic Viability Testing should be revised.

Based on the findings of the study, there is a very strong case for reform in such a way as to bring certainty and clarity to the viability appraisal process, if indeed it is retained. This was seen as critical to an efficient and effectively operating land market and to prevent the planning system being manipulated by and to the advantage of developers and landowners at the expense of the community. Whilst we have not gone so far as to recommend one specific course of action there are three possible routes to address the issues raised above all of which would have ‘knock-on’ consequences. Each would provide the mechanism to take away the ability to play the system to the detriment of housing contributions. It is recommended that all be considered in more detail to assess the potential impacts.

Option A: Introduce a Fixed Tariff

There was widespread support in our interviews to improve certainty by moving to a fixed, single or scaled, non-negotiable affordable housing contribution. A fixed requirement on sites, with a defined tenure mix, would remove uncertainty whilst allowing for provision of mixed private/affordable tenure housing. This could be put in motion through relatively modest changes to relevant parts of policy and guidance.

Whilst a move to a fixed tariff might initially be unpopular with some stakeholder groups, the point was made repeatedly in the interviews that Community Infrastructure Levy (CIL) originally met a similar resistance, but is now perceived by most to work well. Any such firmer site specific target would of course need to be based on a rigorous assessment of housing needs, affordability and feasibility.

Potential disadvantages of a firmer target could include greater inflexibility to deal with the varied circumstances possible in Greater London, risk of non-delivery of marginal sites and likely lower overall targets to

start with, whereas some exceptional sites could deliver above the target. Concerns associated with a need to set overall lower targets could possibly be mitigated by the use of review clauses.

There is also recognition that introducing a fixed tariff could negatively impact those who have purchased land under the extant system. One solution might be that fixed tariffs could be introduced over a phased period to allow developers to factor it into their appraisals and decision-making processes as they move forward on acquisitions.

Option B: scale back viability testing to be the ‘exception rather than the rule’

The adoption of fixed affordable housing tariffs would enable a scaling back of viability testing to a limited, tightly defined set of circumstances, for example on sites with abnormally high remediation or infrastructure costs. Where genuine issues of viability are identified as part of a rigorous and transparent process, a reduction in obligations could be considered. This would only apply where an acceptable threshold land value (as discussed below) could not be achieved. It is believed that this would reduce the scale of the ‘viability testing industry’ to levels similar to those prevailing prior to the global economic crisis or even earlier; it would also speed up and reduce costs of applications and better assure policy compliant development. It would have the benefit of reducing the possibility of ‘stalled sites’ when developed in conjunction with Option A.

Option C: Abolish site level viability testing completely

There was a widespread view that viability testing is not working and that the system is ‘broken’. Consideration could be given to the abolition of viability testing at the site level, but if this was the case either Option A would have to be adopted or the provision of social housing would need to move away from a private sector responsibility back to the public sector, with funding raised through the public purse by means of general or specific taxation. Such an approach might however run counter to the NPPF objective of

delivering mixed and balanced communities. It is recognised that if this option were to be pursued, Recommendations 2, 3, 4 and 5 would not be required.

Recommendation 2: Reconsider the definition and calculation of what constitutes the threshold/ benchmark land value

Where viability testing is undertaken, there is a need for definitive guidance on how to determine the land value benchmark. A clearer method of calculation and definition would provide certainty and enable landowners to retain an incentive to sell, but not at a price which depresses the contribution to the community below a policy compliant level, where gross development values and costs are at levels which could/ should support such a contribution.

Overall, the 'EUV plus a premium' approach was favoured by the majority of respondents. A suggested revised definition of the benchmark value is the value *below which the site will be retained in its existing use*. It is essential to make the distinction between the value below which the site will be retained in its existing use (the benchmark) and the actual sale price, which will be determined by the market. The owner will always sell to the highest bidder and, in the context of policy uncertainty and manipulation/misunderstanding of the system, this will inevitably lead to greatly reduced affordable housing provision.

Recommendation 3: Provide clearer guidance and practice advice on determining developer's return

The notion of a competitive return and required profit is extremely vague but what is clear is that levels required have not adjusted to take account of changing market conditions: reward levels built into calculations have not reflected the lower interest rate, low return environment that has been a hallmark of the London property

market in recent years, or to the greater protection afforded developers by the viability testing. A clear 'steer' is recommended.

Recommendation 4: Place a greater requirement to disclose appraisal documentation

Authorities have argued for transparency and disclosure in the public interest and some have now introduced this requirement. However, this idea has been resisted due to concerns around client confidentiality and competitive practice, albeit that at planning appeals, appraisals are always tested and made publically available. Given the significant issues arising due to the complex and obscure appraisals, on balance it is recommended that greater disclosure would serve the public interest and support an environment in which planning is viewed as a transparent process.

Recommendation 5: Resource and support additional training for planning staff and the Planning Inspectorate

It is recognised that resources to planning departments have been reduced significantly⁷. The resulting constraints on hiring more staff with viability expertise, for valuation advice, legal advice and representation at appeal and for staff training, both among planning staff and some parts of the Planning Inspectorate, does not ensure that within the current system approved plans can be robustly defended at initial application or appeal (Chapters 5 and 6). It is noted that the GLA has proposed specialist support to Boroughs to help in determining matters in relation to economic viability.⁸ However, our recommendation is that, because economic viability testing is at the heart of the application decision-making process and the subject of many appeals, it is also important that it is seen as a core competence within local planning departments (not just the GLA), and the Planning Inspectorate.

⁷ As confirmed by a recent House of Lords Select Committee on Economic Affairs (2016).

⁸ Carpenter, J. (2016) GLA team to assist boroughs with viability advice. Planning Resource, 7th June. Available from: <http://www.planningresource.co.uk/article/1397837/gla-team-assist-boroughs-viability-advice>

Recommendation 6: Stimulate direct public/social provision

Additional delivery of affordable housing could be through either public, social or private sector providers or through partnerships thereof. This might have the benefit of better ensuring that the needs arising from the demographics of particular local areas are met (e.g. in relation to age, household size). It is clear that many private sector providers do not have this level of knowledge of local need or mechanisms for long-term engagement with the local communities, while local authorities do. Also, a greater number of delivery agencies would provide more competition in the land and property market and greater volume and variety in output. To enable local authorities to build more, limits on borrowing and grant would need to be re-evaluated⁹. Partnering arrangements could also be usefully developed further. There was also some support expressed for the introduction of a levy or tax.

Recommendation 7: Investigate other ways to better ensure land is brought forward

There was a view that there is reluctance by some landowners to bring land forward for sale at policy compliant figures and of unrealistic expectations. Whilst there is an acknowledgement that, at least in the short-term, population needs and economic activity will ensure demand outstrips supply, there is an issue that available sites are not coming forward. We therefore recommend that consideration should be given to researching either or both incentives and compulsion. Among the possible ideas to research are the following:

- Use of fiscal incentives or taxation such as a local land value tax to encourage land to come back into beneficial use or a development tax (such as the Planning Gain Supplement¹⁰) provided this is at a level which does not provide a dis-incentive to delivery. Of the two an incentive tax is preferred.
- Revisit the concept of the so-called Leunig model, promoting community land auctions (Leunig, 2011) which was partially trialled in 2012.¹¹
- Make much greater use of compulsory purchase powers to bring land forward and so that the price paid for land is open to scrutiny and challenge by acquiring authorities. This could be either with a view to direct development or so that acquiring authorities could de-risk sites, including obtaining planning consents, and selling back to the private sector.¹²
- Consider the introduction of Compulsory Sales Order (see Adams, 2015) which would increase supply but obviate the need for the LPA to fund the initial purchase.

⁹ House of Lords, Select Committee on Economic Affairs, Building more homes (July 2016).

¹⁰ This was a potential tax put forward in 2006 but never implemented.

¹¹ An explanation of this is given in Chapter 6.

¹² In many ways such a suggestion would complement but not replicate some of the proposals in the so-called Leunig Model as referred to above.

Contents

Executive Summary	4
List of Abbreviations	13
Chapter 1: Introduction and Context	14
1.1. The National Planning Policy Framework	14
1.2. Economic Viability	15
1.3. Viability and Land Values	15
1.4. Affordable Housing Delivery	16
1.5. The Project Intent	17
Chapter 2: The Aims of the Project	18
Chapter 3: Method Statement	19
Chapter 4: The Evidence Base (1): Market Context Evidence	21
4.1. Introduction and Constraints on Data	21
4.2. An Observed Relationship between House Prices, Build Cost and Land Values	21
4.3. A Scenario of Confidence	26
4.3.1. A Rising Population- and Likely to Increase	26
4.3.2. An Ability to Borrow	27
4.4. A Supply Chain Dependent on the Private Sector	29
4.5. Summary	33
Chapter 5: Establishing Threshold Land Value for Economic Viability: a theoretical analysis	34
5.1. The Residual Model	34
5.2. Application to Development Viability Assessment	35
5.3. Using Residual Valuations in Site-Specific Development Viability	37
5.4. Market Valuation and Threshold Land Value	38
5.5. Planning Appeals – Treatment of Threshold Land Value	39
5.6. Other Appraisal Issues within Development Viability Assessment	42
5.7. Conclusion and Recommendations on Threshold Land Value	45
Chapter 6: Evidence from the Interviews	47
6.1. The Relationship between Land Values and the Planning Framework: not Direct but Developing Confidence in a Pro-Growth Agenda	47
6.1.1. Viability Testing	48
6.1.2. Other Planning Changes and Economic Context Changes Since 2012	49
6.2. Economic and Regulatory Factors Impacting on Land Values	51
6.2.1. Views on the Future	53
6.3. Setting Levels of Contribution and Economic Viability	53
6.3.1. The Principle of Contributions	53
6.3.2. Assessing Viability	53
6.3.3. Plan Level Viability	54
6.3.4. Site Level Viability: setting a Benchmark or Threshold Land Value	55
6.4. The Financial Appraisal: Estimated Land Value and Setting Competitive Returns	56
6.5. Explaining the Reasons for Low Levels of Affordable Housing Delivery	57
6.6. Solutions to Deal with Lack of Affordable Provision	58
6.7. So, has the Community lost out?	61
6.8. Overview and Summary	61

Chapter 7: Discussion of the Issues	63
7.1. Recap of the Aims of the Research	63
7.2. The Planning and Economic Context is Capable of Supporting the Objective of Affordable Housing but it has not	63
7.2.1. Development Confidence in the London Market is Strong for Fundamental Reasons but Social Housing Providers are in a Less Strong Position	64
7.2.2. Changes to the Planning System	65
7.3. Development Viability Appraisals are not Supporting Policy Intentions	65
7.3.1. Economic Viability Testing: a Powerful Influence on Affordable Housing Provision	66
7.3.2. Methods of Development Viability Appraisals	67
7.3.3. Determining Benchmark Land Values: a Circular Argument Explained	67
7.4. The Need for Clarity and Certainty	68
7.5. Arguments for more Radical Approaches Warrant Investigation	69
7.6. Insufficient Land for Development is Coming Forward	69
7.7. Resources Matter	70
7.8. Summary	70
Chapter 8: Recommendations	72
Appendices	75
Appendix A: Model Validation	76
Appendix B: Appeal Case Study Data	77
Appendix C: The Questionnaire	95
Appendix D: List of Interviewees	99
Appendix E: Bibliography	100

List of Figures

Figure 1. House prices, build costs and land values	22
Figure 2. Residential, office and hotel land values	23
Figure 3. Prime Central London house prices and land values	24
Figure 4. House prices, build costs and residual land values	25
Figure 5. Greater London population, 1971-2013	26
Figure 6. Greater London population projection, 2001-2036	27
Figure 7. Mortgage Lending	27
Figure 8. House prices in England, London and the North East	28
Figure 9. House price to earnings ratio, Inner and Outer London, 2007-2014	28
Figure 10. Dwelling starts and completions, 2007-2015	29
Figure 11. Total net housing completions, 2007-2015	30
Figure 12. Total net affordable completions	31
Figure 13. The percentage of affordable housing as a proportion of overall housing delivery	31
Figure 14. Long-term delivery by tenure	32
Figure 15. The influence of planning obligations on development revenues and costs	35

List of Tables

Table 1: Net annualised housing requirement, London, 2015-16 to 2034-35	32
Table 2: Factors that impact on land values	49

List of Abbreviations

Affordable Housing (AH)
Alternative Use Value (AUV)
Benchmark Land Value (BLV)
Community Infrastructure Levy (CIL)
Compulsory Purchase Order (CPO)
Department of Communities and Local Government (DCLG)
Existing Use Value (EUV)
Global Financial Crisis (GFC)
Gross Development Value (GDV)
Internal Rate of Return (IRR)
Local Planning Authorities (LPAs)
National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Net Present Value (NPV)
Planning Policy Guidance (PPG)
Planning Officers Society (POS)
Permitted Development Rights (PDR)
Register Social Landlord (RSLs)
Residual Land Values (RLV)
Residualised Price (RP)
Royal Institution of Chartered Surveyors (RICS)
Supplementary Planning Document (SPD)
Stamp Duty Land Tax (SDLT)
Strategic Housing Land Availability Assessment (SHLAA)
Threshold Land Value (TLV)

Chapter 1:

Introduction and Context

This report considers the relationship between land prices achieved in London, changes to the national planning policy framework, and the housing development pipeline, notably the provision of affordable housing. It seeks to investigate the extent, if any, to which the London land market has responded to changes in the planning and economic environment that have taken place since the global financial crisis. In subsequent Chapters we set out the specific aims, objectives and working methods employed, but first we introduce the key planning policies and the requirement for development to be ‘economically viable’: a concept that underlies the delivery of development and the interpretation of which lies at the heart of this study.

1.1. The National Planning Policy Framework

The National Planning Policy Framework (NPPF) was first published by DCLG in March 2012 (DCLG, 2012). It sets out the Government’s planning policies for England and how these are expected to be applied. Further, it describes the Government’s requirements for the planning system “*to the extent that it is relevant, proportionate and necessary to do so*”. In other words, it provides a framework, within which local planning authorities can produce relevant Local Plans which “*reflect the needs and priorities of their communities*”.

Paragraph 2 states that, in accordance with planning law, “*applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate*

otherwise”. This paragraph is critical as it lays down the foundation for a plan-led process, in which applications are, or should be, determined in the light of plans which have been through a rigorous process of consultation and examination¹³. This concept is further detailed below.

In terms of new land development activity, Local Plans inform stakeholders and the wider public, and are intended to provide consistency and direction to applicants, thereby ensuring that planning decisions are genuinely ‘plan-led’ and able to fulfil both local and national ambition. They establish the basis for delivering sustainable development¹⁴ for which there is a presumption of approval - “*proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise*.”¹⁵ Implicit within the supremacy of the plan is that there is a clear understanding of what applications are, or are not, plan compliant. Further, not only may there be legal challenge in terms of whether an application complies with the local plan, but may highlight tensions between the local plan and the NPPF (Lees and Shepherd, 2015)¹⁶.

The NPPF also requires local authorities to promote resilient, mixed, balanced and healthy communities; meet objectively assessed housing needs including for affordable housing (AH); support competitive economies and address environmental issues. In developing their plans, Local Planning Authorities (LPAs) are required to consider their needs for infrastructure to support the identified levels of development.

¹³ See for example NPPF Paras 2, 11 and 12. See in particular NPPF Paras 173.

¹⁴ As defined in the NPPF p.2.

¹⁵ NPPF Paragraph 12.

¹⁶ In this paper the authors argue that the inherent flexibility and lack of precise definition of e.g. ‘sustainable development’ inevitably provide scope for legal challenge.

1.2. Economic Viability

As part of an Examination in Public, Development Plans are tested to ensure that they are capable of delivery in a manner which is economically viable. This concept of ‘economic viability’, as set out in Para 173 of the NPPF, although not new when introduced, represents a strong statement that for development to be sustainable it must be economically viable. As further elaborated below, this means that conditions placed on development consents, for example in terms of contributions, should not be set at a level at which it becomes unattractive to develop, leading to the site becoming ‘stalled’.

The National Planning Practice Guidance (NPPG) indicates that ‘economically viable’ means that the total costs of development, when deducted from the realisable value (also known as the gross development value) should allow for a surplus, or profit, for the developer, as a ‘reward’ for the risks inherent in the land conversion process¹⁷. Similarly, this must allow for a sufficient incentive for landowners to encourage them to sell. This can be assessed by comparison with the value of the site in its current use (i.e. prior to the grant of planning permission), or in a realistic alternative use that complies with planning policy¹⁸.

Land value, is the ‘residual’ amount that represents the amount a developer would bid for a site taking due account of their need for financial return relative to the risks and costs of development. It is, in theory, a result of the sales price of the finished product, the costs of development and the profit or return required (RICS, 2008). Uplift in land value is therefore generally required as a result of a consent to develop in order to encourage release of the site and for a development to become viable.

The issue of ‘economic viability’ is a critical element within the NPPF as Local Planning Authorities (LPAs) are required to prepare Development Plans which demonstrate a clear understanding of housing needs in their area, and to prepare a Strategic Housing

Land Availability Assessment (SHLAA) to establish realistic assumptions about the availability, suitability and the likely economic viability of land to meet the identified need for housing over the Plan period (Para 159). In assessing deliverability and economic viability, the level of contributions from developers is a material consideration.

The notion of economic viability is further explored in Para 173 which requires that in order 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*”.

This explicit requirement to ensure ‘competitive returns’ for land owners and developers has the aim of incentivising development and setting contributions at levels which will not disincentive the bringing forward of new supply. Contributions are in the form of a locally determined levy to contribute to physical infrastructure (Community Infrastructure Levy [CIL]), which LPAs were empowered to introduce in 2010, and contributions under S.106 of the Town and Country Planning Act (1990) as amended, which are primarily related to the provision of affordable housing (as defined).

1.3. Viability and Land Values

The NPPF was not intended to impact on land values; however, it does potentially link to the value of the completed development and to costs and so to land values. In terms of the value of completed development the linkage is with issues such as land use, the form of development and the level of affordable housing required to be provided as part of the S.106 agreement (such units, by definition, sell for a lower value than those delivered into the private sector)¹⁹. By implication, therefore, the extent of any uplift in the value of land arising from

¹⁷ PPG viability Paragraph 016.

¹⁸ PPG viability Paragraph 024.

¹⁹ The definition of ‘affordable housing’ is under review at the time of this research, but is not considered in detail in this report except for commentary in respect of starter homes arising through the research.

planning permission is directly influenced by, and should reflect, the requirements of a Development Plan including those relating to CIL and S.106.

It is to be expected that in complying with Plan obligations, there is a relationship between house prices, the level of obligations and land values. If the level of total costs, including community obligations, goes up, then *prima facie*, land values go down. However the national policy seeks to ensure that this downward pressure on land values should not be set at levels that make landowners reluctant to bring land forward; similarly they should not be set at levels that do not allow developers to gain a 'competitive' return for their risk and expertise.

The notion of economic viability may be tested at the site level as part of the application process as well as at plan level. CIL, once approved within a Charging Schedule, is fixed, but contributions to affordable housing are negotiable in terms of what is, or is not, economically viable in the individual case and may be re-negotiated at any time²⁰.

1.4. Affordable Housing Delivery

The housing affordability crisis in London²¹, together with the NPPF requirement to meet objectively assessed housing need and provide mixed and balanced communities, have prompted London boroughs to make the delivery of affordable housing a key objective.

Within the London context, there have however been concerns expressed that, despite house prices having risen sharply since the global financial crisis and an increase in development activity, the levels of new affordable housing supply have fallen short of those set out in the London and Borough plans²². This is clearly evidenced in a number of key documents such as the London Housing Commission (2016); the House of Lords Select Committee on National Policy for the Built Environment

(2016) and the letter of the London Assembly to Mayor of London (February, 2016).

In light of this context, this research has specifically set out to investigate whether and to what extent the NPPF and partial deregulation of planning, land values and the provision of affordable housing within the London context are connected. In particular, it investigates whether, in bidding for land, developers are taking full cognisance of Local Plan requirements in terms of the contributions expected, be they through Community Infrastructure Levy or through S.106 contributions to affordable housing, and if not, why not?

The increased weight placed upon viability testing when determining planning applications is another key focus of this research. Changes to the General Development Order's Permitted Development Rights (PDR), including allowing the conversion of office (B1a) and some warehouse (B8) use to residential use (C3)²³ without planning consent are also considered. As outlined below, PDRs have been extended, partly as a measure to quickly increase housing supply (Sheppard and Askew, 2015).

Further, it is acknowledged that planning takes place within an economic and social framework. For any development to take place there has to be a confidence that the development, when completed, will sell unless, as happens in very strong markets, the developer can agree a forward sale. The same is true of the affordable units. Hence among the economic and social balancing factors, consideration has been given to the impact of finance on purchasers, including the funding of registered providers.

Finally, in addition to economic factors which could impact on gross development values, the research has investigated the impact of other land value determinants including design criteria and build costs. The original intent behind the changes to the planning system is clear: in the wake of the global financial crisis,

²⁰ Planning Practice Guidance, Planning obligations. Available from: <http://planningguidance.communities.gov.uk/revisions/23b/009/>

²¹ Whilst there are many debates about the scale of any crisis in housing it is generally accepted that there is severe under provision (see Mayor of London (2016b) and House of Commons Library (2016)).

²² See for example DCLG (2015).

²³ The Town and Country Planning (General Permitted Development) (England) Order 2015. Available from: http://www.legislation.gov.uk/uksi/2015/596/pdfs/ukxi_20150596_en.pdf

the Government's priority was to encourage economic development and, in particular, to encourage a step change in the delivery of new housing. Cutting 'red tape' in the planning system was the crude response; but there are growing concerns that the 'law of unintended consequences' has had a significant, negative impact on the ability of Local Authorities to plan effectively (Mulhall, 2016).

Concerns that the viability assessment process now undermines the ability of Local Authorities to secure affordable housing are counter to the 'normal' market expectation that increased development values will lead to potentially increased residual values and thus encourage land to be brought forward for development (see for example Hayward, 2008).

Whilst some published reports (for example, Arcadis, 2015) point to construction costs beginning to outstrip value increases in recent years, over the study period as a whole this is not the case (see analysis in Chapter 4). Additionally the construction cost element in Inner London is small compared with gross development values²⁴.

For development to be 'economically viable', there has to be a prospect that development will be profitable. If it is not the supply of land coming forward will stop. Similarly if effective demand for houses falls, it will impact both price of land and land supply. Within London, house price rises over the study period²⁵, suggest that demand has outstripped the capacity of the development industry to respond. Government's decision to extend PDR has gone some way to quickly increasing supply by enabling conversions of surplus offices to homes, but these are not subject to housing standards or associated infrastructure planning obligations. Potentially even more significant, permitted development rights have encouraged the conversion not simply of empty or obsolete employment space, but occupied space, with the consequence that employment land is now struggling to meet actual needs, which could make further housing provision even harder to accommodate²⁶.

1.5. The Project Intent

It is within the context of these changes to the planning system that this report seeks to investigate the consequences for housing delivery, affordable housing and sustainable development in London. It does this through a series of processes detailed in Chapter 3 below. The study investigates the extent to which reduced planning requirements (a) influence market opinion of land value; (b) raise landowners' expectations; (c) interact with profit requirements, (d) frustrate developers' attempts to bid for and acquire land, (e) change a developer's risk profile and (e) act as a constraint or support to the delivery of housing, particularly affordable housing and sustainable development.

This report addresses these concerns and provides evidence, in terms of both quantitative and qualitative analysis, to inform the commissioning London Boroughs and other policy makers. It is stressed that this report addresses the situation in London only and that the situation in other parts of the country may be very different.

²⁴ According to the Halifax (2016) the average sale price per square metre of 17 areas in London stands in excess of £5,000 per square metre. This can be compared with a build cost of some £1,000- £1,500 per sq metre.

²⁵ Considered more fully in Chapter 4.

²⁶ Evidenced from interviews.

Chapter 2:

The Aims of the Project

The aim of this project is to seek to understand the impact that the partial de-regulation of the planning system has had on land values, the understanding and interpretation of ‘economic viability’ and in turn, the effect this has had on the delivery of housing, notably AH within a London context.

Specifically, the research has investigated the extent to which reduced planning requirements have influenced the market opinion of land values, raised land owners’ and developers’ expectations, interacted with profit requirements and resulted in alterations to the levels of AH to be delivered. The intention of the NPPF and other changes was to create a positive environment in which certainty through a plan-led process which set contributions at levels compatible with economic viability and could assure competitive returns to developers, would stimulate the development industry and speed up the delivery of homes. The evidence collected (set out in subsequent chapters) gives weight to the concern that there has been an unintended consequence in that the provision of AH has reduced as a percentage of units developed.

The research provides recommendations for possible changes to policy in terms of matters that could be addressed quickly and those which might be more radical or require longer-term gestation. The findings and recommendation are aimed at assisting the commissioning Boroughs in their strategy work and in their contributions to Government and Mayoral thinking on the subject to ensure future delivery of housing, market and affordable, and infrastructure in London to meet current and future needs.

The individual objectives for the research were to:

1. assess the impact of key changes to the planning system including the NPPF, NPPG and PDR, (and in particular the increased emphasis on viability assessment within the decision-making process), on land prices and the assessment of economic viability at the site level; in particular to consider the impact of the increased emphasis on viability assessment within the decision making process and the impact of permitted development right for office to residential, on land values;
2. assess the extent to which the impacts identified could be seen to impede Government objectives of increasing housing supply and the delivery of sustainable development, particularly affordable housing;
3. present views as to the possible potential impact of further proposed changes to the planning system on land values and housing supply, particularly affordable housing; and
4. present recommendations on ways in which any negative impacts identified could be mitigated in relation to policy, guidance and practice on viability assessment, the setting of land value benchmarks and on other relevant planning matters in the London context.

Overall, the work aims to support the commissioning boroughs in their shared ambition to better assure the future supply of housing in London.

Chapter 3:

Method Statement

The research has been undertaken in a series of work packages, the findings from each of which have been collated and are addressed in subsequent chapters. Each of the three work packages is described below, with the findings collated and synthesised under key themes.

Work Package 1 comprised a desk exercise aimed at providing a base line of statistical and economic data to frame the empirical findings. The interpretation of collated data and the data themselves is based on publicly available information. The only exception to this has been the supply of some confidential data which lies behind the Savills Land Value Database and acknowledgement to Savills is hereby given. Additionally, some publications by the Royal Institution of Chartered Surveyors (RICS) have been used which are available only to members.

An audit of relevant changes to the planning system and associated policy and guidance since 2012 (based on information provided by the commissioning boroughs) was undertaken. A review of relevant industry/academic reports, research and press articles (including social media) was undertaken. The review was based on a content analysis of the core themes and material based on a set of agreed key terms. This was run through the core academic and policy search engines specifically targeted at both past and current research/commentary.

The research team identified a wide range of sources for the core data indicator set. The main data themes included land values, housing delivery, planning applications and completions, affordable housing delivery, prices and build costs.

All data were benchmarked, where possible, to Q1 2007 in order that the impact of the global financial crisis could be understood and taken account of in the analysis.

Work Package 2 comprised a desk-based analysis of planning case studies in which the approach to economic viability and consequent provision of affordable housing have been the main issues. The cases studies are all located in London, but reference in the supporting literature draws from a wider base. The analysis was based on some 15 case studies using the same format as that used by Crosby and Wyatt (2015). The sample includes 10 from the original report by Crosby and Wyatt but is augmented by 5 new case studies not previously considered in any publication. The focus on the analysis was to provide a deeper understanding of how, at appeal, the threshold land value is derived, which serves as the benchmark for the determination of 'economic viability' and hence the appropriate S.106 contribution.

Work Package 3 comprised the findings as a series of in-depth interviews with 26 professionals ranging from planners, developers, property companies, valuers and professional body representatives. The interviewees are listed in Appendix D: List of Interviewees. Interviews were in depth discussions using a semi-structured approach with interviewers exploring different aspects of the research depending on their particular experiences and expertise. On average the interviews lasted approximately one hour. Each explored the following main areas:

-
- The impact of the NPPF and other planning policies on land values
 - Economic viability assessments including setting threshold land values and the concept of competitive returns
 - The reasons for and solutions to the shortage of affordable housing development and finally
 - The return to the community through the land development process.

A copy of the questioning framework and letter of invitation is included in Appendix C: The Questionnaire.

The results for each work package are given within the subsequent chapters, but are brought together to form a synthesis of key findings to form the basis of the conclusions and recommendations.

Chapter 4:

The Evidence Base (1): Market Context Evidence

4.1. Introduction and Constraints on Data

The purpose of this Chapter is to provide a market context within which the research questions are being considered. It draws down on publicly available data sets, as these will be the data available to developers, land owners and purchasers undertaking sale/purchase and investment decisions. It analyses key data on land values, input and output prices, housing delivery and affordable housing provision to support or refute the assertions in the market place and contained in other documents. In so doing, it provides insight into the concerns that have been raised in relation to the housing demand and supply equation.

This report does not specifically address the Brexit situation as the research was carried out in the run up to the referendum when a Brexit looked to be unlikely. The situation post the Brexit vote in June 2016 has led to a plethora of publications and pronouncements on the potentially destabilising impact of the national vote. However, given that London is a world city and that a falling pound will support the inflow of investment capital, it is too early to say that long-term confidence will be negatively impacted – particularly in the housing sector where, as this Chapter shows, investment confidence is underpinned by the knowledge that London’s population will continue to grow. The interpretation of data is therefore neutral in relation to the impact of the process now being undertaken taken by Government.

It should be noted that whilst the graphs are as accurate as can be established, there are limitations in the data sets. The house price data is based on land registry records so, as the properties which are recorded are a

heterogeneous sample, there must be some degree of error. However this error is likely to be small given the volume of transactions; and we have used median value – a mean value might have shown a slightly different figure.

Similarly build costs are estimates and may fall behind the curve of actual costs when there are rapid changes in either labour or materials availability, as were reported by Arcadis (2015) and during interviews (Chapter 6). Finally, the land value data is based on the index published by consultants Savills which tracks a collective view on values, as informed by sales, but it is not a transaction sales price index as such. Indeed, given that the numbers of land transactions are very small compared to house sales, and given their heterogeneity in terms of size, topography, site conditions and deal structure, a transactional land value is not feasible to prepare. Indeed, sales prices, unless subject to individual rigorous analysis, may be misleading. However, an analysis of some transactions for which finer-grained details are available is developed in Chapter 5.

The index gives an overview of sentiment of the market although, for the reasons referred to above, is unlikely to provide a reliable method for adjusting the value of individual sites.

4.2. An Observed Relationship between House Prices, Build Cost and Land Values

The following data sets have been compiled to demonstrate whether, in the absence of any influences such as infrastructure or affordable housing contributions, it is possible to determine any relationships between national planning policy and market indicators such as value and price.

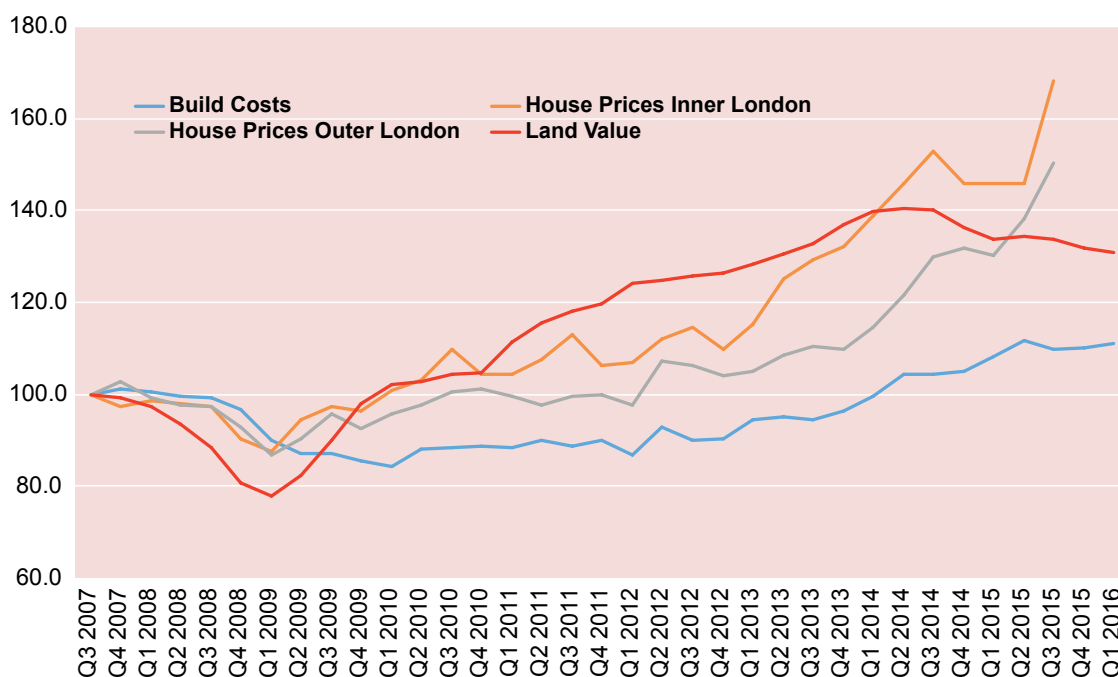
Under the established market valuation paradigm²⁷ the value of land is a ‘residual amount’ (RICS, 2008), in which a bidder will assess the value at which the developed product can be sold, and then deduct the costs of production, notably purchase costs, construction costs and a required profit, in order to arrive at a bid price. Therefore if house prices rise more steeply than construction costs, *prima facie*, there should be more money available for land value as this is a residual; it should also, in theory show that there is the ability to make contributions to the community via CIL or S.106. However, if the costs of production increase more than price rises, land values will be reduced.

slump is clearly evident in all indicators, but particularly in land values. The latter improved steadily through to 2014 when market sentiment began to cool in the face of perceived unsustainable rises. House prices have shown a fairly consistent increase since 2007, with the differential between Inner and Outer London widening since 2012.

The graph shows that build costs fell by about 18% following the global financial crisis and took longer to recover than the other indicators shown here. In fact, they did not reach 2007 levels until 2014, and have shown only modest growth since, compared to house prices. However as the cost index tends to lag the market, this trend is changing (see Chapter 6) with house prices in Central London cooling and construction costs continuing to rise, meaning that, in theory at least, the amount available for contributions, despite rising until 2015, may now be decreasing.

Figure 1 shows London house prices and land values²⁸, and estimated London build costs²⁹ indexed to Q3 2007. House prices are median values for both Inner and Outer London³⁰. The post-global financial crisis

Figure 1. House prices, build costs and land values



Source: BCIS Build Cost Data; Land Registry/GLA Median House Prices and Savills Land Value Index

²⁷ This is explained /explored in Chapter 5.

²⁸ Based on Savills Land Value data.

²⁹ Based on published BCIS data.

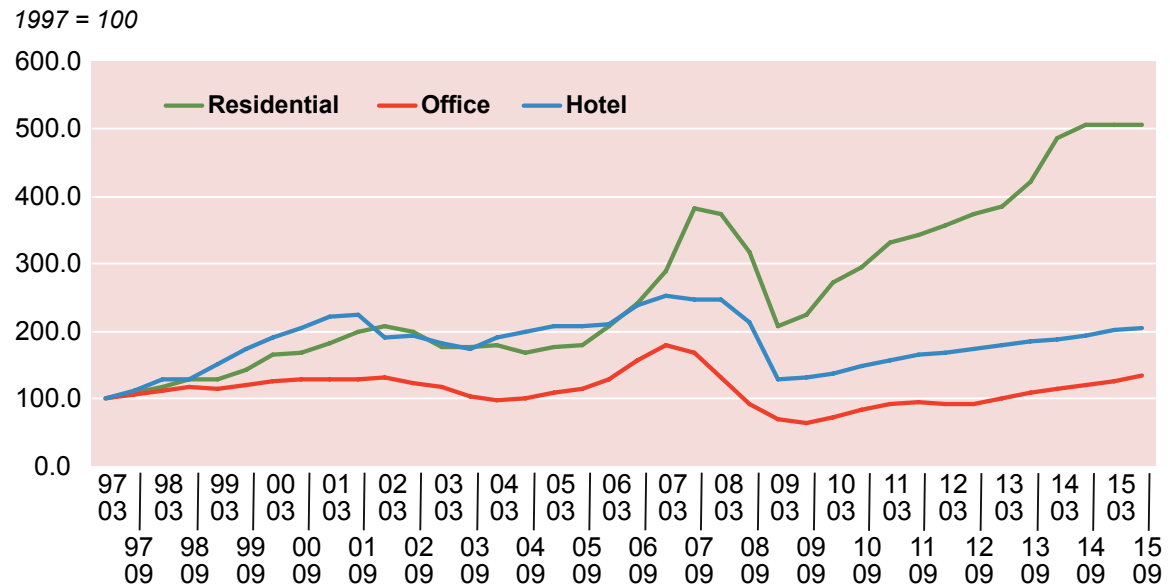
³⁰ Based on ONS statistics.

Taking a longer term perspective **Figure 2** shows residential land values compared to offices and hotels, and **Figure 3** shows Central London land values compared to prime house prices. This estimates that residential land values increased by 144.8% between March 2009 and September 2015. Conversely office and hotel land values appear not to have reached their pre-recession levels. This is important in understanding the housing land market as it goes some way to explaining why the introduction of PDR was seen as an opportunity by many developers to convert office blocks to residential, particularly in the

Outer London Boroughs. Not only would the developed value be enhanced, but the lack of a requirement to pay CIL reduced costs³¹.

Figure 3 shows the long-term performance of Prime Central London house prices and land values. The two tracked closely during the 1990s, with prime house prices rising faster in the noughties. However, land values fell more sharply following the crash, and took longer to recover. The two indices again reached parity during 2015 when early signs emerged that prime Central London house prices started to dip.

Figure 2. Residential, office and hotel land values

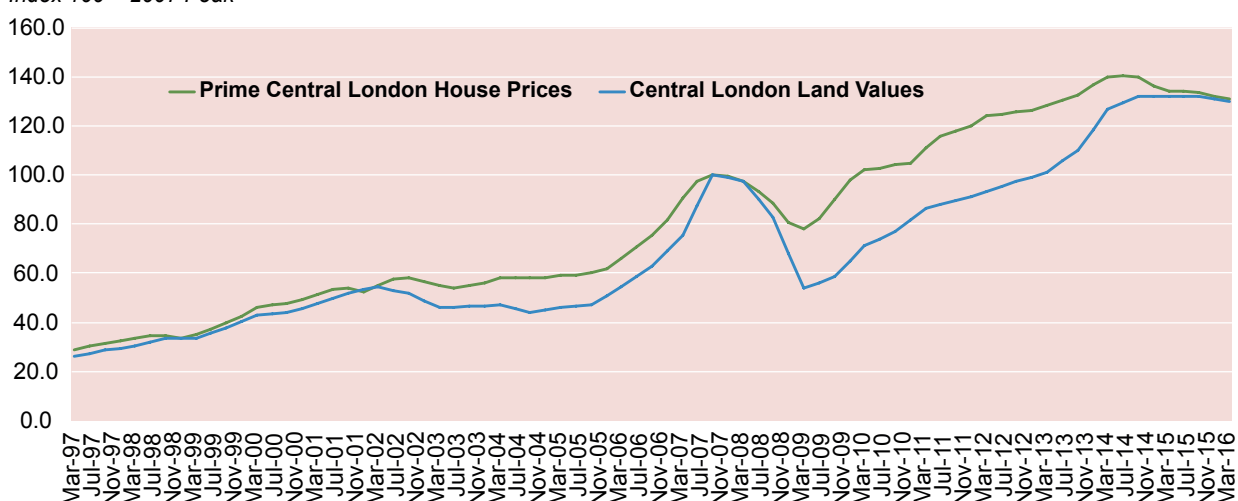


Source: Data kindly provided by Savills

³¹ CIL is only payable on additional floor space; therefore conversion without additional floor space provision attracts no such community payment.

Figure 3. Prime Central London house prices and land values

Index 100 = 2007 Peak



Source: Data kindly provided by Savills

The preceding charts are based on Savills' Development Land Index³², which is widely recognised in the market. However, in recognition that the land price index is based on estimates of market pricing prepared by consultants active in the land market, the Research Team also prepared a more theoretical estimate of land values by using a standard residual land value model (see Chapter 5 and Appendix B: Appeal Case Study Data) which has been used by DCLG to estimate land values on a 'one-off' basis for 2015.

By adopting this model and inputting cost and house price data it was possible to construct a residual land value index, which, as shown in **Figure 4**, produces a different, more complex, picture. It shows that, following the post-global financial crisis slump, through to Q3 2008, residual land values (on a modelled basis) made a relatively quick recovery, getting back to pre-crisis levels by Q1 2009. While the trend since has been 'bumpy', values have risen by a factor of 2.5, and have diverged widely from the other indicators, suggesting that land values (or, more correctly, estimates of land exchange prices) have risen more steeply.

The disparity shown between the 'modelled' residual land values and the land values derived from the market data requires explanation. It will be noted that the Savills index appears to show a flattening and slight decline in estimated market values of land from 2015 whilst the modelled value continues to sharply increase. The explanation, further discussed in subsequent Chapters is that the Savills data is, in effect, a reflection of perceptions and knowledge of what is happening in the marketplace. A careful examination of the data shows that falls (and rises) in this index tend to lead house price changes as developers adjust prices for their expectations of future value changes in the period from site purchase to realisation of finished product. Therefore what can be observed in **Figure 4** is that developers to an extent stopped buying or reduced their bid prices in central London from the end of 2014 in advance – or anticipation – of a set-back in sales appetite. But this was not the case for outer London where sales values were deemed to be more robust. This view is supported through the interviews in which several respondents pointed to some well-known developers ceasing to bid around this time. Therefore

³² www.savills.co.uk/research

land values as per the index are a forward projection of market movement in pricing.

However, these expectations are not reflected in the modelled residual valuations which are based entirely on current prices and costs. A residual valuation, as calculated traditionally, does not, *per se*, build in for the possibility (or probability) that the gross development value and costs will be either higher or lower than they are at the data the valuation was undertaken. This methodology, its rationale and the consequences for the assessment of planning contributions is discussed more fully in Chapter 5 and further commented upon in Chapter 6.

Collectively these charts show that:

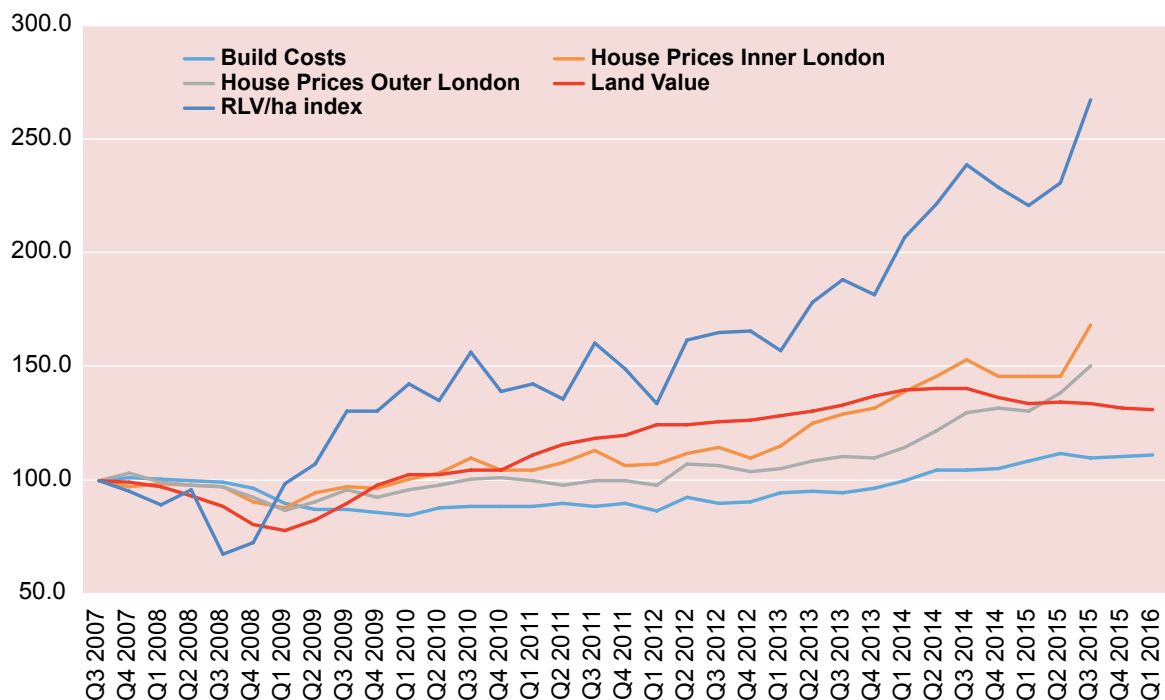
- The primacy of London house price rises is a factor driving estimates of land value in London;
- The speed with which confidence returned to both the London housing market and

the London land market has been rapid, with developers prepared to pay figures that both anticipated and outstripped house prices. This in turn suggests that planning policy has created a favourable climate for development; and

- The rise in build costs during the study period, whilst substantial, has been insufficient to significantly drive down the residual amount available for land price and contributions.

A visual interpretation of data cannot provide enough evidence to draw firm conclusions but the inference, which is explored through the case studies and interviews, is that the market upturn in the London residential sector, which has outstripped that of other property market sectors, would be expected to support increased delivery of policy compliant schemes / affordable housing in a system where this is determined through viability testing.

Figure 4. House prices, build costs and residual land values



Source: BCIS Build Cost Data; Land Registry/GLA Median House Prices and Savills Land Value Index

4.3. A Scenario of Confidence

The graphs above indicate a rapid value increase for both houses and land. Whilst these are expected to be linked they provide no indication as to why the London recovery was so swift and so sharp. The factors are explored in more depth through the interviews but the key narrative coming from published market reports³³ is one of confidence in the London economy, of strong inward investment, a rising population and the easing of finance for purchase and development following the initial shock response to the global financial crisis.

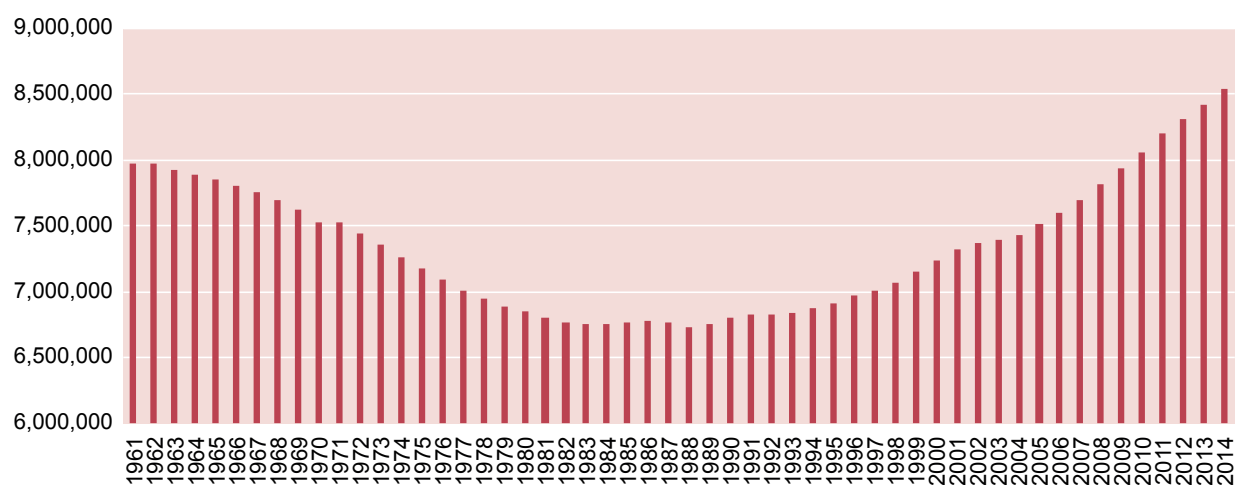
4.3.1. A Rising Population - and Likely to Increase

In terms of population change, whilst London today is experiencing severe pressure on land resulting from spiralling demand for housing, in the recent past, the picture was very different. For example, between 1962 and the mid-1980s London's population fell from

almost eight million to 6.7 million (Figure 5). It then began a slow return to growth, taking until 2009 to pass its previous peak. Since 1997, London's population has grown by 20% which is twice the rate of Great Britain as a whole and in the study period the growth far exceeds that which be accommodated by new supply; inevitably this has placed pressure on existing stock values.

Indeed, since 2000, the population of London has grown from 7.3 million to an estimated 8.6 million in 2015, returning to its previous peak of 1939. Forecasts suggest that it may exceed ten million in 2035 (Figure 6). In the short-term, the projections suggest that London's population will grow by 336,000 (broadly equivalent to the population of Leicester) between 2016 and 2020, a rate of almost 1,300 per week. This provides confidence to developers and investors that demand will overcome short-term economic cycles and responses to events such as the recent referendum.

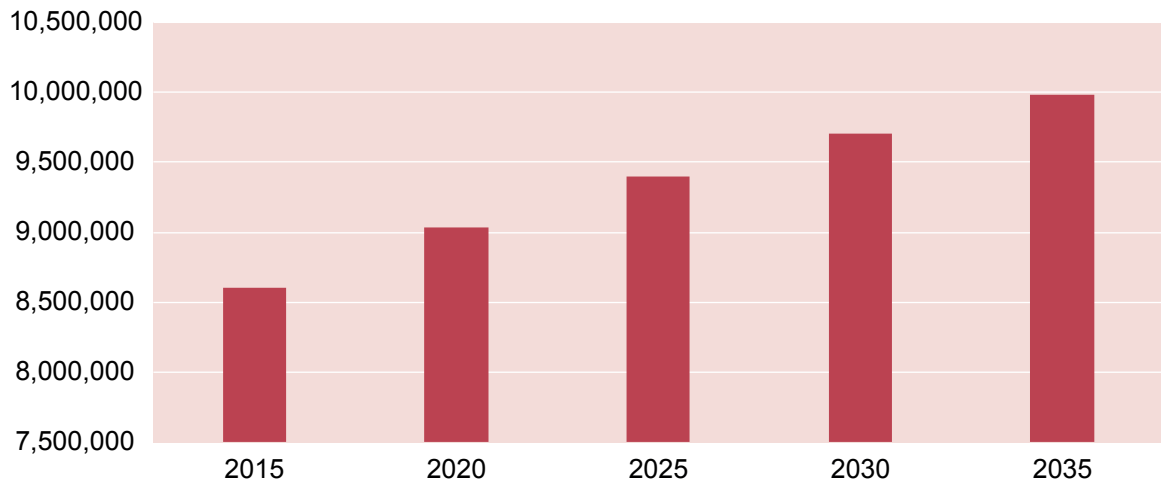
Figure 5. Greater London population, 1961-2014



Source: ONS (2014) *Mid-year Population Estimates*

³³ For example Knight Frank, Savills, Cushman and Wakefield

Figure 6. Greater London population projection, 2015-2035



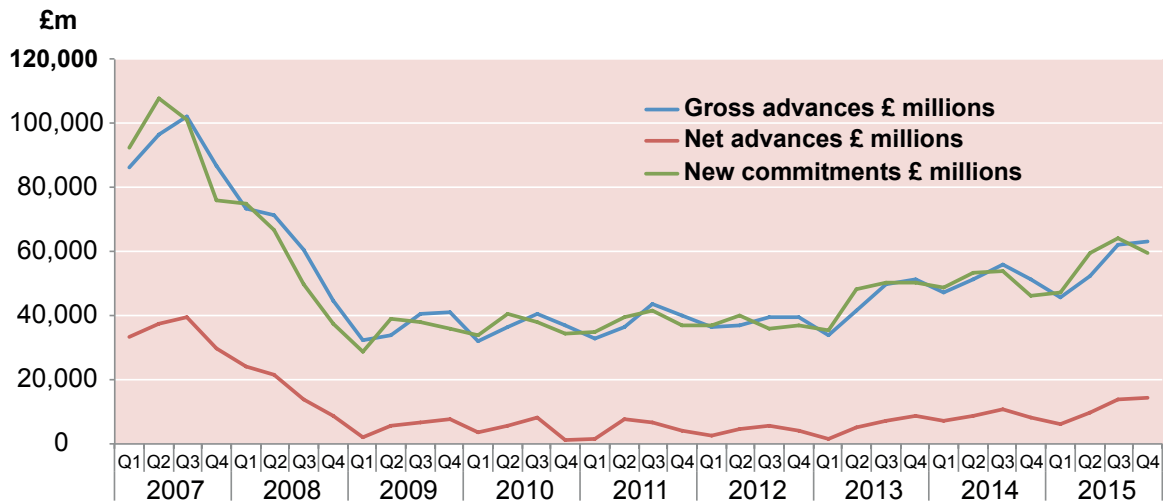
Source: GLA Intelligence (2015) *GLA 2014 Round of Trend-based Population Projections - Results*

4.3.2. An Ability to Borrow

One of the major results of the global financial crisis was a dramatic reduction in the level of borrowing and general availability of funds for new development.

Figure 7 below shows the scale of the fall back within mortgage lending but the resilience it has shown at the lower volumes, when combined with a persistent low interest rate³⁴ environment, has provided confidence to both borrowers and developers.

Figure 7. Mortgage Lending



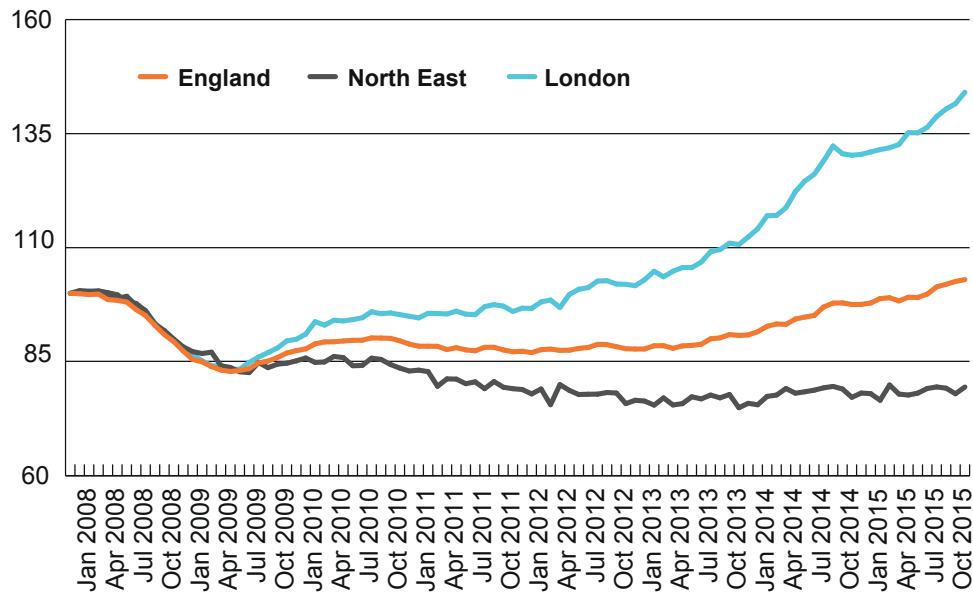
Source: Bank of England/FCA (2015) *New Business Volumes*

³⁴ Bank base rate has now been static since 2009; whilst mortgage rates are higher, they are at historically low interest rates which has fuelled multipliers to salary and hence ability to pay higher prices.

These factors have combined to provide conditions in which house prices in London have rapidly outstripped those in other parts of the country (Figure 8) but at the expense of affordability. Land Registry figures indicate that the average London house price has risen by 92.5% since the lowest point in the market in April 2009³⁵. The North East is included as a representative UK region for comparison. As Figure 9 shows, there has been a noticeable divide between Inner and Outer London.

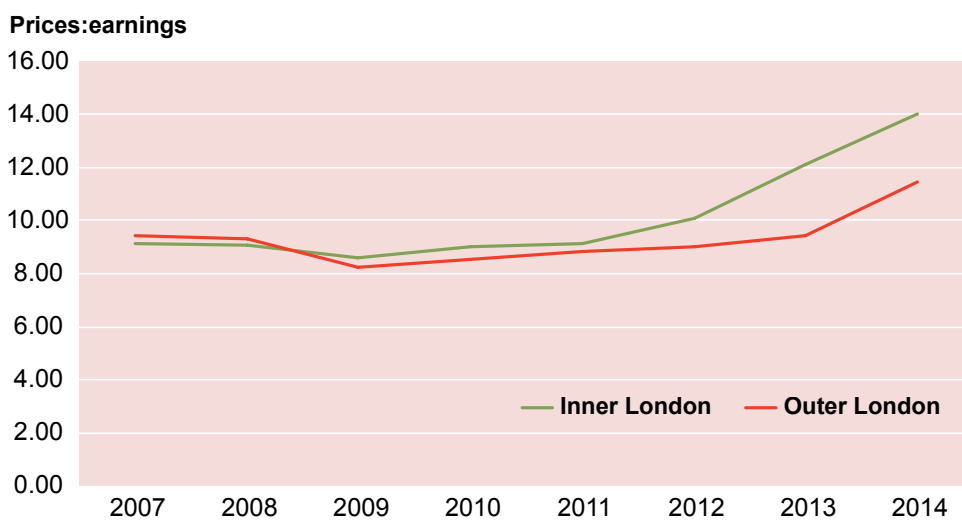
Some of this story is explained in the following section. Here we see that while the Inner and Outer London price-earnings ratio tracked closely through to 2011, the two diverged thereafter. Irrespective of the national planning policy framework, prime properties in Central London were being supported by continuing, strong demand – much from overseas - relative to other sub-markets.

Figure 8. House prices in England, London and the North East



Source: London Housing Commission [LHC] (2016) *Building a new deal for London: Final report of the London Housing Commission*, IPPR. Data from Land Registry 2016

Figure 9. House price to earnings ratio, Inner and Outer London, 2007-2014



Source: Land Registry (2015) *Median and Lower Quartile Ratio of House Prices to Earnings*

³⁵ The Land Registry House Price Index indicates that average London house prices have risen from £245,351 in April 2009 to £472,204 in June 2016.

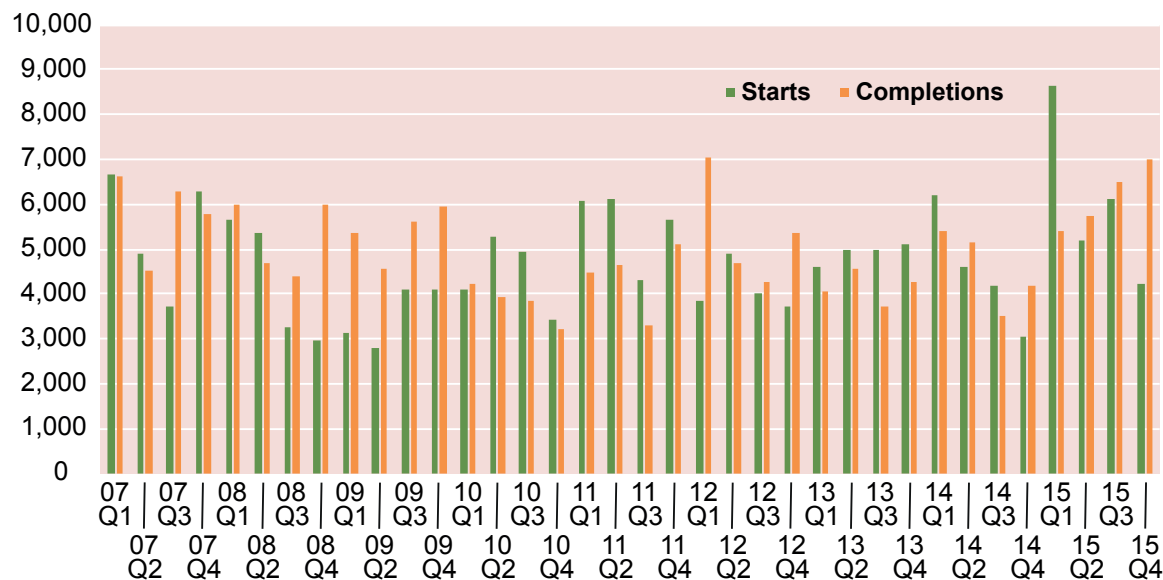
4.4. A Supply Chain Dependent on the Private Sector

The preceding charts have provided a rationale for a confident London development and investment market, based on anticipated demand levels and expectations of profit. They also suggest that there should be the opportunity for development to support community contributions. However, for development to take place, planning consent is required. The NPPF and other planning changes since 2012 were aimed at providing an impetus to development and increased delivery.

Figure 10 below provides data on starts and completions of dwellings in London

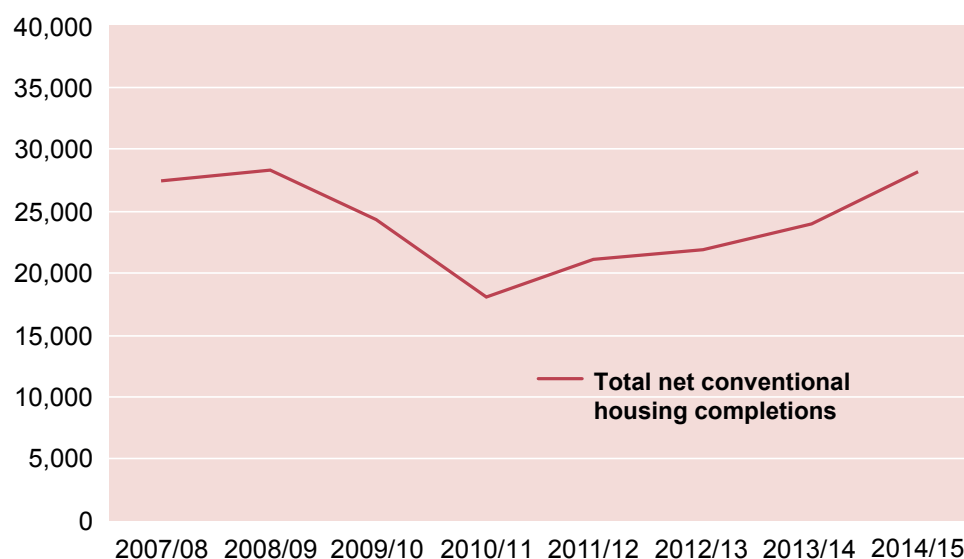
between 2007 and 2015. The chart shows quarterly activity ebbing and flowing over the period but, visually, it is difficult to see a direct change in trend since 2012. However if starts in Q1 are examined there is a clear fall during the global financial crisis, followed by a steady increase starting in 2012, which then accelerated. From the figures it is not possible to establish a relationship between new supply levels and changes to national planning policy. However, policy changes appear have been supportive to growth if not a reason for growth. **Figure 11** gives the total housing completions only on an annualised basis and this shows the 'direction of travel' more clearly. Since 2010/11 delivery has increased, but has only recently recovered to pre-recession peak levels of 2008/9.

Figure 10. Dwelling starts and completions, 2007-2015



Source: DCLG (2016) *House Building Statistics* (Table 253 Permanent dwellings started and completed by tenure and district)

Figure 11. Total net housing completions, 2007-2015³⁶



Source: London Plan Annual Monitoring Reports 5-12

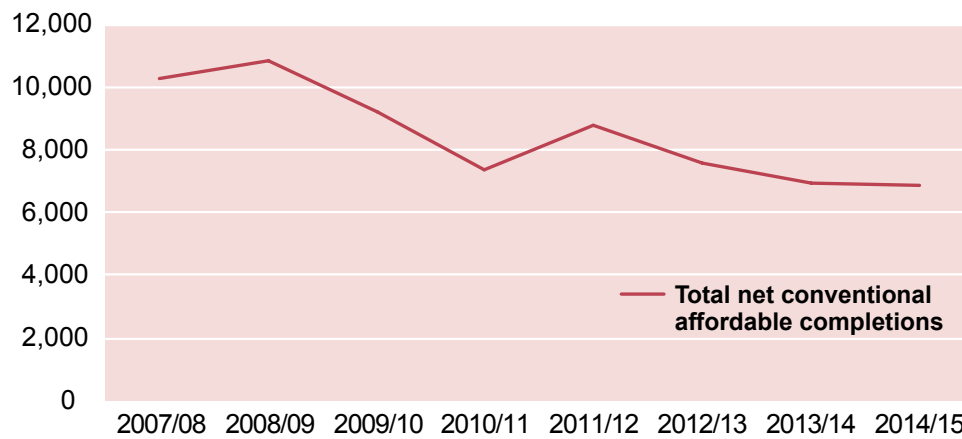
However, if the provision of affordable housing is considered a stark picture emerges, in which both the total number of affordable housing completions per year across the study period (**Figure 12**) has declined (from 10,231 in 2007/8 to 6856 in 2015/15- a reduction of 37%) and the percentage of affordable housing as a proportion of overall supply (**Figure 12**) has declined to well below the London Plan

targets, particularly since 2012 (from 39% of overall supply in 2011/12 to 25% in 2014/15).

Whilst this cannot be directly attributable to change to national planning policy framework, it does raise the question as to whether there is a connection that can be explained and this is explored through Chapter 5 and Chapter 6.

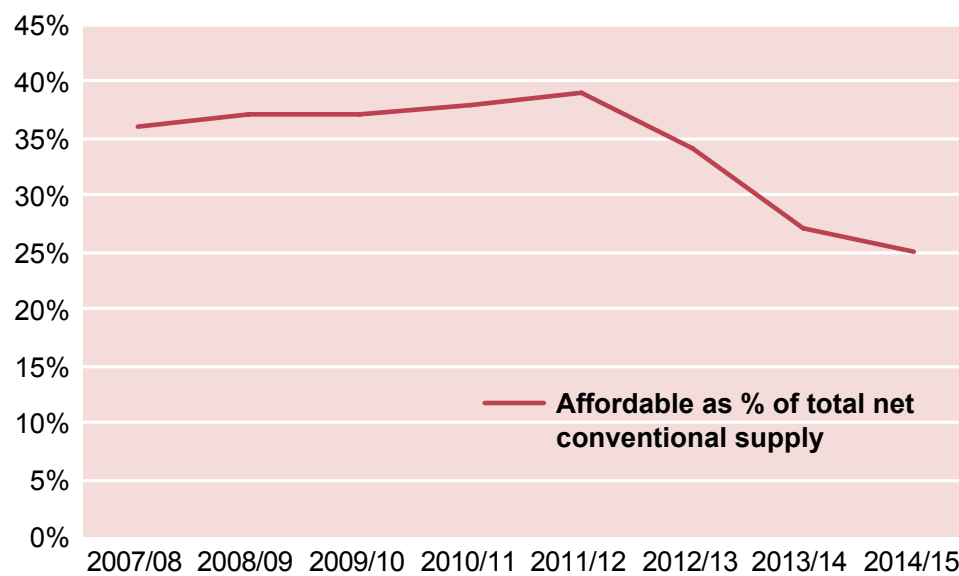
³⁶ Measured in 'conventional homes' - self-contained homes from new build, conversions or changes of use.

Figure 12. Total net affordable completions³⁷



Source: London Development Database data, as given in the London Plan Annual Monitoring Reports numbers 7-12

Figure 13. The percentage of affordable housing as a proportion of overall housing delivery³⁸



Source: LDD data, as given in the London Plan Annual Monitoring Reports numbers 7-12

³⁷ Measured in 'conventional homes' - self-contained homes from new build, conversions or changes of use.

³⁸ Measured in 'conventional homes' - self-contained homes from new build, conversions or changes of use.

The provision of affordable housing during the study period in London has been shown to have declined, against a London Plan context in which the provision of affordable housing is stated as a key objective. Within this context of shrinking affordable housing supply, the demand for affordable housing continues to rise. The most recent London Strategic Housing Market Assessment demonstrates the significance of demand for affordable housing in the context of overall demand (Mayor of London, 2014). The report suggests that over half of all demand (52%) is for affordable housing, split between Intermediate (20%) and Social Rent (32%). Thus within an overall need of 48,841 new homes each and every year, there is a demand for 25,624 affordable homes, as shown in **Table 1** below.

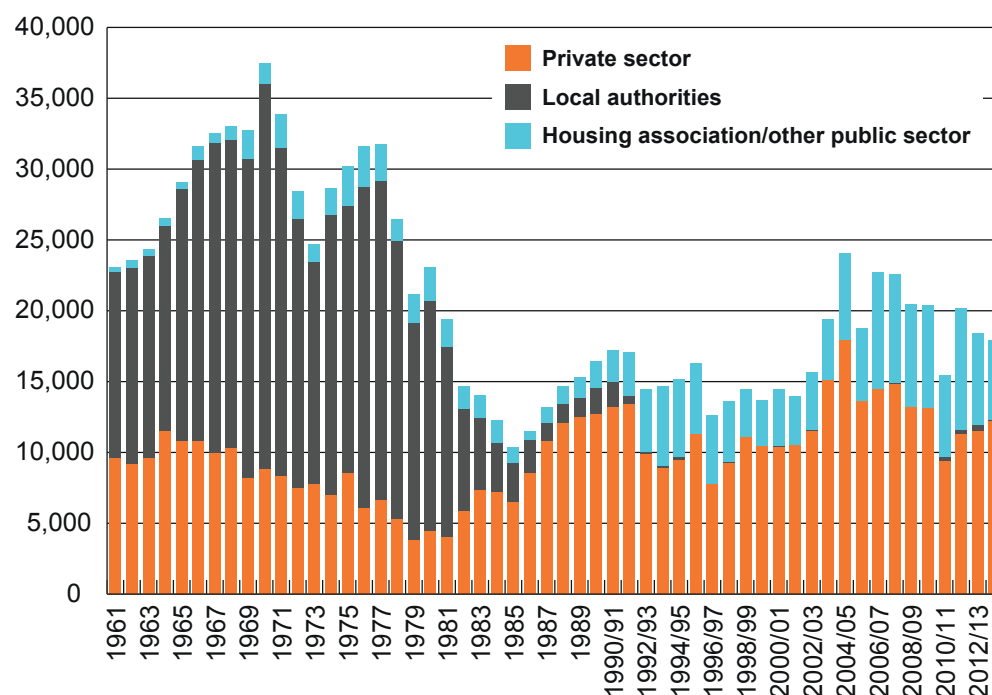
However, a further contextual consideration, which is discussed in Chapter 6 is the structural changes in housing delivery. **Figure 13** below provides data on housing delivery by tenure. This shows with great clarity that, since 1980, when the right-to-buy for council tenants was introduced and public sector housing finance rules changed, local authorities have virtually vanished as housing providers, with very little of their role taken up by social housing providers. There has been a shift from a scenario in which private sector provision shortfall was made up by the public sector, to one in which delivery is almost entirely dependent on private sector delivery – be that into private or social sector. Given that the private sector will only deliver when development is ‘economically viable’, this raises the question of how housing need – as opposed to housing demand – can be satisfied?

Table 1. Net annualised housing requirement, London, 2015-16 to 2034-35

Type	Bedrooms				Total	Per Cent
	One	Two	Three	Four+		
Market	2,798	5,791	8,545	6,083	23,217	48
Intermediate	3,357	2,240	2,506	1,799	9,902	20
Social Rent	10,225	1,003	1,774	2,720	15,722	32
Total	16,381	9,034	12,825	10,602	48,841	100

Source: Mayor of London (2014)

Figure 14. Long-term delivery by tenure



Source: London Housing Commission [LHC] (2016) *Building a new deal for London: Final report of the London Housing Commission*, IPPR. Data from Shelter 2015

4.5. Summary

This study has focused solely on the London residential market, and it has viewed the market largely through a post-global financial crisis lens. The crisis was a great ‘shock’ to the market and activity levels – new development, investment, sales and so on – all slumped. However, the London market is a resilient one, and it was not long before conditions began to improve – as can be seen in so many of the charts shown above. The wider picture of course – the whole economy and the whole country – experienced a rather different pattern of recovery; indeed in some areas house prices are still below the levels of 2007 and new development activity remains difficult to justify on economic grounds, however low the social contribution is placed. And herein perhaps lies the core explanation of the direct weak relationship that we have found between the national planning policy context and various market indicators.

In short, and setting the financial crisis aside for one moment, London has been experiencing a sustained period of growth and long-term development. Allied to projections of strong population growth (which forecast the city to grow by two million over the coming two decades), and with London’s apparently strong world city role, this has translated into a high level of confidence within the property and construction industry. This means that within London (if not elsewhere), the period since the financial crisis has witnessed the conditions required for property and land development conditions (principally confidence in rising demand), which would have seen an increase in values and prices irrespective of policy interventions.

The core issue for many is that market conditions have been exacerbated by a pro-growth environment, facilitated by the NPPF and the viability assessment industry, which has not passed on the clear uplift demonstrated here to local communities in the form of increased contributions. Indeed, as shown the core impact was a time limited reduction in the provision of affordable housing. The other issues to consider are to what extent the introduction of NPPF at this time was necessary and did it maintain the growth trajectory of prices and values, artificially, beyond the point where market forces and competitive returns should have started to trigger a feedback loop into the process, reducing values. This is something that has been highlighted to the benefit of those owning land and the subsequent suggestions regarding the use of compulsory purchase mechanisms, in addition to changes and a clearer application of the wider process.

Within London, there is planning policy context at city and Borough level for clear, significant provision of affordable housing, but this has not been delivered. In theory, if profitability has increased for developers, as it should have done based on the fact that house prices increases have outstripped construction costs by some margin, land values (or prices) should have reflected the need for compliance with affordable housing targets – yet they have tended to map to private house prices. This raises the question as to what extent the observed and estimated land prices on which the land price index is based do appropriately reflect the quantum of contributions set out in the planning policy documents. In turn it raises the possibility that the ability to negotiate contributions has had an impact on the views of both landowners and developers when negotiating a land price. The evidence for this is now explored through the analysis of case studies of planning appeals and in-depth interviews with a range of market participants.

Chapter 5:

Establishing Threshold Land Value for Economic Viability: a theoretical analysis

5.1. The Residual Model

Before considering the case studies and interviews which collectively present an analysis of the current practice of establishing land values for the purposes of assessing whether or not a specified level of developer contribution renders a specific proposal economically unviable, it is considered important to identify the available valuation models and the guidance that have been developed to inform and guide developers and their consultants, local planning authorities and, in the case of disputes and appeals, planning inspectors.

The basic valuation texts and guidance (for example Haywood, 2008; RICS, 2008) identify two methods of valuation for development land; direct comparison via spatial units of comparison such as value per hectare and the residual method. Direct comparison is used for

homogeneous assets but development land is generally unsuitable for direct comparison due to the heterogeneity of individual development sites and planning permissions and the difficulty of finding comparables. Coleman *et al.* (2012) set out the basis of the residual model calling it “a relatively simple, rule-based, data model that tries to mimic the expected input-output behaviour of a system”. The model is conceptually very simple with the residual being the product of an assumed sale of the completed asset less the costs of development of that asset, taking due allowance for the time it takes to complete and sell. The main costs are construction, infrastructure, professional fees, finance, marketing and planning obligations. An appropriate return to the developer is also included which should reflect the level of risk involved. The residual in this case is the land value. The calculation is more formally expressed in Equation 1.

$$LV_0 = (1 + i)^{-t} \left[\frac{DV_0}{(1+p)} - DC_0 - I \right]$$

Where LV_0 = residual land value at time $t = 0$
 i = cost of finance (annual interest rate)

t = development period

DV_0 = current estimate of development value

p = profit as a percentage of DV

DC_0 = current estimate of development costs

I = finance costs (usually calculated over the construction phase of the development period only)

A more sophisticated application of the residual model is via a discounted cash flow set out below as Equation (2)

$$LV_0 = R_0 + \sum_n \frac{R}{(1+d)} + \frac{DV}{(1+d)^n}$$

Where: R = recurring periodic net revenue received or expenditure incurred at the end of each period (n)

d = discount rate

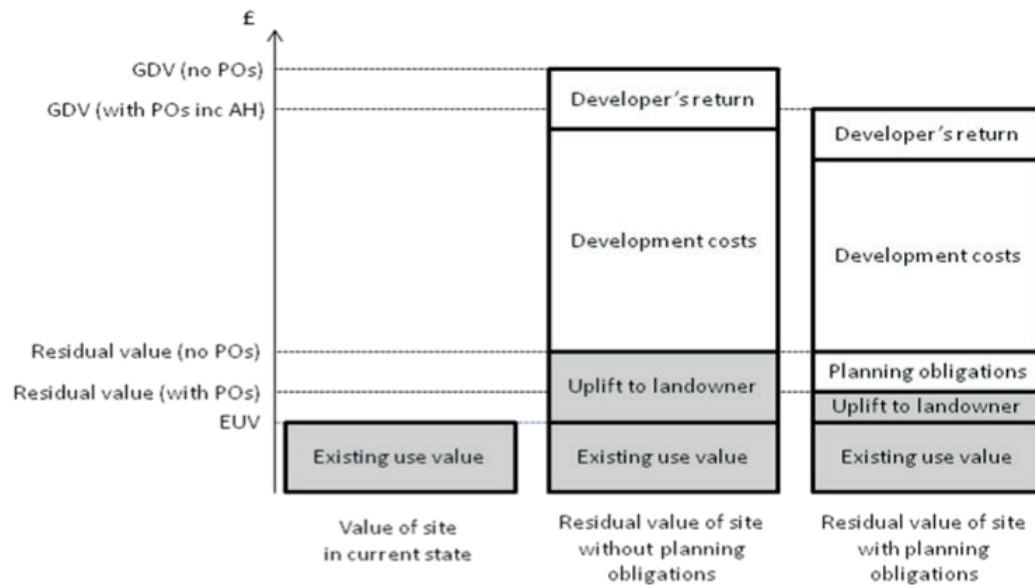
n = number of periods over development period

and other variables are as defined above

Crosby, *et al.* (2013) illustrate the basic model and how it can incorporate reduced

development values and increased costs due to planning obligations. This is shown below:

Figure 15. The influence of planning obligations on development revenues and costs



Source: Crosby *et al.* (2013)

The illustration above shows land value as the residual and profit as a cost but the model can be restructured to produce any one of the inputs as the residual if the other inputs are fixed.

There are a number of issues generic to all development appraisals set out in, for example, Coleman, *et al.* (2012). These are the use of simple traditional residuals rather than more sophisticated cash flow applications, input uncertainty leading to significant variation in the residual output, the treatment of interest and the identification of profit. They conclude that development appraisal is well behind investment appraisal in developing efficient rational modelling. They suggest this may be because developers place less reliance on models due to the increased variability in development appraisals compared to investment appraisals.

5.2. Application to Development Viability Assessment

This model has been used to determine development viability issues. Conceptually it does not take into account one major characteristic of land and that is the option

to wait before releasing it to the market. This option plays on the increased volatility of land prices compared to both gross development values and costs. Residual land values are expected to increase more in an upturn than other property market based assets and reduce more quickly in a downturn. There is an incentive to hold in downturns (and sell in an upturn although there is also a behavioural economics literature that suggests investors hold on in a boom and surf the wave³⁹). This is important in any discussion over landowners releasing sites for development as they do have this option to wait. This option could also be exercised if landowners thought that the policy framework is uncertain and may move in their favour. This highlights the importance of a stable regulatory environment.

The increasing academic critique of development appraisal techniques, particularly since 2012⁴⁰, has been a major product of the increased use, since 2012, of economic viability testing of development projects for the purposes of assessing planning contributions under the provisions of S.106 (previously S.52) agreements; largely considered to have taken place

³⁹ In reality, land owners have a range of different motivations which will temper their behaviours. The propensity to hold can influence the pipeline of land coming forward for development, which is major concern when supply is deemed to be short.

⁴⁰ See interview commentary

towards the beginning of this century⁴¹ in the 2000s. The techniques set out above have remained largely unchanged in valuation practice for many years and have continued to be advocated both in standard textbooks (Hayward, 2008; Shapiro et al. 2012) and in professional guidance (RICS, 2008). Both professional and academic attention to methodology has grown.

The framework for viability assessment is set by Government through National Planning Practice Guidance (2014) supplemented in London by the Mayor of London's Housing Supplementary Planning Guidance (updated 2016), and individual borough guidance. The professional practice response has been for the publication of a range of guidance (RICS, 2012[a] and [b]; Local Housing Delivery Group (2012); RICS (2016) or discussion documents (Highbury Group on Housing Delivery, 2012). Further the Planning Advisory Service and other bodies, including RICS have undertaken training and issued training materials aimed at developing skill and understanding in the subject. However not all of this advice, none of which is binding, is consistent. The professional guidance with the greatest influence on valuers is that published by RICS, their main professional organisation. RICS guidance notes, whilst not fully binding on members, are intended to represent 'best practice'. As such members are advised that failure to follow them could result in a court or tribunal considering that failure to be evidence of negligence. They are therefore a strong steer to RICS members as to the practices they should adopt.

However, whilst the professional body literature tends to support the conventional approaches, within the academic literature an increasing body of work has criticised both the application of simplistically applied traditional residual models and the choice of inputs within those models (Byrne *et al.*, 2011; Crosby, McAllister and Wyatt, 2013; Coleman *et al.*, 2012; McAllister *et al.*, 2015; Henneberry *et al.* 2015; Crosby and Wyatt, 2016). These criticisms include the treatment of values and costs through time, highlighted as a major reason for the discrepancy between actual land prices and modelled residual prices in London in the recent past (see Figure 4 in Chapter 4). As indicated above, this critique applies to the general

application of development appraisal models but includes specifically their application to development viability appraisals. It reveals not only some major misunderstandings of significant individual inputs, but that these misunderstandings reach across the whole development industry, including surveyors and planners responsible for undertaking and interpreting the appraisals. The practice in this area has therefore also been tested for this research through interviews with leading consultants and other stakeholders.

The major issue arising from the critique relevant to this project is the treatment and understanding of the nature of profit within a development appraisal and a development scheme which will be discussed later in this section of the report and the subsequent conclusions.

The academic literature has also investigated the detail of the application of development appraisals within the specific policy and professional guidance surrounding development viability assessment. It informed the development of RICS professional guidance in 2012 and in drafting the current amendments to those Guidance Notes following which, with RICS funding, Crosby and Wyatt (2015) have examined site specific decisions by the Planning Inspectorate. This latter publication criticises a number of decisions which discussed and decided upon threshold land value, particularly the use of purchase prices but also current comparables as a means of assessing policy compliant market values.

The paper also identified the circularity of arguments which had prevailed at appeal and enabled developers to pay prices for sites which were not justified by the appropriate application of guidance and as a result use an argument around economic viability and the need for protected competitive returns to reduce or eliminate their S106 contributions – effectively to claim the overpayment back from the LPA. This has now become the crucial battleground for development viability appeals and this is also discussed later in this report. It also forms a major point of connection between planning policy, its implementation, defensible threshold land values and prices achieved in the market place.

⁴¹ For a discussion of when viability testing was first introduced, see Chapter 6.

5.3. Using Residual Valuations in Site-Specific Development Viability

The National Planning Policy Framework (NPPF), published in 2012, supersedes earlier planning policy in relation to planning obligations. It retains the need for forward plans to ensure that "...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." More specifically, with regard to the issue of viability in particular, the level of planning obligations.

"... 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"
(DCLG, 2012: 41)

Crosby and Wyatt (2015; 2016) investigate site specific viability assessments based on data from the Planning Inspector decisions and identify the main issues surrounding scheme-specific DVA as:

- The inclusion of a uniform developer's profit for scheme-specific development projects;
- The handling of development finance and tax;
- Input uncertainty and risk analysis including whether or not to include inflation, forecasting and review mechanisms; and
- Fundamental disagreement over the approach used to estimate landowner return (threshold land value).

The policy objective is clearly set out in a number of places regarding the delivery of sites to the market place. For example:

"The residual land value method of determining viability assumes that a viable development will support a residual land value at level sufficiently above the site's existing use value (EUV) or alternative use value (AUV) to support a land acquisition price acceptable to the landowner."
Homes and Communities Agency (2009)

"An objective financial viability test of the ability of a development project to meet its costs including the cost of planning obligations, whilst ensuring an appropriate site value for the landowner and a market risk adjusted return to the developer in delivering that project."
RICS (2012b)

The concepts "competitive returns to a willing landowner", "price acceptable to the landowner" and "appropriate site value for the landowner" are therefore linked to the requirement to identify a price that gives the landowner the appropriate incentive to bring the land to the market while allowing the developer to obtain a proper return for the risk inherent in the development.

In theory, the residual value can be any one of the above three elements; land value, development profit and planning obligations. Threshold land value is at the heart of these assessments and it is generally accepted that the landowner should receive an additional sum over and above the amount that they could sell the site assuming that it remained in its existing use (or allowable alternative use) to persuade them to bring the site to market. In the absence of any knowledge of landowner's reservation prices, that amount has to be calculated.

Four approaches were discussed in Crosby and Wyatt (2015; 2016). They are based around:

- existing use value plus a margin/ alternative use value,
- actual land price,
- market value of the land based on comparable evidence, and
- residual land values less existing use value/alternative use value

All four have been utilised in appeal decisions. The discussion around each one is fully set out in the RICS Research Report. The most controversial of the above is the use of market value and the cases decided after the Crosby and Wyatt (2015) discussion have added to the data but not changed the basis of the arguments. The use of market value in the determination of Threshold Land Value is discussed in the next section.

5.4. Market Valuation and Threshold Land Value

Using the actual price paid without further testing as the approach to ascertaining the threshold land value (TLV) has been consigned to history. It now requires supporting evidence that the price conforms to the policy requirements. The current planning policy guidance (PPG) suggests that the land or site value should in all cases;

- “Reflect policy requirements and planning obligations and, where applicable, any CIL charges:
- Provide a competitive return to willing developers and landowners; and
- Be informed by comparable market based evidence wherever possible. Where transacted bids are significantly above the market norm, they should not be used as part of the exercise.”

(NPPF, Planning Practice Guidance, Para 14)

This has led to considerable use of the second approach to TLV which is market value. All market value means is that it is an exchange price and MV is defined in international and national UK mandatory valuation practice statements as:

“the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm’s length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.”

(IVS Framework 29 in RICS Valuation - Professional Standards, Practice Statement VPS 4 (RICS, 2014))

The normal approach to estimating market value is to find transactions on comparable sites/assets and use these transactions to assess the most likely selling price of the subject property/site. The PPG suggests that the site value should be informed by comparable market based evidence where possible and RICS Guidance suggests a market value basis to TLV so it is attractive to determine TLV via a market value estimate using comparable evidence. If that

comparable evidence supports the actual price a planning authority may feel confident that the actual price is the appropriate TLV. Indeed the policy guidance implies that it is. If a price cannot be used:

“Where transacted bids are significantly above the market norm, they should not be used as part of the exercise”,

then when prices ARE around the norm, the above implies they SHOULD be used. But what if the market value illustrates policy obligations cannot be supported? In that case the land value or price is either driven by existing use values or cannot have been policy compliant and all the comparative evidence is also making non policy compliant assumptions. This circularity of logic has been identified in both the academic literature and the RICS Guidance. The policy guidance is contradictory and flawed and the wording of the above needs changing to ensure that market evidence is only used when it can be shown to be policy compliant. Policy compliant also needs defining.

This discussion raises issues of whether the land market is influenced by the policy implementation. A developer could pay a non-policy compliant price knowing that they can use that price to fix the TLV in a subsequent viability assessment. The increase in price is offset by a reduction in obligations. But, having accepted this argument at the individual asset level⁴², why does it not apply at the market level. The whole market can operate under this assumption and so distort the very evidence base that the PPG suggests should be used to confirm market “norms”.

The norm becomes the inflated price. Landowners are advised to accept no lower than these prices based on comparable market evidence. In a competitive market, developers need to pay these prices and are able to do so as they can recover the increased payment within a weak planning framework via the viability assessments, using market comparables to confirm that the price they paid was not an over-payment.

⁴² Why else would the PPG suggest that prices needing checking by other market evidence?

Crosby and Wyatt conclude *“If market values of comparable sites are to be used as the basis for the determination of threshold land value, the critical assumption is that the comparable evidence is adjusted to take account of current policy in relation to planning obligations. If this were done correctly then the market valuation would necessarily confirm that the policy compliant planning obligations were affordable and there would be no reduction in planning policy obligations on appeal, precisely because of the circularity issue.”* (Crosby and Wyatt, 2015, p24).

The theoretical case against transaction analysis based market value being used to reduce planning obligations is overwhelming, as is the case for amending the policy guidance. The next section investigates how the planning inspectorate is implementing the policy guidance.

5.5. Planning Appeals – Treatment of Threshold Land Value

Appendix B: Appeal Case Study Data includes an analysis of 15 case studies assessing the outcome of planning appeals before the planning inspectorate using the same format as that used by Crosby and Wyatt (2015). It includes 5 new case studies not included in that paper and the main concentration in this paper is any additional analysis of TLV decisions.

There are a number of Planning Inspector appeal decisions that highlight significant issues concerning threshold land value and these address in detail the use of market value and returns and how the policy now protects landowners and developers at the expense of the community in the form of the LPA. Based on these decisions, despite the academic critique of the use of market value and the circularity issue, the Planning Inspectorate appears to be wedded to the PPG guidance concerning market evidence to determine the market norms which they then use so implying that they also think the market norms are policy compliant. This implication is rarely discussed in the appeal decision with one major exception. They fail also to critique levels of return and risk.

A number of cases highlight the approach and perceptions of the planning inspectorate in trying to implement this flawed policy and confused guidance.

The case of the 271-281 King Street, London (APP/H5390/A/13/2209347), concerned the demolition of existing buildings and the comprehensive redevelopment of the site to provide a mixed-use scheme. The main issue was whether or not the proposed development should include an element of affordable housing. The Inspector’s report highlights two issues; first the reliance on comparables and second the standing of the Red Book in the eyes of a Planning Inspector. The appeal decision refers a number of times to the standing of a Red Book valuation as if it conveys some sort of objectivity and truth over and above any other kind of valuation. There is also an underlying implication that Red book valuations should not be carried out by residual techniques. The Inspector appears unaware that compliance with the Red Book should not add any further status to any valuation which should have been undertaken in accordance with the same concepts of value and processes and that the Red Book does not prescribe method. Residuals are a totally acceptable means to identify market value. The second stems from the first which is the assumption that a market value (under the Red Book) should be based on market comparables and the presence of sales in the market place, the same market evidence that is noted in the NPPG, also gives legitimacy to an estimate of market value, even if the comparable base is not actually policy compliant.

The planning inspector comments: *“I acknowledge that both Red Book Valuations were the subject of high order, basic cross check residual valuations, which, although not necessary elements of a Red Book Valuation, particularly where there is a good supply of comparables, provide a useful sense check of the analysis.”* This case highlights the reliance on comparables as providing legitimacy to market values.

In the case of 22 Tower Street, Camden, APP/X5210/S/15/3133785), the Inspector relied on comparables to assess whether the price paid for the site of £19 million was similar to other land prices on other sites and, finding that this was so, confirms that it was not an overbid. The Inspector comments as follows. *“However the comparison method can be a useful check and there is nothing before me which leads to the conclusion that there is any “significant overbid” (to use the language of the Guidance) which should be disregarded.”* The Inspector also comments *“As indicated above, I prefer the appellant’s evidence related to the viability appraisal. Therefore, were a PIL to represent the appropriate solution to the viability issue, I consider that the appellant’s calculation of the maximum PIL which the scheme could support is more robust – although I am conscious that the return on cost is well below the target benchmark.”*

Both the appellants and the evidence for the LPA discussed the comparable sales of land. The appellants used the evidence to justify the use of the purchase price. In effect they were accepting that the basis was market value not purchase price. The LPA experts also implied that this approach was acceptable (despite expressing some reservations about the use of market evidence in this context). They argued that the evidence suggested a market value of £14.62 million. Once the planning inspector had decided that he preferred the appellant’s evidence there was very little evidence that he should not take into account the comparables and he sets out his approach unambiguously. *“The Guidance provides that (as there is no original appraisal) the market value at the date of the original permission should be used, disregarding any significant overbid. The purchase price should be benchmarked against market values and sale prices of comparable sites in the locality. The market value should have regard to the development plan and all other material considerations, whilst providing competitive returns to a willing landowner and developer to enable the scheme to be deliverable.”* (Para 17)

While including the special assumption concerning the market value being policy compliant, there is no hint anywhere in this decision that market comparables may, along with the purchase price, be non-policy compliant.

In the case of 65-69 Parkhurst Road, London (APP/V5570/A/14/2227656), the PI found that the price paid was confirmed by market comparables and therefore the affordable housing offered by the developers was fair.

The Inspector states that PPG says that viability assessments must *“reflect policy requirements and planning obligations and, where applicable, any Community Infrastructure Levy (CIL) charge”* but then goes on to say; *“informed by comparable, market-based evidence wherever possible. Where transacted bids are significantly above the market norm, they should not be used as part of this exercise.”*

As in the previous case study, the Inspector appears to follow PPG guidance that market based evidence confirms market norms but does not question whether market norms are policy compliant. However, in addition, the PI comments as follows:

“the appellant’s land value figure can be regarded as adequately reflecting policy requirements on affordable housing. Bearing in mind that the development plan policy is to seek the maximum reasonable rather than the maximum possible amount of affordable housing, on the available evidence of the current position I consider that what is being offered in this case would achieve that.”

This raises the issue of what is the policy compliant assumption to be made. Should policy requirements be seen as a maximum amount or should they be seen as a variable reasonable amount up to the maximum?

The LPA in this case produced residual valuations of the site using various amounts of affordable housing, possibly opening up the idea that policy compliant did not conform to the policy target of 50% affordable housing. All three valuations showed site values well below the purchase price. The appellants produced market transactions to attempt to show that the price paid of £13.26 million was a market norm:

First a subsequent bid for the site, after they had purchased it, from a residential developer of over £15 million.

Second, evidence that the site was valued independently using the Red Book at over £15 million. The Inspector reports that this valuation *“appears to have relied strongly on the evidence of the sale of the site and of a residual appraisal that was undertaken based on 25% affordable housing provision (in a scheme of 125 units). However, other market evidence was also considered, and such a valuation is bound by the relevant professional responsibility requirements as needing to be a true reflection of the market”*. The implication here is that this valuation somehow gives an independent, authoritative view of the true value whereas all it is actually doing is confirming that sales take place at these levels, which is not in dispute.

Finally, evidence of 21 comparable sites which give a range of values between around £13 million to over £16 million.

On the back of this evidence the Inspector concludes that *“taken together they [the evidence] provide a consistent indication that the price paid for the site was not at a level significantly above a market norm. There is no counter evidence to contradict this picture. Having regard to the advice of the PPG, there is no reason to exclude the purchase price as part of the exercise of arriving at a land value for the site.”*

These decisions indicate that circularity identified in the academic literature is now embedded into the system. The NPPG guidance coupled with the planning Inspectors interpretation of that guidance, supported by the developers and landowners,

has allowed the market to dominate the process. The market, made up of those developers and landowners, now know that the residual nature of the appraisals can be used to manipulate the system to divert most of the gains from the grant of planning permission to the landowner while the developer is protected from additional land costs by the LPA.

The mechanism by which this occurs is the use of market value based on market evidence in the form of transactions.

Even though the use of price in isolation has been identified as an inappropriate basis by both the academic literature and the case study material, the use of price backed up by market transaction evidence has been embraced by the Planning Inspectorate. But there is no material difference between actual price and market value. Using market value is an open invitation to the market to manipulate the system and transfer part of the development gains from the LPA to the landowner while protecting the developer's return.

Landowners are (quite rightly) advised to only sell at higher prices and developers know they can pay these higher prices because these prices will be confirmed by other market transactions as being the “norm”. None of these prices accord with the special assumptions and the adjusted residual valuations at policy compliant levels of planning obligations illustrate that. The system appears to be broken. Land value is a residual after the costs have been deducted. These costs include a return to the developer and the planning obligations. A reduction in expected planning obligations will feed into land prices. Once a price has been paid, the residual element ceases to be the land price and becomes the developer's profit. But development viability assessment has agreed that developers should be given a significant profit level and these benchmarks are used to pass on any variation and reduce the planning obligations. In effect, the residual has now become a figure in which developers are able to insert both land price/market value and a fixed level of return to show they cannot afford to pay the planning obligations, which drop off the bottom of the residual calculation.

5.6. Other Appraisal Issues within Development Viability Assessment

The academic literature and case studies raise a number of other questions which impact on threshold land value apart from the use of Market Value.

First is input uncertainty. The variation inherent in residual calculations, whether it is simple residuals or more complex cash flows, is a very well documented phenomenon within property valuation. Evidence before planning inspectors is not subject to rules of expert evidence so appellants and LPAs can employ advocates who have a single responsibility to do the best for their clients. It is for the planning inspectorate to use their expertise to interpret policy and practice and reach correct decisions. The theoretical analysis and the case studies all show that the decision makers are failing to understand the process or the practice of development appraisal and the appeal outcomes are influencing land prices upwards. This is the context of a valuation that can vary by significant amounts from small changes in other inputs.

The case of 2 /2A Crystal Palace Rd, East Dulwich involved the demolition of the existing building and the erection of a part 3, part 4-storey building, comprising 22 residential units. The applicant was appealing to remove the affordable housing provisions in the consent.

The main issues were whether the proposed development, with the affordable housing requirement as it currently stood, was not economically viable and whether the evidence produced by the appellants for the purposes of the appeal was consistent with their submissions made during the application process, and accounted for any differences.

The methodology of the viability statement involved establishing a 'Benchmark Land Value' (BLV), which was based on the site's existing use value, plus a landowner's premium. It then compares this to the 'Residualised Price' (RP), which is effectively the residual land value. The RP is derived from the proposed development's 'Net Realisation' value, less all relevant

development costs. The latter include construction costs, fees, and the developer's target profit. EUV based on industrial values was agreed at £1,381,000. EUV + the 20% suggested by the appellants = £1,657,200 which appears to have been argued about by the LPA but accepted by the inspector.

The planning inspector appears to have accepted the appellant's residual land value in full including their assessment of Gross Development Value, a 12% costs allowance and a 20% return on Gross Development Value profit for the developer. This returns a residual land value of just over £383,000, massively below the agreed EUV + 20%.

In the light of this viability appraisal the inspector agreed that the site is not viable and removed the planning obligations.

The decision was July 2015. In February 2016, the Land Registry records a price of £5.05 Million for the sale of the site. Given the relative lack of variation around investment valuation it must be assumed that the purchaser was not purchasing the existing use and therefore was purchasing with the intention of implementing the planning permission which now had no affordable housing provision.

This situation is also supported by what can be seen on other sites, in terms of discrepancies between residual values / benchmark land values in viability appraisals prepared for planning purposes and subsequent transaction prices of the land in question. In the case of 237-247 Rye Lane, (London Borough of Southwark) the planning inspector (Report decision date: 9 September 2014) accepted that the residual land value of the site was £0.955 million compared to a benchmark land value of £0.912 million, reducing the affordable housing quantum as a result. The site subsequently sold within the next 6 months at £4.6 million.

On 351 Caledonian Road & Gifford Street Railway Embankment, London N1 (London Borough of Islington), a benchmark land value for the site of £7.44m, was agreed by the applicant (as per committee report dated 16 Dec 2014). The site subsequently transacted for £10,450,000 9 months later in September 2015. In a more extreme case, where the transaction occurred prior to the viability assessment, on the Tideway Industrial Estate, 87 Kirtling Street, (in the London Borough of Wandsworth), the viability appraisal generated a residual land value of £279,000, which was deemed to be £28 million below the viability benchmark set (as per an appraisal quoted in the Committee Report dated 17 Nov 2011), thereby arguing for a reduction in planning obligations, yet the site had transacted for £50 million in 2008⁴³.

Valuation Accuracy is usually measured as the percentage difference the valuation is from the sale price ($\text{Price} - \text{Value}/\text{Price}$). In these cases the valuations were in error by 92%, 80%, 29% and 99%. As the largest ever margin of error allowed in any valuation negligence case has been +/- 20% and commercial investment property valuation variation averages less than +/-10% annually (MSCI), these variations are startling.

It is possible that the variation indicated by this evidence is a product of random input uncertainty but it is more likely, given the direction and extent of these differences, that the residual valuation is being manipulated to produce inaccurate valuations to be placed before the PI and they appear to have no mechanism to identify it. Basic sensitivity analysis of the inputs to a development appraisal will indicate that variation (see Byrne, et al, 2011, for examples).

In the case of these few examples, a few basic indicators of value should have given a warning that perhaps the appraisals used within the planning process needed more scrutiny. Despite the individuality of development properties, property appraisal does use basic comparative indicators and the RICS development appraisal guidance note (RICS, 2008) does suggest that a more direct comparison, if possible, is the preferred method of valuation. Land value per hectare,

price per unit, price per habitable room, etc. can all be used as a check to help anchor the residual valuation and help prevent any prospect of significant manipulation although the actual random valuation variation is still a real issue within development valuation. LPAs should be collating this information across and within boroughs to protect themselves and to provide an evidence base when negotiating viability assessments.

The second major issue is the return to the developer. Coleman *et al.* (2012) note that “*In a standard cash-flow, profit is represented as a return on capital and the NPV (assuming that it is positive) is then the surplus that is available for land after all costs have been deducted*”. This basic NPV model is set out in numerous corporate finance and investment appraisal texts (e.g. Brealey, et al, 2008; Lumbly and Jones, 2003; Ryan, 2007) and included in standard property related texts (Baum and Crosby, 2008).

It should be noted that in this model profit is a rate of return per period and finance plays no part in that. In a traditional residual, profit is a simple return on development values or costs, regardless of time period, and finance is included explicitly at 100% of costs regardless of whether finance is actually needed to undertake the development. What finance in this model actually does is to give the development a crude time frame by taking the costs to the end of the development period and lining them up with the receipt of Gross Development Value, also at the end of the development period. This is often backed up with accumulating cash at the finance rate; another example of flawed technique heavily criticised in the academic finance literature.

Almost universally, the appraisal method is the standard traditional residual so the profit is represented as a simple return on GDV or on development costs with no allowance for the time frame of the development. However, despite these crude measures, development returns are very high compared to risk free rates of return, which are between 1% and 2% pa depending upon the term of the risk free investment. Target rates of return for investment property are probably around a minimum of 3.5% but more normally 4%-6%

⁴³ Source: St. Modwen (2013) and Helical Bar (2008)

above the risk free rate (AREF⁴⁴, quarterly). Internal rates of return (IRRs) for development are often in excess of 20% per annum, 18% above the risk free rate. These very high target returns are to quite rightly compensate for the extreme risk of development which comes from the residual nature of the profits. For example a 20% fall in property prices (Commercial investment property prices fell by 30-40% in 2007-2008) could wipe out a profit but a 20% increase would more than double it, all else being equal.

The case studies suggest that the developer's return is being allowed within appeals at a variety of levels ranging between 16.67% and 25% of either GDV or costs, it is not always clear from the decisions. Crystal Palace Road was at 20% of GDV and the Inspector in the Parkhurst Road appeal quotes norms of 20% on cost and 16.67% on values.

It is also apparent that once land cost and developer's return have been fixed within a viability assessment, the risk laden residual element has become the planning obligations. There is particularly true if developers are able to revisit viability later in the process. The case of Galliard's Capital Towers Bow development of 191 flats reported in the Estate Gazette in June 2016 illustrates the point (EG, 2016). They are reported to have applied under Section 106BA for a cancellation of their affordable homes payment. The target return for the development was 20% and they agreed a £7.2 million payment at that time in 2011. They now claim the market has turned against them in the form of a major increase in development costs from £35.8 million to £44.2, an increase of 8.4 million. The Gross Development Value has only increased from £63.4 to £71.7 million, an increase of £8.3 million. Despite this parity in growth in absolute terms, Galliard are reported to claim that the relative increase in costs at double the rate of values has reduced profit down to an "unacceptable" level of 1.3%. Even if they are successful in having the planning obligations cancelled, they claim they will only make 14.1% profit on the development.

Even if the very dubious looking mathematics are correct (no doubt on account of other information not revealed in the article), they appear to have forgotten the reason that they are able to argue for a targeted 20% return across all development appraisals and viability assessments. The profit level is to some extent an average over all developments and not a right over one development. This is an attempt to transfer major elements of downside risk from the developer to the LPA while hanging onto the upside and yet target unchanged risk-adjusted returns.

There appears to be little discussion within planning inspector decisions concerning the level of profit⁴⁵ and little variation scheme by scheme apart from reduced levels of profit for the affordable housing element. If there has been a major transfer of the risks of development away from developers why is there not a more far-reaching discussion concerning the level of profit made by development? A detailed investigation of changing profits to development companies is outside the scope of this research but is a major question to the interviewees.

The final major question raised by the case studies is the question of the meaning of policy compliance and its impact on threshold land value.

There is no doubt that the case studies illustrate major reliance on market transactions to assess whether the land price or value is within the norms set by that evidence. If this is confirmed, the market value based on transaction evidence has been accepted and little questioning of that acceptance is reported in the case study decisions. There is one exception, Parkhurst Road, where the question addressed by the Inspector, raised by the LPA, was whether any of the evidence is policy compliant. The approach taken by the Inspector is set out in paras 71 to 75 of his decision. In essence the Inspector argues that policy compliant does not mean that stated in the policy but can mean a reduced level of

⁴⁴ Association of Real Estate Funds, available from www.aref.org.uk

⁴⁵ The issue of rationale for the level of profit is discussed in Chapter 6.

obligations which are normal in the market and that no landowner would release the land for development at values less than those in the market place. This is a crucial question for the research. If policy compliant is interpreted to mean what is being actually delivered, the market for land will operate totally within the circular process identified above. Development sites are unique and valued as so using average delivery outcomes across sites is inappropriate as the maximum affordable housing will differ from site to site. Land values will reflect the fact that the current policy and practice enables planning obligations to be avoided if benchmark land values are high enough to produce no residual value after land and developer's profit have been deducted from gross development land value. That level of land value will become the benchmark land value supported by the planning inspectors' interpretation of market norms and evidenced based comparative market valuations. Given the direction of these decisions, it would be expected that the market would already be operating within this framework.

So yet again, the interpretation of policy guidance has enabled developers to reduce affordable housing provision, still further providing the framework for a further impact on land prices.

5.7. Conclusion and Recommendations on Threshold Land Value

At present, the latest appeals have allowed the use of market values based on market transactions taking place within a market place that knows it can persuade planning inspectors that comparable based site values comply with PPG guidance. But this is a market place that also knows it can negotiate planning obligations based on the prices they and their competitors pay for sites so the "norm" could be non-policy compliant. Until recently they could even come back and renegotiate past agreements⁴⁶.

Can we determine a policy compliant market value? There is evidence of transactions that take place after the planning permission has been secured. If developers are not allowed to revisit planning obligation agreements and

policy compliant was defined as the policy targets, these sales could be used to help identify policy compliant market values. The value of any reduction in policy requirements actually delivered would have to be factored into those prices to adjust them to the equivalent price had the planning permission contained the full policy obligations. The examples in this research suggest strongly that the residual land values agreed at planning appeal do not represent policy compliant land values.

What is the alternative to market value? Other approaches to Threshold Land Value have included reference to existing use value (EUV), alternative use value (AUV) and residual land value (RLV). One approach is to assume that a landowner would be willing to bring forward their land for development if they were offered an uplift to Existing Use Value. Without reference to other values and to the development scheme, the uplift is difficult to identify and certain percentages have been mentioned such as 20%/25% of EUV. However, it could be used in tandem with other measures. On its own it takes no account of the extent of the difference between existing use and development value and so a landowner with a very low EUV relative to development value is not going to bring the land forward for a small uplift on EUV. This may not be a major issue within London but could be in more rural areas.

The approach used in the Shinfield Road, Reading case uses a combination of both the development potential and the existing use of the site to try and share any development value within the policy guidelines. This approach is to use the accepted methodology of residual values. First it suggests working out the value of the site in its existing use. Second it requires calculation of the residual value ignoring any planning obligations and site costs but including an appropriate return to the developer. If there is any surplus after the existing use value is deducted from the residual value, the development is viable. The surplus is there to give the landowner a return for bringing the land forward for development and the local planning authority the planning obligations. In the Shinfield Road case the surplus was split equally between the parties.

⁴⁶ Prior to the repeal of S.106a

Crosby and Wyatt (2015) suggested that this approach was the fairest way to try and meet the policy objectives of a development project to provide for planning obligations whilst ensuring an appropriate site value for the landowner and a market risk adjusted return to the developer. They also hint at one politically “difficult” issue in implementation, a perceived tax regime.

“This approach has the trace of a development gains tax – the rate was 50% in the Shinfield case – but it tracks changing market states and shares the profits of development between developers, landowners and the community in a way that is more equitable and responsive than current approaches.” (Crosby and Wyatt, 2015, p26)

Therefore the academic literature (Crosby and Wyatt, 2015; 2016) suggests an approach that ignores transaction based market value but uses existing use value and residual value ignoring the planning obligations; using the difference between these two to identify the amount available to the landowner and planning officers. Where residual value equals existing use value, there are no planning obligations, where there is a surplus both parties participate and there is no maximum. This system gives complete flexibility but no certainty for any of the parties.

However, these two valuations should be the cornerstone of any arrangement. Another alternative might be the use of existing use value plus a fixed margin based on residual development value, not the existing use value. This would give higher margins on relatively low EUV sites. Planning obligations could be capped at a maximum affordable housing provision. Any developer/landowner who can show that residual amount excluding planning obligations and land is less than EUV + the margin will be free of obligations. Where there is a surplus, this surplus is used to fund planning obligations up to the maximum amount prescribed by policy. Any surplus over and above that amount goes to the landowner.

Such collars around the land value and the obligations would give an element of certainty while giving the flexibility to bring more marginal sites forward. It should have a restraining impact on land prices by disallowing the excess prices in the market place to be used to transfer the residuals and therefore risk of development onto the local planning authority. It will place the high rewards and risks of development firmly where they belong; in the hands of the landowners and developers. At present there is both theoretical arguments and evidence from the market and from decisions that the landowners and developers are passing on some of the development risks to the community without a corresponding reduction in returns.

Most of the current approaches set out above have major difficulties attached to them; hence the major problem with Threshold Land Value within the Development Viability context. Landowners need to be persuaded to release land so should be receiving a margin above existing use value. The prices paid for other sites are a guide to a fair comparative price but only if a market is not distorted. There is clear evidence from the analysis above that the market is distorted by the policy interpretations so land prices need to be amended for this distortion to the policy compliant market value. That policy compliant market value should be found via accepted valuation methodology which for individual development properties and sites is the residual method. A residual valuation assuming policy compliant obligations and a fair return to the developer is the policy compliant market valuation. Only if it is less than the EUV plus an agreed uplift should the planning obligations be reduced.

There are undoubted issues with residual valuations concerning manipulation and variation. There therefore needs to be a set of comparable indicators based on post planning land transactions. This would at least take away the ability to manipulate, although there will be some variability; that is inherent in the model. These will vary given the individuality of development transactions but residual valuations need checks and balances and cannot alone be relied upon for valuation accuracy. The datasets need to be developed.

Chapter 6:

Evidence from the Interviews

This section sets out the key points arising from the interviews. In total of some 26 professionals were interviewed in June 2016. Interviews were in depth discussions using a semi-structured approach with interviewers exploring different aspects of the research depending on their particular experiences and expertise. On average the interviews lasted approximately one hour. Each explored the following main areas:

- The impact of the NPPF and other planning policies on land values
- Economic viability assessments including setting threshold land values and the concept of competitive returns
- The reasons for and solutions to the shortage of affordable housing development and finally
- The delivery of policy requirements / return to the community through the land development process.

A copy of the questioning framework and letter of invitation is included in **Appendix C: The Questionnaire**.

6.1. The Relationship between Land Values and the Planning Framework: not Direct but Developing Confidence in a Pro-Growth Agenda

Within the responses there was an overwhelming opinion that, although the NPPF and other partial deregulation of the planning system had not had a measurable impact on land values, they had set the context and defined the atmosphere in which developers operated emerging out of the 2008 crash. The main impression, as expected considering the post 2008 market, was that changes to planning were part of a pro-growth agenda, but as a result of this it has also created a series of assumptions and

practices that have indirectly had an impact on land values, and on delivery of housing and especially affordable housing.

The typical view is summed up by one respondent who stated that *“The NPPF is flexible so it is difficult to make a direct link; however if you see the NPPF as creating a framework it started to change the culture within which decisions are made. Therefore to the extent that land values are residual outputs, if the gross value goes up so it flows through to the land element.”*

The change of culture was seen to have instigated a shift in confidence and power relations, with the focus firmly placed upon increased developer confidence, an ability to take on more perceived risk, an understanding that renegotiations are an inevitable part of the process and that a competitive return, set against possible contributions, provides the basis for tipping judgements in favour of the developer. Indeed, the NPPF was seen to have *“clarified the rules”* enabling developers to *“argue their case in relation to viability with greater ability to succeed.”* This, in the view of many interviewees is important because it *“ramped up the issue of viability testing, put competitive returns within the plan and allowed renegotiation of the deals deemed to be out of date after 2012.”* This increase in confidence has fed through the system and allowed land values to climb, with the result, expressed by many that the inevitable result has been that the *“only bit that can get squeezed is affordable housing”*.

The NPPF sits within a context that comprises both detailed planning policy and the wider economic setting. The period over which interviewees were asked to comment started from the period immediately preceding the

global financial crash and the present day (but before the June 2016 referendum). In particular, as noted by most respondents, the London economic context and property market differs from that prevailing in many other British locations.

However, although other factors, as detailed below have been influential, many clearly stated that the scene and atmosphere the NPPF created has fed into the set of reactions and decisions fuelling, not just an increase in land values, but a belief that any uplift in values resulting was still not sufficient to necessarily satisfy all landowners to bring forward land and in particular deliver affordable housing which *“will depend on what can be argued and can only achieve the maximum the market will bear.”* This theme also came through most other strands of the interview questioning. The implication is that, to some respondents at least, it has set in train a set of rational market decisions that have led to an almost inevitable reduction in contributions through the provision of affordable housing in many cases and, ultimately, a squeeze on community gain.

In summary, some respondents were uncertain as to how the NPPF plays out with regard to land values and affordable housing, but for many it is clear that it was specifically set up with the intention of protecting and encouraging developer activity and ensuring that this was viable, even if the result would be that existing S.106 agreements could be renegotiated downwards and future levels of affordable housing would be compromised. This may appear a negative response but to so interpret it would be perhaps unbalanced. There was recognition that when the NPPF was introduced a stimulus to development was required; the NPPF has achieved this, though, as confirmed below, with some unintended consequences. Where originally aim seems to have been to keep development from stalling, it has effectively enriched a few at the expense of many.

6.1.1. Viability Testing

One of the key provisions within the NPPF is the concept of viability testing. The responses in relation to how this is conducted and its effectiveness are considered below, but most of those interviewed agreed that the process has been around for a lot longer than the NPPF. However with the advent of NPPF it had *“become an industry”* and *“been given a legitimacy”*. Asking interviewees to pinpoint when it was introduced proved illuminating and revealed a wide differential in the knowledge base and depth of experiences of respondents and ranged from the NPPF to before the turn of the century, with several interviewees mentioning the development of tools such as the 3 Dragons and other models in the early 2000s as influential in the process. However, some interviewees pointed out that the introduction of assessment tools not only introduced sophistication but *“locked down”* the information so making the process less transparent and enabling the ability of expert consultants to sell their services to developers in order to manipulate the process.

Critically, therefore, to most interviewees viability testing has been an evolution but one that is now over complex and capable of wilful manipulation through a power imbalance and ability of developers and consultants together with a lack of transparency within *“hidden and unknown calculations”* as further discussed and demonstrated through the case studies (Chapter 5). The result of this lack of transparency is that there is no ability to fully understand how the calculations are made while the process appears to be presented as a scientific process. However, the large range of assumptions built into the process mean that there is no way of knowing exactly *“at what level the game is being played”*.

6.1.2. Other Planning Changes and Economic Context Changes Since 2012

Whilst respondents were generally of the opinion that the NPPF had been influential in re-calibrating the culture towards development, it is not the only policy initiative that has been observed as important. During

the interviews, all participants were asked to identify what factors, other than the NPPF could, in their views have impacted on land values. Set out in the Table below are the factors that were variously identified. It must be stressed that there was not full agreement among interviewees as to the level of importance; nonetheless some strong themes emerged.

Table 2. Factors that impact on land values

Date	Planning	Political	Economic
prior to the study period issues deemed relevant	Viability begins to enter the planning vocabulary –introduction of the Three Dragons model around 2005 50% London Plan Target	Labour administration until 2010	10 year bond rate 5.5% - start to decline
2007			Peak of market. BNP Paribas raises the alert
2008	Persimmon Homes, Barratt Homes and Millhouse Developments v Blyth Valley Borough Council [2008] causes deeper consideration of the then extant PPS3 (Planning Policy Statement 3:housing) and the tests required of a ‘sound’ plan in terms of establishing economic viability. It led to greater awareness of the need to be able to justify affordable housing targets at plan and application level ⁴⁷		Global Financial Crash Lehmann Brothers collapse; government take 58% share in RBS
2009			Bank base rate reduced to record lows
2010	London Plan amended – numerical affordable housing target equivalent to 40% provision. Community Infrastructure Levy Regulations 2010 introduced on a ‘voluntary’ basis for councils with approved local plans. Vannes KFT v R.B Kensington & Chelsea [2010] rules out affordable housing on a scheme and questions inputs into viability model ⁴⁸	Coalition Government formed Comprehensive spending review reduces housing association capital funds	Gilts rates fall to 4%

⁴⁷ Planning Resource (2008) Legal Report - Court takes tough line on viability and soundness, 5th September. Available from: <http://www.planningresource.co.uk/article/843748/legal-report---court-takes-tough-line-viability-soundness>

⁴⁸ Goodall, M. (2010) Affordable housing ruled out. Available from: <http://planninglawblog.blogspot.co.uk/2010/12/affordable-housing-ruled-out.html>

Date	Planning	Political	Economic
2011	Duty to Cooperate introduced Draft NPPF published	Localism Act 2011	Commercial property markets start to recover Easing of finance for purchase
2012	NPPF adopted		Recovery in land markets
2013	PDR extended series of Planning Policy Guidance (PPGs) start to be developed	Government consult on an effective social housing rent and value cap ⁴⁹	
2014	First PPGs published under the NPPF S.106 for infrastructure scaled back in light of CIL (or at the point at which CIL is adopted)		
2015	PDR extended again	Conservative Government Revised formula for RSLs announced aimed at reducing the benefits bill. OBR estimate this will reduce ability of HA to build up to 14,000 units ⁵⁰ Clarification issued that HA tenants may have a right to acquire their homes in part or fully ⁵¹ . Growth and Infrastructure Act 2015 passed	
2016	Mandatory starter homes provision Permission in Principle Vacant Building Credit reinstated	Housing and Planning Act 2016 passed ⁵²	10 year gilts rate now less than 1.5% ⁵³

⁴⁹ DCLG (2013) Guidance on Rents for Social Housing. Available from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/254282/13-10-29_Draft_Local_Authority_Rent_Guidance.pdf

⁵⁰ Cross, L. (2015) Housing Associations ordered to cut social housing rents by 1% per year for four years, Social Housing, 8th June. Available from: <http://www.socialhousing.co.uk/has-ordered-to-cut-social-housing-rents-by-1-per-year-for-four-years/7010692.article>

⁵¹ UK Government (n.d.) Right to Acquire: buying your housing association home. Available from: <https://www.gov.uk/right-to-acquire-buying-housing-association-home/overview>

⁵² Housing and Planning Act 2016. <http://services.parliament.uk/bills/2015-16/housingandplanning.html>

⁵³ United Kingdom Government Bond 10Y. Available from: <http://www.tradingeconomics.com/united-kingdom/government-bond-yield>

In terms of the above, some were mentioned more frequently and deemed of greater importance than others.

Of the aspects seen as most influential Community Infrastructure Levy (CIL) and, to a lesser extent, Permitted Development Rights (PDR) were highlighted, although the level of impact was seen to have been dependent on the borough in question in terms of scale and impact. Whilst it was acknowledged that initially CIL had received some adverse comments from developers, to the respondents, CIL is widely viewed positively as being a *“credible measure which adds certainty and measurability”*.

Certainty is considered important and useful although a high level of CIL was seen to be such that it could at times negatively impact on the amount of affordable housing delivered through S.106 agreements. As several interviewees opined: *“there is only one pot out of which contributions can be made. As CIL is certain and therefore written in to residual calculations, S.106 in the form of affordable housing is the only variable left”*. In summary, CIL is influential and accepted but its impact on land value, whilst theoretically transparent, is not in practice as the underpinning calculations are not generally in the public domain.

The perceived impact of PDR elicited a range of opinions which possibly reflected the extent of the particular interviewee’s experience of working within the field of redevelopment as opposed to cleared sites. Whilst at one extreme there was a view that *“PDR has swept commercial use away”* others considered that within the whole scope of land supply in London, it is too insignificant in scale to impact on values: *“the demand for land in London is simply insatiable”*. However all respondents recognised it as negative to the community in that it reduces CIL contributions and does not to the stock of affordable housing.

Among other, more recent influences, the Growth and Infrastructure Act (2015) and the Housing and Planning Act (2016) were seen as potential, not actual, influencers. Their importance lies in the acknowledgement that together they continue to underscore the impetus to support and ease development.

In particular the proposals for starter homes were viewed as *“unwelcome and unhelpful”*, *“deflecting from social provision and community gain”* and even *“a madness which will result in the transfer of affordable housing to starter homes”*. Against this must be put an acknowledgement that the regulations surrounding Starter Homes under the 2016 Act are not yet in place; but in perception terms they were a concern to respondents.

Similarly the reinstatement of the vacant building credit in June 2016 was seen by several as *“letting developers off the hook again”* with many fearing that this too would jeopardise the future supply of affordable units.

In counterbalance, the repeal of S106a which provided the opportunity to renegotiate contributions after 5 years, was seen as positive, as it had been used successfully to reduce contributions in cases other than those which had stalled for genuine viability reasons.

6.2. Economic and Regulatory Factors Impacting on Land Values

Whilst planning policies were acknowledged to be influences on land values, interviewees considered that economic and regulatory factors (other than planning) have played a large – possibly larger – role, with many of those interviewed considering that the lead up to and the crash itself set the scene for both the policy that followed and the behaviour. Some of the key contextual influences were deemed to be as follows:

- **Tax changes:** both enveloped tax and stamp duty land tax (SDLT) were considered to have an impact on the delivery and negotiation around land values and AH, but there are inevitably time lags here which need to be factored into account. As both take time before they feed through into the value chain, they were observed to have cooled some sections of the market and the estimated transfer price of land, as revealed by the Savills Land Index. However, this, as at the date of interviews, was deemed only to have impacted on high end central values and on those developments where there are a high percentage of overseas buyers.

- **The ability to borrow:** lending underpins much of the property market: both lending to borrowers and to developers. Since the crash when money was not widely available both the price of money and the ability to borrow has changed. Some interviewees noted that this enabled RSLs to borrow cheaply with the consequence of pushing up land values – a trend that was reversed when developers re-entered the market. The re-entry of developers has increased the competition for land with inevitable rises in price, strongly linked to the ability to re-negotiate planning obligations and the inability of RSLs to bid for sites.
- **General market conditions and behaviours:** Linked to the ability to borrow is that of confidence in market conditions described as “critical.” The consensus is that prior to the financial crash, developers were prepared to accept their contributions, as they would be able to absorb them as house prices rose, but after the crash the vulnerability of this was realised. Since then, despite a strong sales market in the private housing sector provision and, for whatever reason, this change of mentality has stayed in place, with negotiation and renegotiation being accepted as normal behaviour. This could be regarded as a shift to a more confident but simultaneously less risk accepting approach by developers with a movement of some of the development risk to the local authority as discussed in the previous chapter.
- **Housing providers:** If there was one theme coming through on the external context it was that the private sector is “the only game in town”. This is clearly demonstrated in Chapter 4 which tracks housing delivery. Interviewees noted, with varying degrees associated to land value change that other delivery institutions have virtually disappeared from the scene. Almost all respondents noted the reduction in ability of RSLs to provide housing due to a combination of factors including the consequences of the comprehensive spending review in 2010, the removal of the 10 year rent deal, rent capping, voluntary right to buy and the reduction of grant levels. All of these were seen to have reduced the ability of RSLs to participate in land and housing purchases.
- **Government Incentives:** changes to monetary policy and promotion of schemes such as Help to Buy, Right to Buy and now Starter homes, leading to complexity around types of subsidised housing investment and deregulation of mortgage schemes have all led to a “perfect storm in the market place, promoting an upward spiral of prices and values”.
- **London - the safe haven:** Many interviewees mentioned the draw of London as a ‘safe haven’ for investment funds (note the research was undertaken over the weeks immediately preceding and shortly after Brexit), although few considered that the so-called Build-to-Leave phenomenon was sufficient to really drive land values. More relevant was the overall perception that London as a major centre would be more secure against a downturn than elsewhere, although there was an acknowledgement that the market was turning – even without Brexit - and that some areas which had been investor led developments were now potentially in oversupply with Nine Elms being cited several times⁵⁴.
- **Interest rate and yield environment:** Several interviewees picked up on the very low prevailing commercial yields and long-term bond rates. This latter represents the ‘risk free’ rate against which all returns on property investment are measured. The view was that this suppression of interest rates has “led to unrealistically low yields which won’t be sustainable and are driving capital values up.”
- **Infrastructure:** The investment in London’s infrastructure (e.g. Cross Rail, Old Oak Common) have been observed to be signals of a city in which investment will continue although it was recognised that the boost such public investments made to house prices (and related land values) had not succeeded in returning benefits to the community in terms of additional affordable housing in the ways that might have been intended. However, some interviewees quote examples where some boroughs had been successful in agreeing with developers arrangements whereby if the economic viability of a scheme improved between the grant of consent and sales completion the developer would make additional commuted contributions.

⁵⁴ See for example Gardiner, J (2016).

6.2.1. Views on the Future

The land market is not static. The economic data gathered, supported by the interviews has supported a complex analysis of the relationship between planning policy, land values and the provision of affordable housing. Looking to the future, a downward pressure has already been shown to be emerging in central London and several interviewees talked of the market moving into the next phase. A number of factors were considered by interviewees to be likely to move the markets downwards, such as starter homes, concerns about the wider economy and reducing finances of overseas investors. This concern was also expressed by those who considered the whole issue of increasing subsidies and maintaining an artificial price as problematic. Other future issues that were considered to be potentially important were changes in interest rates and the referendum, both of which were viewed as matter which could start to have an immediate impact. Views on the impact of permission in principle were less uniform: some thought it could impact; others thought that it would make little difference to outcomes.

Finally, most respondents were clear that the changes affecting registered social housing providers and the increased complexity in types of housing provision (from shared ownership, to social right to buy etc.), especially the move away from a social rent model, as potentially one of the only alternative providers, would eventually, through the introduction of more mixed market provision, have an overall negative impact.

6.3. Setting Levels of Contribution and Economic Viability

6.3.1. The Principle of Contributions

On the point of whether it is legitimate to ask developers for contributions, either through a levy, contractual agreement or some other mechanism, the overwhelming view was that it was legitimate to ask for contributions. However there was a minority view was that the public purse (i.e. general taxation) was the 'right' place to seek monies for affordable housing: just as it is for national infrastructure. To back this up the ability of the private sector to provide sufficient housing across

the economic cycle was challenged with the view being expressed that the private sector is simply not interested in or set up for the provision of social housing. As has been noted above CIL received significant support: it is certain, justified through a process of examination and normally set at levels which do not impede development. However, the views on S.106 contribution – either in the form of payments or direct provision – were more mixed. Not only were such contributions seen to be the final piece on which planning negotiations would hinge but, in the view of some developers and their consultants, they were variously seen as unrealistically high, an impediment to development or simply not robust.

There was some support for the notion that contributions were more effective if supplied as cash, as commuted payments might allow for greater quantity of affordable housing provision by supply being moved to areas of lower value. Other respondents however disagreed, with one respondent saying that this *“works against the principle of mixed communities which planning seeks to promote”*.

However, if the system is to remain whereby private sector developers are to continue to be contributors to affordable housing provision but only insofar that this can ensure their returns are protected, change and greater certainty in the system is essential. On this there was almost total agreement.

6.3.2. Assessing Viability

Fundamental to the delivery of housing, particularly affordable housing, is the concept of economic viability, which in the view of interviewees had, since the introduction of the NPPF, become much more deeply embedded, indeed, for some, to the point at which it has become *“almost an industry”*. Views were explored in relation to both viability testing at the plan level and in relation to assessing contributions at the level of the individual site application.

Opinions on both the fundamental principles of viability testing and its application in practice were far from unanimous. As a principle, there was a wide recognition that it was legitimate concern of the planning system to ensure that the plan

led system was constructed in such a way that contributions placed on developers to support infrastructure and AH should be designed at levels which achieved a balance between gains to the community and returns to those bringing the land forward and those who develop.

6.3.3. Plan Level Viability

However, in terms of assessing viability at the plan area level there was a general consensus that delivery to the approved plans is not succeeding, as demonstrated the low levels of delivery of affordable housing.

Many respondents, notably consultants, saw plan level testing as problematic. Whilst some thought that in principle it could never work due to the innate difficulties of reliably forecasting the amount of supply coming forward, future demand and the economic environment: in short it would always be wrong. Others saw the cost of the exercise to be out of kilter with the effectiveness achieved. However, the notion of viability testing at the site level received much greater support. However, views varied depending on the respondent's assessment of plan level measures. Those who advocated an abandonment of plan level economic viability testing, placed greater reliance on the site level whilst defenders of plan level assessments in principles, considered that individual testing should be only in "exceptional circumstances".

Whilst not everyone was of the opinion that plan level viability testing is "crazy and does not work" or "bust" to quote two respondents, there was a strong sense that it is extremely difficult to do well in any detail with several respondents being of the view that a simple approach based on observation and good market intelligence would be a better use of scarce resources and that "it is better to be vaguely right than exactly wrong" and "it is better to have a broad brush approach given that the future is uncertain". The issue is *how* to achieve this balance and, when asked, nearly every respondent was of the view that currently the system is not achieving this balance.

Of those who favoured a simple approach there were divided views as to whether this simplicity should focus on a flat rate of provision for affordable housing across areas, as advocated by one respondent, or be more nuanced as reflected in the varying levels of and approaches to CIL taken by the boroughs. One respondent was of the view that simple banding – much on the lines of the Mayoral CIL- would add some level of certainty and if backed up by robust research could provide the bedrock for a firm and certain system.

What was however an extremely strong message coming through was the need for certainty; a theme which came through responses to virtually every question.

So in summary views were divided between those who consider that:

- the plan led approach to economic viability by way of target setting is broken and in need of total reform;
- it is a necessary part of a plan led system but currently not sufficiently well researched and implemented in ways that lead to a sufficiently robust defensible set of targets; or
- a broad brush approach is more appropriate to serve as a backdrop to decisions at the level of the individual site.

On a balance of responses, a move towards a simple banded approach which was clear, firm and well-articulated would give strength and credibility to what is, in practice currently, a system that is not working as intended. The view was also expressed by many interviewees that the setting of a fixed or simply graded system of contributions would reduce arguments and as a consequence "speed up the process at the site level negotiation stage and bring costs down".

6.3.4. Site Level Viability: setting a Benchmark or Threshold Land Value

Site level viability, as currently constituted through planning guidance, allows developers to negotiate away from plan levels based on an assessment of viability of the scheme assuming a benchmark or threshold land value. Therefore interviewees were asked

opinions both as to how the benchmark land value should be established and the testing of the site value against this benchmark. Both concepts are contentious and have led to appeals and legal judgements (as noted in Chapter 5).

As noted above, many interviewees who favoured the retention of some form of plan led target also thought that the testing at site level should be robustly based on accurate estimations of the benchmark or threshold land value. There was almost unanimous agreement that this is the area in which the skilled and well-resourced consultant could make a difference in practice to the consent that was achieved.

In terms of the setting of a benchmark land value, there are two prevailing methods: one is the Existing Use Value (EUV) + approach advocated in the Harman review (Local Housing Delivery Group (2012)); the other the use of Market Value (MV) in accordance with the RICS GN (RICS 2012[b]). Interviewees were asked which approach they supported: that advocated by Harman or a market value approach as advocated by RICS.

Overall, the EUV + approach was favoured by the majority of respondents, despite the recognition that the + element was problematic and that, as commercial values were again rising, the Existing Use Value could now be high. The question of alternate use value was considered legitimate as a consideration in adding to EUV for the purposes of setting the threshold. However EUV was not favoured by all, with some respondents considering that market value was correct and was, in many cases capable of being reconciled to EUV +.

Interviewees were also asked whether a different approach such as had been agreed in the Reading Shinfield Case (discussed in Chapter 5) would produce a more appropriate way forward as it allowed for a sharing of development uplift value. Whilst there was some support for the equity of this notion, in practice it was considered as *“not based in any approved approach”* *“would be difficult to implement”* or simply *“it would be viewed too much as a tax”*.

Underpinning the responses was the general acknowledgement that any accepted benchmark value should be policy compliant: if it was not then it would be a failure of the system. When pressed as to what ‘policy compliant’ meant, the notion of circularity was raised by some. In theory for those who advocate the market value approach, the value of the land assessed for economic viability should *“relate back to the plan – then you can run the figures behind the proposal which should give an objective view of the net present value (NPV) including the planning obligations and affordable housing; this is the market value (MV) if the planning consent was passed in line with the plan”*. This would then tie in to the EUV + approach. However it is acknowledged that if the developer has already purchased the land at a figure in excess of the net present value (NPV) they will use comparable evidence to support the market value at this enhanced figure and argue that *“they cannot give the affordable housing contribution in the plan and they will then seek to (re)negotiate the contribution”⁵⁵*.

It follows, so some respondents argued, that to adopt a Market Value approach, where such an approach is based on analysis of transactions and those transactions have taken place at a figure which builds an *“optimism bias by developers that will be able to reduce the AH contribution”* the evidence base for reducing the affordable housing contribution becomes irrefutable. This is because if the purchase figure is accepted as a benchmark as defined through market evidence, the contribution stated in the plan will not be upheld and, as quoted by many interviewees, the situation such as arose in the Parkhurst Road case⁵⁶, will prevail.

Coming out of the interviews therefore was a strong steer that the use of comparable evidence to establish a benchmark land value was not valid where such transactions had been predicated on the hope, assumption or prediction that *either* the plan determined contribution could be reduced through negotiation *or* on appeal *or* that the eventual sales figures would be higher than those built into the financial viability assessment. This therefore ties in very strongly with the critical review of the market value approach

⁵⁵ It is accepted that the ability to renegotiate after consent has been granted has been reduced with the repeal of S106(a)

⁵⁶ See Chapter 5 for a full discussion of this issue

to threshold land value discussed in the previous chapter. It was therefore considered that fundamental to the argument is that the appraisal should be undertaken “*making sure that it is truly policy compliant*”. If it is not, a transaction at a higher price simply leads to a reduction in AH and a loss to the community.

6.4. The Financial Appraisal: Estimated Land Value and Setting Competitive Returns

Interviewees were asked their opinions about both the basic approaches they favoured to arrive at an individual land value and about key elements within the calculation – notably their understanding of what is meant by a ‘competitive return’ as defined in the NPPF.

Overwhelmingly there was support for a residual valuation, as advocated by RICS. A few respondents favoured a cash flow approach for large sites subject to phased developments, but had difficulty defining what constituted a ‘large site’. Although it was recognised that analysis of comparable transactions might be preferred (in accordance with RICS 2008 guidance) the recognition that there are normally few truly comparable transactions in reality the residual valuation approach was the only practicable approach although it was recognised as being subject to many variables and to significant manipulation. Whilst few went as far as one respondent who called such valuations “*works of fiction*” they were recognised as subjective and in particular as holding true at one moment of time, if at all. They are therefore, in the words of one respondent “*only of use as a negotiating tool*” and as could be observed throughout the interviews, that is precisely how they are being used: for negotiation of affordable housing contributions.

The central tenet of Paragraph 173 of the NPPF places a requirement for the developer to be able to obtain a competitive return in order to protect the notion of deliverability. Although the term is not defined in the NPPF, many interviewees were familiar with the

definition given by the RICS (2012[b] p: 43) that it should be a “*market risk adjusted return*.” However this raises the point of just what such a return is. It was recognised that some valuers and their clients take a return on cost approach whilst others (the majority) take a return on value. Estimates of the figures actually quoted as built in to appraisals varied from 15% on cost to 25% on end value, which shows a range likely to change the end appraisal far more than the level of CIL – and in some cases represents the same as a major shift in affordable housing contribution.

In terms of what drives the required return, the unanimous view is that this is either a project risk/return ratio or a measure of overall company required return (Return on Capital Employed [ROCE] was the most common measure quoted). Few developers were thought to be sufficiently sophisticated to measure the profit in terms of an annual internal rate of return (IRR); most took a simple total requirement.

Given the change in the external environment in terms of interest rates and yields, the reduction in perceived risk noted in relation to the impact of the strong economic climate and the positive impact of the NPPF, interviewees were asked whether this has had an impact on the returns required. Most respondents said that they had not experienced a reduction in required returns by developers. The explanation as to why this was the case varied but it was suggested that whilst the expected returns had risen during the period of the crash and the subsequent uncertainty, the returns levels had settled at these higher levels as a new ‘market norm’. It was also pointed out that whilst interest rates and borrowing costs had reduced, individual project funding costs had not necessarily decreased commensurately.

The answers to the questions around an understanding of competitive return, point to a lack of standardisation and the ability to adjust to suit the answer required – a point not lost on many interviewees.

6.5. Explaining the Reasons for Low Levels of Affordable Housing Delivery

For this section interviewees were given a choice of potential reasons and asked to rank them or provide suggestions of their own. The overwhelming response to this was that it is not just one cause: there are many and they are interconnected. So answers ranged from “*all of the above*” to “*none of the above*”. In short there was not a clear consensus. This relates to the complex relationship of the different drivers pushing down the availability of affordable housing, however of the reasons offered three gained some consensus. These are:

1. Unavailability of land – actual limited supply
2. Available land requires de-risking
3. Unrealistic price requirements of land owners/developers pay too much

But the underlying comments to this provide a key message of unavailability of land: this is the main and key reason. Other factors may come into it but are all subsidiary to this. It is primarily a supply side issue but there were a wide range of factors put forward to explain why sites are not coming forward:

- **London is landlocked:** there is land appropriate for development – much owned by the public sector - but it is simply not coming through for development. The perception was that often this is because the sites are difficult and require significant ‘de-risking’ in order to be a feasible proposition. There was acknowledgement that de-risking and bringing land forward can take a long time
- **Land owners will wait:** Many private sector owners, unless forced to sell may wait (sometimes for periods from 20 – 100 years) in order to sell only when the market pricing is advantageous to them. What will change the process is funding to support changes in the use of CPO and the support of infrastructure – there are sufficient sites to support development. Compulsion is advocated by some interviewees.

- **S.106 affordable housing requirements is an imperfect tool:** There was an acknowledgement that this is, in effect, the only mechanism available to local authorities to gain new affordable housing stock. It is acknowledged that it pushes the costs of consent up but, in the light of the findings regarding the assessment of economic viability and setting of threshold values.⁵⁷ The levels of affordable housing contributions are falling below targets set in the London Plan and Local Plans. This was viewed to be a weakness in policy implementation.
- **Many sites need de-risking and planning is a major risk:** Many sites require physically de-risking (e.g. decontamination; resolving title issues etc.); these add time and take resource. However to many respondents, planning was seen to be the major risk, despite the presumption in favour of sustainable development in the NPPF. At the moment it is costing developers significant sums to achieve planning, with some interviewees quoting figures of between £1-4 million for a large site to obtain consent. As this is ‘upfront’ cost, it is viewed as likely to stop all but the largest developers proceeding. Smaller firms simply cannot take this risk; it was pointed out that since 2008 many small/medium sized developers had gone from the market.
- **Some landowners have unrealistic expectations:** although it was thought to be the minority to whom this applies, there was a more general view that valuation done in accordance with RICS requirements (the so-called Red Book) are often too low to provide an incentive to sell. Developers reported that if they were only able to buy at valuation level they would never be able to secure a site. So a circle is created: a site sells at above valuation- and this then raises expectations in the mind of vendors, creates a case for reduced contributions and so the circle continues.

⁵⁷ See Chapter 5 and responses to earlier questions.

- **Local Authorities may not be active enough due to lack of resources:** the view by some is that often they have assets and have power but often do not use these, possibly due to lack of resources; the lack of resources was a clearly identified issue widely recognised by all stakeholders.
- **The public sector has stopped building:** there is now a total reliance on the private sector which is seen as a problem as the private sector has never delivered the entirety of housing requirements.
- **Planners should allocate realistic sites:** Among some interviewees there was a view that in some boroughs some sites are allocated for which there is not a realistic chance that they will be brought forward by people with realistic expectations as to value. It was argued that local plans need to be drawn up with the benefit of local intelligence about those who either won't sell or will want inflated price. The counter point to this is that if such sites are essential in order to achieve plan delivery, the use of compulsory powers should be considered.
- **Developers' competitive returns/profit levels set too high:** whilst not deemed to be major issue by most respondents, there is a recognition that in a climate of low interest rates and availability of finance combined with a trajectory of increasing house prices, it is illogical that profits levels required have not shifted from the levels prevailing during the financial crisis. By remaining static they are, in the opinion of some, too high. However the counter view is that profit levels reflect real risks and are set by the market – and that development, despite the promise in the NPPF of protection of competitive returns, is a risky business *“otherwise we would all be stuffing our boots with property shares”*. The view is that over the long term *“it is landowners that have made the packet while developers have often gone bust thus showing where the real beneficiaries lie.”*

6.6. Solutions to Deal with Lack of Affordable Provision

As with the causes of housing supply issue, the interviewees were asked to rank a selection of potential solutions to deal with the lack of affordable provision or provide alternative solutions. Again, there was a wide range of opinions and no general consensus emerged. Respondents could be categorised into those who felt a radical change is required and that simple adjustments to the system will not achieve satisfaction for anyone involved and those who would favour adjustments.

Of those who sought more radical solutions, three solutions were deemed worthy of considering. These were either:

- direct building by the public sector;
- increased use of compulsory powers; or
- the introduction of ‘halfway model’ of ownership transfer such as the community land auction planning model (Leunig, 2011)⁵⁸.

Of those who did prefer adjustments to the existing position, the common most top ranked choices were:

- create fixed housing targets and either abolish viability testing or scale its use back to clearly defined exceptional circumstances;
- provide more resources to Local Authorities in order that they can match the resources available to developers and enable them to more robustly defend their target positions; or/and
- set a fixed and transparent model for viability appraisals which is in the public domain to bring greater clarity and certainty to the system.

⁵⁸ Under the so-called Leunig model, local authorities would identify sites and ask landowners to name the minimum price at which they would be prepared to sell to the local authority. The local authority would then buy the best value sites, prepare them for market and sell to the private sector, thus ensuring a competitive return to the land owner and a gain to the community. Although a variant of the model was trialled in 2012/13, it was not fully developed or introduced.

Specific comments included:

- **Take clear steps to fix minimum affordable levels:** whilst recognising the concern that this could drive down to a minimum level there was a very strong view that the certainty given by CIL could or should be replicated by certain non-negotiable targets. The argument was strongly made that with such certainty good developers buying at the right price would be able to work with this. It was also seen to potentially encourage new entrants to a market currently heavily dominated by volume housebuilders. However, counter to this was the view that, in order to achieve a fixed target, there would be pressure to bring the level of provision down to a lower starting point for negotiations meaning that the community would lose out still further. It was also pointed out that if fixed levels were introduced, those who had already purchased land could be in a position in which they lost out⁵⁹. The proposals by the Planning Officers Society (2016b) could provide a way forward⁶⁰.
- **Renegotiation only by exception:** It was acknowledged that exceptions would be required to accommodate unusually awkward or contaminated sites. However the counter point to this suggested was that boroughs should make more extensive use of review mechanisms as some boroughs such as Islington and Croydon have succeeded in doing.
- **Invest in Local Authorities:** The view was that councils should be allowed and encouraged to build; have better resourced and trained planners. The government needs to ‘bite the bullet’ and go back into making significant provision – or at least back the provision.
- **Use compulsion if required:** whilst not universally favoured this was seen as a positive way forward and some interviewees made mention of the Leunig model promoting community land auctions (Leunig, 2011) as an idea worth reconsidering. CPOs should ensure supply of ‘reasonably’ priced and properly valued sites.
- **Greater use of Collaboration:** it was thought that a clearer process that applies across all of London would be useful so that development in one borough might sometimes result in AH provision elsewhere in a lower value location thus enabling maximisation of unit provision. The example given was for a major central site where a contribution of £20m would have given only 4 affordable units in this locality but could give 63 units in a cheaper area. Some went so far as to suggest considering reverting to 1960s policy of decentralising outside London (another new towns movement). This would give far better value for money. NPPF requirement to meet local housing need and provided mixed and balanced communities.
- **Set up a Team of Experts:** this has been proposed by the London Mayor and is seen by some as “*probably very helpful*” although not a substitute to good well trained borough teams; however a lot of LPA only need occasional reports. Therefore the suggestion that a ‘flying squad’ of independent experts be set up – maybe of knowledgeable recently retired people who really understand the issues and who could be genuinely independent could be beneficial.
- **Review documentation levels:** this was suggested but did not meet with favour as developers feel that already provide the proverbial ‘kitchen sink’.
- **Make documents available to aid transparency:** whilst this was favoured by a few there was a concern that if put in the public domain this could have legal and other ramifications. It was also pointed out that many appraisal are “*in effect merely negotiating tools*” and “*some elements really do need to remain confidential.*” Others suggested a standard form of consistent reporting would be helpful with the setting up of a “*proper reporting code*” but it was acknowledged that this would need a further change of culture: towards one in which things are more explicit with summaries for public consumption to aid understanding. Finally it was pointed

⁵⁹ This was part of the rationale for the introduction of S.106a in 2008 to allow developers to renegotiate downwards in an attempt to restart ‘stalled’ schemes.

⁶⁰ Under this proposal locally set fixed target would be introduced but on a gradual year on year increase from the average level achieved since the NPPF was introduced to the required local plan target. This it was argued would create a situation in which developers had sufficient time to adjust their land price bids and for land owners to re-assess their expectations.

out that to give transparency in this way raises the issue of who is the client and what is the role of the appraiser. The appraiser works for a client – so the question is should all that you advise them be open to public scrutiny? This is regarded as difficult from a professional liability viewpoint, and from a commercial intellectual property perspective. If we could include something more on the pros of this approach? See for example Greenwich or Islington Development Viability SPD.

- **Encourage new and specialist developers.** There are clearly capacity constraints currently and there is a maximum number of homes coming out of the limited private sector. Respondents talked of lack of labour and a concentration on the larger developers who work in particular way. There was recognition that there needs to be a greater diversity of actors in the development market, with different sizes and types of developers participating in the market, different types of designs and approaches to design and new methods of funding. Local authorities should act as enablers.
- **Develop clearer, firmer instruction on how appraisals to establish land value should be done:** it was identified that “planners are not valuers” and that some planning inspectors lack knowledge and can come to decisions based on a misunderstanding of process. It was a view held by several that Councils need to set the ground rules and retain control of the issue. Boroughs should issue a protocol – which they work together to produce and then stick to it firmly. This has already been published⁶¹.
- **Take measures to de-risk planning:** there was some support for the notion of permission in principle as it reduces the risks of planning; however this was not a universal view as before site purchase proceeds most developers will have established the principle. It is the detail and the S106 that takes time and money and adds to risk. There was some suggestion made of local

infrastructure bodies to be set up to develop infrastructure in advance of site development, with some mention being made of unspent accumulated CIL to fund such a scheme.

Finally in relation to interviewees suggestions, it was acknowledged that in many ways the market conditions in Central London have led to it being on “*a different planet to the rest of the country*” with the consequence that national policies sometimes do not sit well with the London economy, although there was some optimism that the impending CIL review should deal with this. The pessimists among the interviewees thought that anything is “*just tinkering round the edges. The private sector never has delivered social housing and never will as it doesn’t have a long term commitment to community*”.

And, in terms of viability testing, it is important to note that the issue of transparency was a real dividing point, especially considering that developers are very resistant to transparency: based upon their perceived commercial confidentiality and exposing their company practices to competitors. In addition, it was interesting that some also commented that it was not viability testing that set land prices, this was a result of the market.

Whilst others consider transparency essential, as at the moment the process is opaque and can be manipulated, and that it is the wholly commercial element that causes the problem, brought about by a lack of providers and a lack of public involvement. They also considered that the opinions of people are influenced by the outcomes of testing, and especially through appeals, and that this does affect the market as it is what people believe. As a result ideas and issues around viability testing are thought to be well meaning, but it is essential to introduce something that is clear and cannot be manipulated. This was a ‘stand out’ message.

⁶¹ http://londonviability.org.uk/London_Borough_Viability_Protocol.aspx

6.7. So, has the Community lost out?

A fundamental impact of planning is that it alters the free market balance of supply and demand for land by restrictions on supply. In essence the impact of the 1947 legislation and its successors has been to transfer development rights from landowners to the state for the benefit of society. Since 2012 and the publication of the NPPF this has been written as explicitly to promote the pursuit of sustainable development and encourage development to come forward. The presence of planning therefore shifts power and value from one part to another: in most cases the grant of consent can be expected to release value to the land owner, as demonstrated in the RICS GN 94/2012 (RICS, 2012[b]). The issue central to this is the extent to which, if at all, the community who technically has power and control over this released development value, should claw it back for the benefit of the community. Allied to this, to what extent should the developer, as the part conventionally viewed as the risk taker within the process, be 'protected' by a notion of ensuring a competitive return.

Therefore, as a final question, interviewees were asked whether the cumulative impact of the changes since 2012 has been to shift the balance and re-position gains from planning more squarely in the hands of the landowner whilst ensuring the developer's profit, even if this means an erosion of value to the community. By a large majority, the view was that this was the case, with only two respondents disagreeing. However it was acknowledged, as was apparent throughout the interviews, the impact of planning on land prices is not a direct statistically proven or provable one. Land values are a result of policy and the market context, but overall the observation is that although CIL has delivered, community benefits in the context of AH delivery in London has declined.

6.8. Overview and Summary

Whilst there is no fundamental way of proving a direct link between the introduction of the NPPF and changes in land values, it is clear that changes to the planning system set the tone and the environment that has caused behaviour to push values beyond the point where a market equilibrium would have been reached without it.

As expected, given the range of stakeholders, there was a wide range of opinions on the subject of planning policy and land values, but the spectrum is clear: there are technical details that need addressing and there are more strategic issues that need fundamental consideration. In addition, it was also apparent that the main disagreements emanate from a diametrically opposed understanding of the effectiveness of the current policies to secure affordable housing through the private sector using S.106 agreements: those who felt the process needs to be adjusted to maintain private sector interests and those who felt the public sector needs to reclaim the process for the wider benefit of society.

Those advocating a technical change were mostly focused on the need for transparency and an agreed set of standards that everyone could work to: assessing economic viability at both plan and site level, the application of methods to arrive at a threshold land value and guidance and agreed understanding of what is policy compliance. This was not universal, as those considering private sector interests had concerns about the level of transparency given the need for client confidentiality and, ultimately, competition. But this then returns to the fundamental question of whether this level of competition needs to be part of the process, considering the current problem of provision, or whether or not the public sector has the resources and appetite to become, at least, an equal partner in the process. This would require a radical adjustment in government ideology and thinking, but for some this is imperative as adjusting the existing system, whilst

trying to appease most stakeholders, will not address the fundamental underlying flaws.

From the interviews it was clear there are two important debates moving forward:

- there is slight room for improvement in the existing system, but it has to be understood this will not please everyone and may only have a minor impact on the overall delivery process; the alternative view is to move to much more 'hard line' fixed provision of affordable housing; and
- there is a much bigger discussion to be had over the role of the public sector in terms of its ability, not just to be reactive, but to become a core proactive stakeholder in the process either in terms of direct provider such as in the period up to 1980 or through the use of other partnership means.

Doing nothing is not an option; indeed for no interviewee was a 'no action' appropriate. The problem lies in the inability of the current processes, as currently interpreted, for local authorities to ensure that levels of affordable housing set out in their approved plan documents are delivered. If this cannot be achieved in an environment which has been described by some respondents as "*benign*" it is unlikely to improve as/ if markets weaken for which there were already signs, even pre-Brexit.

Chapter 7:

Discussion of the Issues

7.1. Recap of the Aims of the Research

This research project was triggered by the widespread observation that, whilst land and house prices had increased sharply in London and there had been a rise in residential development, the delivery of new affordable housing units had consistently fallen short of the plan-led targets. In theory, planning consents may add value to land, with the level of value uplift related to the nature of the consent and to market conditions. Land values are a 'residual', so if the market value of the completed development rises more than the costs of production, the amount available for the land will rise. Therefore, all other things being equal, there should be sufficient money to allow for contributions via CIL and affordable housing. Whilst that uplift should recognise the need to be policy compliant in terms of contributions, there appears to have been a failure in terms of delivery.

In light of the above, the key aim of the research was to establish whether there have been any links between changes to planning policy, notably those contained in the NPPF such as the increased prominence given to viability testing and the protection of competitive returns, further planning guidance and subsequent changes in residential land values or market behaviour. The research explored quantitative evidence of market behaviour since 2007 through mainly public domain data sets (Chapter 4). The Research Team also undertook extensive consultation with market actors through interviews (Chapter 6), exploring the relationship between planning policy, the assessment of economic viability through the development viability methods in use and market responses in order to arrive at an interpretation which would allow of meaningful conclusions. In the light of the concerns revealed by interviewees in relation

to the process and methods used in economic viability assessment (see Chapter 6) a detailed examination of the theoretical position and case studies of individual planning appeal decisions was undertaken (Chapter 5). This has provided insight through a deeper lens in which actual decisions are analysed in comparison to the theoretical position.

Throughout the research, information has been gathered from literature, from published statistical reports and from the interviews, to establish the points of change, both in the planning system and in the economic and political environment, which could be regarded as 'candidates' for influencing land values and the ability to deliver affordable housing. Whilst the study period is only from 2007, there are certain policies and events prior to that date which have been found to have resonance. **Table 2** (Chapter 6) gives the main points – political, planning and economic that have been revealed as influencers of land values. Further commentary on this is provided below in the key findings now detailed.

7.2. The Planning and Economic Context is Capable of Supporting the Objective of Affordable Housing but it has not

The study period from 2007 to 2016 has seen a changing planning and economic context. From a point of high market confidence and rising house prices in 2007, the 2008 financial crash and subsequent austerity measures witnessed a period in which development activity stopped, finance was difficult to obtain and house prices fell. The Coalition Government took a number of actions to encourage development, notably residential, as housing has been a priority objective. The research confirmed that the NPPF

and other changes to planning policy have indeed proved to have been encouraging of development.

Further the economic conditions, the attractions of London as a global city accompanied by inward investment and a rapidly increasing population (as set out more fully below) have combined to give confidence to the development sector. The consequent pressures on the housing market have driven prolonged and sharp rises in house prices, which have increased faster than construction costs, if the whole study period is taken.

In such circumstances land values would be expected to rise through normal market forces, but where obligations are imposed on developers to deliver community gain, the expectation is that land values would be tempered, as they are the 'residual' element. Through the application of residual land valuations when such growth occurs, profitability of development increases which should leave a 'surplus' for contributions to the community.

However, the ability of the LPAs in London to extract this value for the community has not been realised to the extent envisaged through the approved plans. This has meant that land prices have, to a very large extent, mirrored house prices in the private sector, without taking due account of the planned additions to affordable housing. Indeed between the period 2007/08 and 2013/14 the contribution to affordable housing as a result of S106 contributions actually fell as indicated in Chapter 4 which backed up findings of the Joseph Rowntree Foundation.⁶²

7.2.1. Development Confidence in the London Market is Strong for Fundamental Reasons but Social Housing Providers are in a Less Strong Position

London is a resilient city with a rapidly growing population whose inhabitants have been able to access high levels of debt funding for home purchases, fuelled by an easing financial environment and low interest rates. This context provided a strong stimulus

to prices and gave confidence to developers that there would be a continued high level of demand for housing. This confidence continued through until 2015 when questions began to emerge over the sustainability of continued price rises.

Whilst developers use appraisals on which to decide on a bid price the benign environment and the planning policies towards ensuring 'competitive returns' has given confidence to bid high especially when they consider end product prices will continue in an upward direction. Where this has weakened (as demonstrated in inner London in Chapter 4), so land prices have reacted downwards.

There remains confidence in a continued low interest rate environment and access to funds for both development and end-user purchase. The exception to this is Inner London, where there are concerns that registered social landlords might not be able to access the funds needed to take on the completed units especially in the light of rent capping; further the implications of right to buy for social housing tenants could undermine their confidence and ability to fund social housing, as happened in the early 1980s with local authority provision. If they are unable to become recipients of new affordable housing due to financial constraints, it further supports an argument to reduce affordable build-to-rent provision within private sector schemes. This point is considered again below and recommendations are given about considerations of who is best to provide in Chapter 8.

Other issues that have been identified as feeding into the confidence dynamic which may impact both negatively and positively in the future include:

- **Population growth:** fundamental continued pressure on housing supply due to population increases is likely to continue, but there is a need within this to address and protect the more divergent demographics within the housing supply chain (for example to ensure that housing is of appropriate sizes, design, quality location etc. to address local needs.

⁶² Brownill, S. et al. (2015) Rethinking planning obligations. Balancing housing numbers and affordability. Joseph Rowntree Foundation. Available from: <https://www.jrf.org.uk/report/rethinking-planning-obligations-balancing-housing-numbers-and-affordability>

- **A Safe Haven?:** The work was undertaken prior to the July referendum but despite the result, there is likely to be a continued impact of overseas investors due to the success of London as an economy; indeed a weakening pound may attract investors who will begin to see London as less expensive. But in the longer-term things are uncertain.
- **Balance of alternative use values:** If houses prices continue to rise, there might be further reduction of employment opportunities as PDR continues to effect change.
- **A climate which allows greater density:** There has been a continued push toward higher density developments both to justify land prices paid and to maximise profit lines. If policy so allows the risks to developers in paying land prices which exceed those justified through policy compliant appraisals is reduced.
- **The Social Housing Sector:** There is uncertainty surrounding the continued evolution of the social housing development sector as the sector adjusts to the full impact of the rent caps and firming up of voluntary right to buy; this could involve much greater emphasis on joint ventures especially PPP and those involving third sector and/or could cause more RSLs to become private developers adopting more stringent business models.
- **Build cost could erode profitability:** In the short term at least there will continued pressure on build costs in the light of:
 - acknowledged skills and materials shortages (refer to graphs);
 - major infrastructure projects such as cross-rail 2 which also place pressure on the capacity of the construction industry (Edge Report, 2015; Government Construction Strategy 2025).

Overall, it is too early to draw any conclusions on the way confidence may change in the light of the Brexit vote, but the research was clear: London is a confident city for residential developers. This raises the question: if in such a context affordable housing contributions are so often seen to be eroding the economic viability of schemes, then why? Therefore the research focused on the issues surrounding the assessment process for economic viability.

7.2.2. Changes to the Planning System

The research questioned whether the planning changes had engendered significant changes in attitudes and behaviours. Views expressed ranged from ‘no, not at all’, through to ‘marginally’, through to ‘yes, it has changed the culture’. Overall, the conclusion is that it has set in train actions and a mindset shift. It has placed emphasis on already established notions such as the need for economic viability but underscored the political importance of housing supply delivered primarily through the private sector. For this reason, it heralded a cultural shift- although its influence on land values should be seen alongside other factors influencing land value. Several interviewees made the comment that the NPPF and other planning changes had had a more marked impact outside of London.

Further deregulation of planning policy since 2012, in terms of PDR, has not resulted in a sufficiently large uplift in delivery to change the long-term dynamic of demand outstripping supply. However, although PDR itself has had a limited impact in this respect (having had a far greater impact on the supply and availability of commercial space), developers have gained experience and confidence on how to use a permitted development rights consent as a ‘stepping stone’ to achieving higher density schemes and restricting affordable housing provisions or contributions. But it was noted through discussions with practitioners that with demand for commercial uses growing again the push to exercise permitted development rights for conversion to residential may reduce.

7.3. The Planning and Economic Context is Capable of Supporting the Objective of Affordable Housing but it has not

One of the key planks of the research was to test the concept of economic viability assessment, which is conducted first at plan levels to set required affordable housing and CIL contribution levels and then applied at the level of the individual site as part of the planning negotiations. Both the analysis of London planning appeal decisions where the level of contributions has been in dispute and the interviews revealed that interpretation of

policy was uneven and that levels of desired affordable housing, whilst still contributing significantly, have often been eroded at appeal. In some cases, it has not been possible to hold to the plan policy due to what can be termed the ‘circularity argument’. This was also supported by the views of interviewees. The circularity argument is detailed below.

The statistical evidence and findings in these respects have been supported as correct through the interviews which have also sought to provide insights into potential actions that could be explored at national and/or local government level with the cooperation of industry and the professional bodies, notably the RICS (Royal Institution of Chartered Surveyors). Recommendations are made in Chapter 8. Below we summarise the findings and inferences in more detail.

7.3.1. Economic Viability Testing: a Powerful Influence on Affordable Housing Provision

Economic viability testing is not new – it predates the NPPF by at least one, if not two, decades. It is exercised at both the plan level when expectations of developers and local authorities are set and at the level of application for consent. However, it has been brought into sharp focus by the NPPF and firmly embedded. As Christophers (2014), in his critique of viability models, argues, previously “*viability was not something written into the fabric of policy and of the planning process*”: it was opportunistic and flexible. Now, he argues, it is a matter of necessity and assessed deterministically and this is indeed borne out by the research.

However, there was a very strong view, expressed by the interviewees, both that the expectation of the routine use of viability testing (by virtue of para.173 of the NPPF) and the ability of highly skilled consultants to argue their clients’ case, had resulted in a culture of expecting negotiations to reduce contributions through the exercise of S106 [b], albeit this was repealed in April 2016.

The ability to undertake such negotiations either at planning application stage or, as revealed through the case studies, on appeal, has weakened the ability of local planning authorities to gain affordable housing for the community as part of the contributions.

The growth of the culture of viability testing – described as “*an industry in its own right*” by one interviewee – has brought uncertainty into the planning and development process; and uncertainty is almost universally unwanted.

While there are divergent views about aspects of how viability appraisals are undertaken, there is a wide consensus from a range of stakeholders that economic viability testing is a powerful influence on land values. This is primarily because it introduces, not by intent but by effect, a negotiating element into the planning process that is capable of manipulation. This ability to manipulate the appraisals is reinforced by the policy and professional guidance and its interpretation by the Planning Inspectorate. Frequently this manipulation has led to the erosion of affordable housing provision, allied to a growth in prices paid for land, which means the transfer of an uplift in land value due to the benefit of a planning consent to land owners rather than to the local community (existing and planned).

The conclusions arising from the interviews is that the current system of viability testing at the scheme level is, within the London context, not working effectively to deliver the plan policies of the GLA and London Boroughs in respect of affordable housing. There were concerns at both the area level and at the level of individual sites.

The reasons for this conclusion are articulated in Chapter 5 and 6 above and relate primarily to the circularity argument, in which high land exchange prices lead to an ability of developers to argue down the element of affordable housing contributions which in turn leads to more precedents which can be used to justify increased land values on future cases. Whilst there is support that upon occasion re-negotiation may be justified so

as not to stop the scheme from progressing, there was a strong body of opinion that the process inherently allows for cynical, deliberate manipulation. Underlying these concerns was the view that the process built uncertainty into the system and this is perceived as key weakness.

7.3.2. Methods of Development Viability Appraisals

The academic literature on development viability testing is critical of both the application of development appraisal techniques in general and its application to development viability assessment in particular. Some developers are very sophisticated in their modelling; most are not and use either return on cost or return on gross development value as a profit requirement.

At the area level, there were concerns expressed as to the usefulness of viability appraisals which are required by NPPF of local authorities to justify their policy requirements. Where viability testing as a principle is appropriate in ensuring that, on balance, the land contained in the Strategic Housing Land Availability Assessment (SHLAA) would be viable if brought forward most respondents considered that the assessments were currently overly complex. As one respondent succinctly expressed it: *'it is better to be vaguely right than exactly wrong'*. However others held more extreme views and called for abolition of assessments at both area and scheme level.

At the asset specific level, the evidence is overwhelming that a significant element of the risk of development is being shouldered by the LPA rather than the developer with no reduction in the expected returns of the developers.

The reasons, articulated more fully below, relate primarily to the 'circularity argument', in which high land exchange prices lead to an ability of developers to argue down the element of affordable housing contributions, which in turn leads to more precedents which can be used to justify increased land values on future cases. Whilst there is support

that upon occasion re-negotiation may be justified so as not to stop the scheme from progressing, there was a strong body of opinion that the process inherently allows for cynical, deliberate manipulation.

Underlying these concerns was the view that the process built uncertainty into the system and this was a key weakness.

Forensic community examination of appraisals is currently not always possible, unless it is a requirement imposed by the local planning authority via a supplementary planning document or the matter goes to appeal when documents are disclosed or it is decided by tribunal that it would be in the public interest to do so⁶³. We found calls for greater transparency but also some resistance on the basis that it would raise issues of confidentiality and competitiveness, although as noted above, such objections may not prevail. There is, however, also a reservation as to how much they really represent the real position of developers, many of whom *"act on gut feel"*. The reluctance to provide disclosure due to potential commercial disadvantage may be understandable, but given the concerns around manipulation that was such a strong message, combined with the moves already being taken to better ensure public scrutiny, the conclusion drawn is that disclosure should be promoted and/or required.

7.3.3. Determining Benchmark Land Values: a Circular Argument Explained

There are a variety of possible methods of determining benchmark or threshold land value and the interviewees and the research interviews and case study analysis revealed this variety of practice. The main point of contention is around the use of Market Values derived from comparable transactions and which is supported by the RICS guidance note and the use of residual valuations which build in for requirements for affordable housing. In theory, if developers bid for sites on the basis that their developments will be undertaken in a policy compliant way, the two methods should be compatible. However, it is clear that they are not. On appeal transaction or

⁶³ See recent decisions in which it was deemed to be in the public interest that disclosure took place and this should take precedence over the commercial interests of the developer. For example, <http://www.informationtribunal.gov.uk/DBFiles/Decision/i1808/Clyne,Jermy%20EA-2016-0012%20AMENDED%2023-06-16.pdf>

bid price evidence is being preferred by some inspectors to valuations produced by residuals even where such prices are unaffordable if plan level contributions are to be delivered. Instead, inspectors have regarded lower contribution levels to be plan compliant as they have taken the transaction prices to be good evidence. The result is that if a developer pays too much for the land, they may well be able to reduce their contributions. The real main point of contention therefore lies in the interpretation (or misinterpretation) of the market value special assumption concerning policy compliance. It is a circular argument: the more the developer pays, the more they can argue down the contributions and then the greater the 'comparable market evidence' to support the higher level of land value. This means that developers can pay and landowners expect increased land prices knowing that they can reclaim some of the overpayment from a reduced or nil affordable housing component.

The conclusion is that policy guidance is ambiguous and this allows well-resourced applicants and appellants to manipulate the system wilfully. After careful consideration of the evidence it is concluded that action is essential to break this cycle. As considered in the recommendations, these changes could be quite small scale, in terms of providing clarity to the system and providing local authorities with measures better to ensure plan compliance, or could be more wide-ranging to reduce or even eliminate reliance of a system of viability assessment which is not achieving its objectives.

Previous rights under Section 106BA to have a signed agreement overturned and a new viability assessment undertaken to reduce affordable housing provisions also raises similar questions regarding the circularity argument and the transfer of risk from developer to local authority. It is accepted that development returns should be high if developers carry high levels of risk. The main risk is the vulnerability of the residual development profit to changes in market conditions over the course of the development. If developers are allowed to reduce obligations when markets move

against them they have transferred even more risk to the local authority. The developer's return should compensate them for the risk they take and if they pass those risks on the returns should be reduced accordingly.

Overall, it is concluded that manipulation of the viability process will continue unless steps are taken. Possibilities of so doing range from removing or scaling back viability testing, clarifying or reforming policy and guidance and/or significantly redress the resource/skills balance between Planning Inspectors, local planning authorities and developers.

7.4. The Need for Clarity and Certainty

A key theme coming through the research has been the need for clarity and certainty. In its absence, the risks of development are raised; but simultaneously, the risks to the community increase. This has been seen through the ability of the development industry to negotiate – or manipulate as several interviewees called it – the level of contribution downwards through Section 106 negotiations. As long as they are predictable, planning obligations generally form a small part of development costs and can generally be built into land values. The issue is unpredictability, and so any new approach should have an element of predictability and certainty.

In its early stages, CIL caused concerns within the development community. However, as it has become embedded, so it has brought certainty into the system. Developers have been able to build the cost into appraisals without significant impact on overall costs. As one interviewee stated *'it can get lost within the contingency element'*. But others disagree and think it has made an impact. National Planning Practice Guidance specifies that CIL should be reflected in land values but there are examples of applicants transferring this cost onto affordable housing even where residual values are high enough to support this.

7.5. Arguments for more Radical Approaches Warrant Investigation

Both the interviews and the analysis of viability testing to arrive at threshold values, revealed found that, even if simple improvements to clarify and assure the current methodology were to be achieved, this may not be sufficient to overcome the issues. As indicated in Chapters 5 and 6, the possibility of using other methods of splitting development gains, such as occurred with the Shinfield decision, or reintroducing a development tax could be considered. In the past development taxation has met with a lack of success such that each attempt has been abandoned within a short period of time⁶⁴. However the research found some support across the range of stakeholders, for a tax system as long as, like CIL, it was certain and set at a level that would be 'acceptable' in most cases. The concern with such a solution is that unless such a tax were to be certain and unlikely to be repealed in the short term. The research concluded that CIL is accepted, with some reservation, and is being priced in to bids— unlike S106 which is deemed negotiable. The key is certainty, enforceability and the prospect of longevity.

More radically, as suggested by several interviewees, the whole 'industry' of viability testing, could be reduced by moving to testing by exception or/and the introduction of fixed tariffs or shifting towards greater use of public intervention in the process, by way of compulsory purchase for publicly-led development or public/private partnerships.

Fixed tariffs would be a 'blunt' instrument and it is acknowledged that unless the level of tariff was low, some sites would indeed be rendered unviable. For this reason, although the notion met with much support, it is concluded that it would need to be introduced with considerable care and probably with the use of transitional arrangements. Nonetheless, an idea that has strong support stands much greater chance of industry acceptance and long-term success, than one which does not. For these reasons, recommendations in Chapter 8 are introduced in relation to considering these measures.

Fixed tariffs would provide greater certainty, but the figures found in Chapter 4 regarding the contributions to housing supply made over the long-term indicate the critical role played by the public sector prior to 1980, when the right-to-buy was introduced and public sector financing changed. Recognition that the private sector has never been equipped to be the sole housing provider was a recurrent theme revealed by the interviews, yet, it was argued by many respondents to be "*the only game in town*" prompting support for greater use of compulsory powers using well established valuation methods which would, it is argued, overcome the issues inherent in viability testing. Other potential ways of increasing the role of local authorities such as by increasing the number of private /public partnerships or by developing intermediary ownership powers, were also put forward. All of these measures, it is concluded, could play a role, but would require more detailed investigation, consultation, analysis and evaluation. Accordingly tentative recommendations are put forward in Chapter 8.

7.6. Insufficient Land for Development is Coming Forward

Although the levels of development have increased (see Chapter 4), the majority of stakeholders reported that there is an issue with the supply of land coming forward. This is not a new observation; indeed it is now some 12 years since the publication of the Barker review investigated the issue (Barker, 2004) and concluded that, for land to come forward there needed to be incentives for landowners and, in the event of market failure support to the public and social sectors. Since then, the incentive, in the form of rising land prices and partial protection to developers has been made more explicit through the embedding of economic viability principles. However, protection of funding to the social sector has not taken place.

⁶⁴ Previous attempts included those introduced by the Town and Country Planning Act (1947; Betterment Levy Act (1967); Development Land Tax Act (1976). A further proposal was made in 2006 (Planning Gain Supplement) but never brought to fruition.

The reasons given by respondents as to why sufficient land for development to meet both needs and demands in London was not coming forward were varied: from the view that there is simply not enough land, to those of difficult sites but a key issue was the question of incentivising landowners. It was acknowledged that in some cases landowners are reluctant to bring land into the market – or at least at prices which truly reflect stated affordable housing policy compliance; and this high or inflated expectation, built on the ability to negotiate contributions downward has been a driver of land prices, with developers acknowledging that they have had to bid in excess of values supportable through residual valuations reflecting S106 policies. So, landowners have been confident in delaying development until such time as they can achieve a price which satisfies their ambitions. If they think that values will increase – they are prepared to wait maybe for the long term. Therefore there was some support for a more interventional policy to support land supply and a recommendation is made in Chapter 8.

7.7. Resources Matter

A recurrent theme emerging from the interviews was that skilful consultants working for well-resourced developers were well placed to make arguments which could lead to the reduction of affordable contributions. In contrast, local authorities were seen to lack the necessary resource to argue their cases effectively in some cases. These views were not simply a private sector v public sector expression – they were held across the full range of stakeholders. Further the conclusion from the case study analysis can be drawn that a lack of deep understanding of some of the technical issues exists among some planning inspectors as well as planning officers. The result has been that decisions have been made which seem to act against policy intentions as assessments of what is ‘policy compliant’ in terms of economic viability has been manipulated to the acknowledged detriment of the community contribution. The effect has been a transfer of risk from developer to the local community. There is a need to counterbalance the skill and resource base and this is addressed in Chapter 8.

7.8. Summary

In summary, the research has found that, despite a planning and economic environment which has provided confidence to the development sector following the financial crash, the planned percentage contributions to affordable housing has not been uniformly delivered in London.

In exploring the reasons for this, the conclusions were that one of the major issues is those surrounding the assessment of economic viability, which is now embedded firmly and explicitly within the policy framework. Economic viability is assessed and examined as part of the plan making process and then tested at the application stage. This complex dual process has its advocates but also its detractors.

At the plan level, it is difficult to be accurate and, whilst the view that it is better to be ‘vaguely right than accurately wrong’ is strongly held by some stakeholders, it does raise the issue that, unless it is open to review at the site level, it could hold back development where the plan contributions are deemed to make a site ‘unviable’. Currently, there is strong evidence that the viability arguments are being used successfully to reduce the levels of contribution and that such reductions are being upheld on appeal.

Unpacking this reveals a ‘circularity argument’. Testing whether or not a development is viable involves establishing a benchmark land value. The methods of arriving at this are based on interpretations of professional guidance and the extent to which evidence from market transactions support or refute values arrived at through application of residual appraisal which assume plan compliance. If market comparables are taken, where developers have bid more than the figure that would be arrived at via a residual, a lack of viability can – and has been – argued. Therefore potentially the more a developer pays, the less the contribution can be argued to be supportable. This circularity leads to a reduction of affordable housing and what is, in effect, a transfer of risk from developer to the community. It is concluded that change is needed, either minor in the form

of greater clarity of guidance, or through a range of measures from the setting of fixed contributions to radical measures such as the introduction of a tax in lieu of contributions. These measures are discussed and recommendations given in Chapter 8.

Following on from this there is a tendency for some landowners to hold back land or release it only at what could be regarded as 'inflated' values. Ways to bring more land forward were explored and some avenues for investigation including the possible extension of compulsory purchase powers are discussed and recommendations given in Chapter 8.

Last, there was a consensus that the resource base available to local planning authorities is insufficient to enable them to defend their plan position in some cases; further the expert knowledge of viability assessment is insufficient among some authorities and, importantly, among some planning inspectors. This requires address in terms of resourcing and training.

As an overall conclusion, the shift in risk in relation to the provision of affordable housing from developer to the community, has been demonstrated. The reasons for this are complex but many relate to the definitions and interpretations around economic viability and the assessment of the benchmark land value. There are a range of ways in which changes can be introduced which have the potential better to support the overall objective of facilitating residential developments which incorporate levels of affordable housing required to support social need whilst still maintaining or enhancing land supply. These are set out in Chapter 8.

Chapter 8:

Recommendations

Recommendation 1: Approaches to Site Level Economic Viability Testing should be revised.

Based on the findings of the study, there is a very strong case for reform in such a way as to bring certainty and clarity to the viability appraisal process, if indeed it is retained. This was seen as critical to an efficient and effectively operating land market and to prevent the planning system being manipulated by and to the advantage of developers and landowners at the expense of the community. Whilst we have not gone so far as to recommend one specific course of action there are three possible routes to address the issues raised above all of which would have ‘knock-on’ consequences. Each would provide the mechanism to take away the ability to play the system to the detriment of housing contributions. It is recommended that all be considered in more detail to assess the potential impacts.

Option A: Introduce a Fixed Tariff

There was widespread support in our interviews to improve certainty by moving to a fixed, single or scaled, non-negotiable affordable housing contribution. A fixed requirement on sites, with a defined tenure mix, would remove uncertainty whilst allowing for provision of mixed private/affordable tenure housing. This could be put in motion through relatively modest changes to relevant parts of policy and guidance.

Whilst a move to a fixed tariff might initially be unpopular with some stakeholder groups, the point was made repeatedly in the interviews that Community Infrastructure Levy (CIL) originally met a similar resistance, but is now perceived by most to work well. Any such firmer site specific target would of course need to be based on a rigorous assessment of

housing needs, affordability and feasibility.

Potential disadvantages of a firmer target could include greater inflexibility to deal with the varied circumstances possible in Greater London, risk of non-delivery of marginal sites and likely lower overall targets to start with, whereas some exceptional sites could deliver above the target. Concerns associated with a need to set overall lower targets could possibly be mitigated by the use of review clauses.

There is also recognition that introducing a fixed tariff could negatively impact those who have purchased land under the extant system. One solution might be that fixed tariffs could be introduced over a phased period to allow developers to factor it into their appraisals and decision-making processes as they move forward on acquisitions.

Option B: scale back viability testing to be the ‘exception rather than the rule’

The adoption of fixed affordable housing tariffs would enable a scaling back of viability testing to a limited, tightly defined set of circumstances, for example on sites with abnormally high remediation or infrastructure costs. Where genuine issues of viability are identified as part of a rigorous and transparent process, a reduction in obligations could be considered. This would only apply where an acceptable threshold land value (as discussed below) could not be achieved. It is believed that this would reduce the scale of the ‘viability testing industry’ to levels similar to those prevailing prior to the global economic crisis or even earlier; it would also speed up and reduce costs of applications and better assure policy compliant development. It would have the benefit of reducing the possibility of ‘stalled sites’ when developed in conjunction with Option A.

Option C: Abolish site level viability testing completely

There was a widespread view that viability testing is not working and that the system is 'broken'. Consideration could be given to the abolition of viability testing at the site level, but if this was the case either Option A would have to be adopted or the provision of social housing would need to move away from a private sector responsibility back to the public sector, with funding raised through the public purse by means of general or specific taxation. Such an approach might however run counter to the NPPF objective of delivering mixed and balanced communities. It is recognised that if this option were to be pursued, Recommendations 2, 3, 4 and 5 would not be required.

Recommendation 2: Reconsider the definition and calculation of what constitutes the threshold/ benchmark land value

Where viability testing is undertaken, there is a need for definitive guidance on how to determine the land value benchmark. A clearer method of calculation and definition would provide certainty and enable landowners to retain an incentive to sell, but not at a price which depresses the contribution to the community below a policy compliant level, where gross development values and costs are at levels which could/should support such a contribution.

Overall, the 'EUV plus a premium' approach was favoured by the majority of respondents. A suggested revised definition of the benchmark value is the value *below which the site will be retained in its existing use*. It is essential to make the distinction between the value below which the site will be retained in its existing use (the benchmark) and the actual sale price, which will be determined by the market. The owner will always sell to the highest bidder and, in the context of policy uncertainty and manipulation/ misunderstanding of the system, this will inevitably lead to greatly reduced affordable housing provision.

Recommendation 3: Provide clearer guidance and practice advice on determining developer's return

The notion of a competitive return and required profit is extremely vague but what is clear is that levels required have not adjusted to take account of changing market conditions: reward levels built into calculations have not reflected the lower interest rate, low return environment that has been a hallmark of the London property market in recent years, or to the greater protection afforded developers by the viability testing. A clear 'steer' is recommended.

Recommendation 4: Place a greater requirement to disclose appraisal documentation

Authorities have argued for transparency and disclosure in the public interest and some have now introduced this requirement. However, this idea has been resisted due to concerns around client confidentiality and competitive practice, albeit that at planning appeals, appraisals are always tested and made publically available. Given the significant issues arising due to the complex and obscure appraisals, on balance it is recommended that greater disclosure would serve the public interest and support an environment in which planning is viewed as a transparent process.

Recommendation 5: Resource and support additional training for planning staff and the Planning Inspectorate

It is recognised that resources to planning departments have been reduced significantly⁶⁵. The resulting constraints on hiring more staff with viability expertise, for valuation advice, legal advice and representation at appeal and for staff training, both among planning staff and some parts of the Planning Inspectorate, does not ensure that within the current system approved plans can be robustly defended at initial application or appeal (Chapters 5 and 6). It is noted that the GLA has proposed specialist support to Boroughs to help in determining matters in relation to economic viability.⁶⁶ However, our recommendation is that, because

⁶⁵ As confirmed by a recent House of Lords Select Committee on Economic Affairs (2016).

⁶⁶ Carpenter, J. (2016) GLA team to assist boroughs with viability advice. *Planning Resource*, 7th June. Available from: <http://www.planningresource.co.uk/article/1397837/gla-team-assist-boroughs-viability-advice>

economic viability testing is at the heart of the application decision-making process and the subject of many appeals, it is also important that it is seen as a core competence within local planning departments (not just the GLA), and the Planning Inspectorate.

Recommendation 6: Stimulate direct public/social provision

Additional delivery of affordable housing could be through either public, social or private sector providers or through partnerships thereof. This might have the benefit of better ensuring that the needs arising from the demographics of particular local areas are met (e.g. in relation to age, household size). It is clear that many private sector providers do not have this level of knowledge of local need or mechanisms for long-term engagement with the local communities, while local authorities do. Also, a greater number of delivery agencies would provide more competition in the land and property market and greater volume and variety in output. To enable local authorities to build more, limits on borrowing and grant would need to be re-evaluated⁶⁷. Partnering arrangements could also be usefully developed further. There was also some support expressed for the introduction of a levy or tax.

Recommendation 7: Investigate other ways to better ensure land is brought forward

There was a view that there is reluctance by some landowners to bring land forward for sale at policy compliant figures and of unrealistic expectations. Whilst there is an acknowledgement that, at least in the short-term, population needs and economic activity will ensure demand outstrips supply, there is an issue that available sites are not coming forward. We therefore recommend that consideration should be given to researching either or both incentives and compulsion. Among the possible ideas to research are the following:

- Use of fiscal incentives or taxation such as a local land value tax to encourage land to come back into beneficial use or a development tax (such as the Planning Gain Supplement⁶⁸) provided this is at a level which does not provide a dis-incentive to delivery. Of the two an incentive tax is preferred.
- Revisit the concept of the so-called Leunig model, promoting community land auctions (Leunig, 2011) which was partially trialled in 2012.⁶⁹
- Make much greater use of compulsory purchase powers to bring land forward and so that the price paid for land is open to scrutiny and challenge by acquiring authorities. This could be either with a view to direct development or so that acquiring authorities could de-risk sites, including obtaining planning consents, and selling back to the private sector.⁷⁰
- Consider the introduction of Compulsory Sales Order (see Adams, 2015) which would increase supply but obviate the need for the LPA to fund the initial purchase.

⁶⁷ House of Lords, Select Committee on Economic Affairs, Building more homes (July 2016)

⁶⁸ This was a potential tax put forward in 2006 but never implemented.

⁶⁹ An explanation of this is given in Chapter 6.

⁷⁰ In many ways such a suggestion would complement but not replicate some of the proposals in the so-called Leunig Model as referred to above.

Appendices



Appendix A:

Model Validation

Valuation	Inputs	Values
Average dwelling size (m2 gross internal area or GIA)	1	
Average house price (£/m2 GIA)	2,650	
Development value (net of 2.75% sale costs)		2,579
Building costs (£/m2 GIA) - weighted between flats and houses	1,003	-1,003
Professional fees (% build costs)	10%	-100
Contingencies (% building costs and professional fees)	3%	-33
Site, infrastructure and other costs (% build costs)	10%	-100
CIL (£/m2 GIA)	0.00	0
Interest on half total costs and fees for whole development period		-62
<i>Loan (% p.a.) - assumes 100% debt finance</i>	5.00%	
<i>Development period (yrs)</i>	2.00	
Marketing costs (% development value)	0%	0
Developer's return (% development value)	15%	-387
Future residual balance (land price & purchase costs at end of development period)		894
less interest on residual balance (PV of future residual balance)		0.9070
Residual land value (RLV) today, net of land purchase costs (£)	5.75%	767
RLV per sqm of dwelling GIA		767
RLV as a % of Development Value		29.73%
RLV per net developable hectare at a density of (dph)	45%	34,449
RLV per gross site hectare assuming an developable area of	50%	17,250

Appendix B:

Appeal Case Study Data

Appeal decision date	Appeal case no.	Address	Scheme	Parties (and their representatives)	Issue (pertinent to viability)	Appraisal model	Handling of landowner's return	Handling of developer's return	Handling of input uncertainty using (a) sensitivity and risk analysis, (b) forecasting and review models	Decision and remarks	
1.	2007	APP/L5810/A/05/1181361	Hampton Hill, Hampton	28 retirement flats	Christopher Marsh represented the LPA. Sneller Commercial represented the appellant, Princegate Estates	Sufficient provision for AH. Planning policy requires 40% onsite but offsite in exceptional circs (all subject to viability), and it was agreed by both parties that this case was an exception	Three Dragons Toolkit	Both parties agreed that the land value input into the viability appraisal should be based on EUV. In this case the EUV was £2,820,000. The council argued that benchmark for the landowner's return should be EUV and the appellant argued that it should be EUV+25%	Both parties agreed on a residual approach that calculated developer's profit rather than land value. The resultant developer's profit was 12.4% of GDV, considered to be lower than the benchmark 15% of GDV but acceptable in the case of a large scheme like this	None	Appeal allowed. The Inspector agreed with the appellant's argument and offer of AH contribution. The benchmark was £3,525,000 (i.e. £2,820,000 + 25%) There was no hint of RLV ignoring the obligations being part of the argument for the 25%

Appeal decision date	Appeal case no.	Address	Scheme	Parties (and their representatives)	Issue (pertinent to viability)	Appraisal model	Handling of landowner's return	Handling of developer's return	Handling of input uncertainty using (a) sensitivity and risk analysis, (b) forecasting and review models	Decision and remarks	
2.	2008	APP/ U5360/ A/07/ 2059530	Lesney factory, Homerton Rd, London E9	Mixed development including 222 dwellings				Purchase price was relied upon by the appellant as the land value input into the viability appraisal		None	The appeal was dismissed. Too much was paid for site knowing planning obligations and the 50% London-wide AH target. This decision confirms that purchase price can be disregarded if too high a price paid
3.	2009	APP/ T5720/ A/08/ 2087666	189 Streatham Rd, Mitcham	Mixed development including 14 dwellings	Genesis Housing Group Ltd and London Borough of Merton. Savills produced the appraisal for Genesis. Chris Marsh was appointed to comment on the appraisal on behalf of the council	Amount of AH. Genesis paid £1.76m for the site under the assumption that it would get PP for 29 dwellings. At that price, the actual number of dwellings that would be given permission (14) means that no amount of AH was viable. The question, therefore, was whether the council should allow development to proceed without any AH just because the appellant overpaid for the site	Three Dragons Toolkit	Savills argued that the benchmark value is derived from the EUV, the AUV and the purchase price (within reason) (para 6.4 of the appeal statement). The appellant paid £1.6m for the site and Savills used this figure as the EUV to be input into the appraisal. The appellant argued that the RLV of the site would have to be below £359,000 (compared to a purchase price of £1.6m) for some AH to be viable. The council argued that the purchase price was not relevant to the AH decision and that EUV/AUV (not acquisition price) should be an input. The problem in this case is that this would still not provide any AH	20%, of what is not made clear.	None	The Inspector decided that this was an unusual case and that no AH should be required. The decision considers the need to be pragmatic in current depressed market conditions to get development underway. In this case the appellant paid too much for the site and at a time when there was no AH requirement. The reduction in the number of units that could be built on the site, the intro of AH and the fall in market conditions all meant that the RLV and purchase price were always going to be miles apart

Appeal decision date	Appeal case no.	Address	Scheme	Parties (and their representatives)	Issue (pertinent to viability)	Appraisal model	Handling of landowner's return	Handling of developer's return	Handling of input uncertainty using (a) sensitivity and risk analysis, (b) forecasting and review models	Decision and remarks	
4.	2009	APP/ K5600/ A/09/ 2097458	41-43 Beaufort Gardens, London SW1	In January 2009 the Royal Borough of Kensington and Chelsea refused permission for the conversion of a hotel into nine luxury flats (Application Ref 08/03284/Q13). The developer appealed against this decision	Vannes KFT (Cushman & Wakefield and Savills) and Kensington and Chelsea Royal London Borough Council (DVS)	Whether the proposal would conflict with the aim of policy in The London Plan to secure the maximum reasonable contribution to the provision of affordable housing (the target is 50%)	Three Dragons (GLA) toolkit	RLV was the output and was benchmarked against EUV. The LPA (advised by DVS) estimated EUV as £8,657,000 using the profits method. The appellant (advised by Savills) estimated EUV between £13-13.6m using a DCF method. DVS argued that Savills' DCF approach to estimating EUV was wrong. Cushman & Wakefield Hospitality compared Savills' DCF approach with two further methods; comparison and profits, which produced valuations of £13m and £13.25m respectively. Without any affordable housing in the scheme, the appellant's RLV was -£7,663,007 (negative) and the Council's was £11,792,000 (positive). The difference arose from wide variation in input values; a £4.7m difference between estimates of the value of the completed scheme, £4.5m difference in building costs estimates, £4.3-4.9m difference between current use values, and a £6m discrepancy in finance costs that was largely explained by different development timelines. Economic uncertainties, together with uncertainty arising from the specialised nature of the development, were offered as justification for the differences	The LPA (DVS) assumed 20% of GDV of market housing. The appellant's (C&W) assumption was difficult to discern. The viability appraisal (which calculated developer's profit by inputting a land cost of £15m) generated a profit on costs of 6.4% but an IRR of 10.3% and an NPV of £1.9m (although the discount rate is the finance rate of 7.8%). Presumably the appellant re-worked this appraisal to estimate the negative RLV in the Inspector's report	The appellant's cost figs include an element of forecasting - they are taken to be as at the mid-point of the estimated construction period. Both parties tested a number of scenarios (altering the number of AH units) and all produced a negative RLV	The inspector dismissed the viability modelling undertaken by both the Council and the developer, saying "Given the number of uncertain input values ... the inability of the professional witnesses to reach agreement on them at the inquiry, and their significant cumulative value, I consider that ... none of the toolkit results is sufficiently robust to enable any significant weight to be attached to it in determining the provision of affordable housing that could be expected from the appeal proposal" (para 32). The inspector therefore overturned the LPA's decision to refuse permission and granted permission - the appeal was allowed. The LPA then appealed against the Inspector's decision to the High Court, which ruled that the Inspector's decision be quashed. The Inspector was reluctant to say whose evidence he preferred although he did prefer Savills house sales evidence as it was based on Estate Agency knowledge

Appeal decision date	Appeal case no.	Address	Scheme	Parties (and their representatives)	Issue (pertinent to viability)	Appraisal model	Handling of landowner's return	Handling of developer's return	Handling of input uncertainty using (a) sensitivity and risk analysis, (b) forecasting and review models	Decision and remarks
5.	2010	APP/E5900/A/10/2127467	Gun Wharf, 241 Old Ford Road, London	141 dwellings plus ancillary space	Durkan Estates (represented by Strettons Chartered Surveyors) and Tower Hamlets LBC	Appellant proposed 17% AH (by habitable rooms) subject to a cascade arrangement. During the appeal this changed to a baseline 21% AH up to a max 35% with a two-stage cascade mechanism	3D toolkit	The benchmark land value is the point of contention between the parties. The appellant's figure of £9.3m is a deflated adjustment of the £13m acquisition price, a figure far higher than current EUV (£3m). When the EUV is used in the Council's appraisal, the RLV is £6.3m and 35% AH is viable	17% GDV on MH, 6% on AH	Appeal dismissed. The inspector felt, under the appellants' approach, market movement was being used to determine the amount of AH and this was not acceptable. The decision confirmed Clay Farm & Welwyn Garden City appeals approach was correct. Regard only to purchase price as contextual information
6.	2012	2173598	St Edmund's Terrace, London	Three linked residential sites		Trying to get around the sliding scale of AH by claiming the sites separate. Some discussion of AH and viability	Residual	RLV was the output, benchmarked against EUV. Finding, as with Poplars BP, that the EUV much higher than residual site value. But not clear whether RSV was including or excluding policy based obligations		Appeal granted with no AH provision as unviable. The Residual Land Value is compared with the benchmark, the former is the result of the conclusions directly above on the effect of the pre-sales and the latter the earlier conclusions on the site value. To show a viable development, the residual land value needs to be above the site value. Allowing very little or no increase in residual land value as a result of the pre-sales, and taking the appellant's £14.25m site value, or even a reduction in this for the uncertainties discussed, but not below the £11m figure of the alternative use value, gives a negative figure, and by a significant margin. This is not the marginal situation that would allow the £1.5m offer to be viable in whole or in part. 16. Affordable housing provision now is therefore not viable

Appeal decision date	Appeal case no.	Address	Scheme	Parties (and their representatives)	Issue (pertinent to viability)	Appraisal model	Handling of landowner's return	Handling of developer's return	Handling of input uncertainty using (a) sensitivity and risk analysis, (b) forecasting and review models	Decision and remarks
7.	2012	APP/E5900/A/2178920	Poplar Business Park	392 dwellings, 8,000 sqft light industrial and 56,000 sqft offices plus ancillary space	Workspace Group plc (represented by GVA) and Tower Hamlets LBC (represented by BNP Paribas initially and then Drivers Jonas Deloitte)	Target was 35% AH. GVA showed that the scheme could only support 15% (by area) AH. BNP showed that 25% (measurement unknown) was viable. Once the 15% provision was refused, GVA made a subsequent offer of 28% (by habitable rooms) by lowering the profit margin	BNP used the 3D toolkit. GVA used ProDev DJD used Argus and so did GVA in their rebuttal	GVA, BNP and DJD all assumed EUV as the benchmark land value. The GVA evidence is a classic piece of one rule for the valuation and another for the viability assessment. GVA state that the comparables for MV must be looked at carefully for the level of AH assumed. They then use that evidence to get to a site value for the Poplars BP that doesn't get anywhere near allowing for the policy statement. Rather than conclude that the valuation must be wrong as any bid would take into account policy assumptions, they conclude that the policy requirement is too high!	GVA, BNP and DJD assumed 20% GDV for MH, GVA 10%, BNP 6% and DJD 7% for AH. DJD later suggested profit at 7% GDV for AH component. In another alternative from having RLV as the output, GVA estimate profit by making an assumptions about land cost, target planning obligations and all other costs and estimated GDV. In other words, the residual model is switched around so that land cost goes in as an input and developer's profit is the output and this is benchmarked against a 'normal' profit margin. Building on the Harman and RICS guidance, the land cost is assumed to be the higher of current use value or market value. Acknowledging the inherent circularity in based the land cost on market prices that reflect expectations of POs, any market evidence should be adjusted by making appropriate assumptions	SoS agreed with the Inspector that PP should be granted and that AH should be set at 20%. The DJD report is interesting in that it seems to go directly for a EUV in existing commercial investment use and doesn't discuss the market value as per GVA or the RSV assuming no obligations. Not quite sure how it would be used by the Inspector on this basis unless they were going to do EUV plus. GVA picked this up and so did the inspector. What I can't find anywhere is a residual value of the site calculation. But a residual in this case would come to less than EUV

Appeal decision date	Appeal case no.	Address	Scheme	Parties (and their representatives)	Issue (pertinent to viability)	Appraisal model	Handling of landowner's return	Handling of developer's return	Handling of input uncertainty using (a) sensitivity and risk analysis, (b) forecasting and review models	Decision and remarks
								<p>Herein lies the concealed circularity in this approach: the input land cost must be adjusted to make it exogenous of POs before it can be used to estimate POs. A quote from GVA's proof of reveals the contorted logic: "[a]ny assessment of site value will have regard to prospective planning obligations. Viability appraisals are there to assess the impact of the extent of these obligations whilst also having regard to prevailing property market conditions" (para 8.13). So assessment of the site value (the input land cost) should have regard to POs while the viability appraisal (which has land cost as an input) is there to estimate the extent of POs. There is no way out of this circularity. Interestingly, in GVA's proof of evidence, having spent some time describing the guidance and bases of value, the input land cost is simply set at the higher of EUV or MV of the site, and no mention of the special assumption or other adjustment to the latter to reflect POs is made</p>		

Appeal decision date	Appeal case no.	Address	Scheme	Parties (and their representatives)	Issue (pertinent to viability)	Appraisal model	Handling of landowner's return	Handling of developer's return	Handling of input uncertainty using (a) sensitivity and risk analysis, (b) forecasting and review models	Decision and remarks
8.	2014	2207402	Mast Pond Wharf, Woolwich	16 storey 100 unit proposal increased by 7% in 2012 to assist affordable provision, 14% said to be viable, 20% secured by section 106; zero provision now sought under section 106BC	Mast Pond Wharf Ltd and Greenwich LBC 100 dwellings 20% AH policy requirement Appeal allowed and AH requirement removed 3D toolkit Both parties agreed that the scheme was unviable with and without the AH and that the scheme (without AH) was only viable if the GDV was increased by 10%. The RLV was compared to a benchmark which was EUV Profit was 20% GDV (6% for AH component) Finance at 6.75%	Redevelopment of the South East London Aquatic Centre site to create a scheme including a 16-storey tower of 100 flats (DCS number 200-001-440). The London Borough of Greenwich asked for 20 affordable homes in the original permission. But developer Mast Pond Wharf Ltd asked for the complete removal of the affordable housing element, which it said would result in a profit margin of ten per cent. The inspector agreed				

Appeal decision date	Appeal case no.	Address	Scheme	Parties (and their representatives)	Issue (pertinent to viability)	Appraisal model	Handling of landowner's return	Handling of developer's return	Handling of input uncertainty using (a) sensitivity and risk analysis, (b) forecasting and review models	Decision and remarks	
9.	2014	2207560	279 Kings Road, London	Mixed use retail residential and cinema		The single remaining point of contention between the Council and the appellant, then, concerns the absence of an adequate contribution toward affordable housing. It boils down to a genuine dispute between two valuers with 7 items in the appraisals in dispute	No idea from the inspector's report	The Council's assessment of the market value of the site, which was based on other comparable land transactions in the vicinity, was clearly informed by an understanding that the appeal site currently benefits from unexpired commercial leases. Sounds like it was a commercial investment property EUV. Appellant - The original FVA of June 2013 adopted a 22.5% profit on cost on the residential element of the scheme, and a 15% profit on cost on the commercial component. The appellant's updated FVA, submitted to the Council in December 2013, reduced the profit requirement to 20% on cost for the residential element but amended it to 15% on value for the commercial component, stating that "upon reflection" a figure of 15% on cost was too low for speculative commercial development. The final update of the appellant's FVA, dated March 2014, further amended the profit requirement for the commercial element of the scheme to a 20% return on cost. The Council's Valuation Expert provided comparable evidence of a cinema-led scheme where a 10% profit level was considered appropriate by the developer. The Council considers it appropriate to adopt a rate of 15% on cost for the commercial elements of the current proposal, while noting that if pre-lets were in place, the reduced risk would be a strong argument for reducing that rate to nearer 10%	Inspector used 15% on costs for commercial elements of the scheme. Both parties must have agreed residential profit level		Appeal dismissed. Developer must abide by section 106 agreements

Appeal decision date	Appeal case no.	Address	Scheme	Parties (and their representatives)	Issue (pertinent to viability)	Appraisal model	Handling of landowner's return	Handling of developer's return	Handling of input uncertainty using (a) sensitivity and risk analysis, (b) forecasting and review models	Decision and remarks	
10.	2014	2209347	King St, London	Affordable housing	GVA represented that LPA	Whether or not the proposed development should include an element of AH. The appellants submitted a viability statement based on current costs and values to show the marginality of the scheme and that even if higher sales values were assumed it could still not provide any AH. The LPA argued that AH could be provided. Matters in dispute related to 'base land value' (BLV), sale prices and whether appeal costs and empty rates should be included in a viability appraisal	"Base land value" in dispute. Appellant valued at £12m. The valuation approach adopted was the consideration of the market value of the buildings with vacant possession, ignoring any hope value for a change of use to residential or a mixed use scheme including residential. The valuation was prepared in accordance with normal practice taking into account comparable evidence and current market conditions. In determining market value consideration was given to both the comparison method of valuation and the identification of a market rent being capitalised at an appropriate yield. Appellants also major on PP in 2013 and go on about offers they have had for the site above £12m in 2014. They also	The appellants purchased the site for £11.05m in 2013 and received two offers in 2014 (£12m and £13.25m). This didn't seem to arise in the case. Both parties were contesting BLV and this seemed to be the EUV of the site assuming no hope value for the proposed development. However, because these were low from the LPA's perspective (<£3m), they regarded BLV as the land value resulting from the scheme with 40% AH, i.e. this seems to be their TLV. The appellants estimated the MV of the site as £12m and LPA £7.64m. The appellants produced a RB valuation, relied on the purchase price of the site, two subsequent unconditional offers and comps. The RB valuation (undertaken by Frost Meadowcroft) assumed VP but ignored hope value for change of use to resi or mixed use that includes resi. The investment method was used plus comps and were checked against		Looks like some inflation was allowed in the residential sale prices used	The inspector felt that GVA had ignored potentially higher land values resulting from other uses such as D1, student accommodation or serviced apartments, none of which would require AH but all of which were potentially achievable on this site. The inspector felt that appeal costs and empty rates should be included in a DVA. The inspector buys the evidence of the appellant which suggests that the base land value is market value and decide that no AH is appropriate. They use comparables of sales and offers to reinforce it. BUT the same problem as before. The EUV does also support the market value so it could be argued that the EUV is driving all the transactions, not the development. If it was the development, are the developers hoping that EUV will get them out of affordable housing provision. It did in this case. Inspector in Section 50 of report says "The evidence supplied by the appellants in support of a BLV of £12m is, in my opinion, wholly consistent.

Appeal decision date	Appeal case no.	Address	Scheme	Parties (and their representatives)	Issue (pertinent to viability)	Appraisal model	Handling of landowner's return	Handling of developer's return	Handling of input uncertainty using (a) sensitivity and risk analysis, (b) forecasting and review models	Decision and remarks
						produced a schedule of D1 comparables at an average price of £356 psf. Council called GVA who used a RSV approach using 40% affordable housing and came to £3m.	residual vals. Using a residual method only GVA valued the site as an office refurb and as an office redevelopment and both were < £3m. GVA therefore estimated the BLV as the appeal scheme with 40% AH			Not only have they provided a Red Book Valuation of the existing buildings on the site of £12m, but the purchase price of £11m, made around 12 months ago, and the 2 unconditional offers all support this position. The BLV put forward by the appellants has been informed by comparable, market based evidence as advised by paragraph 023 of the Planning Practice Guidance (PPG) and paragraph 3.4.7 of the RICS Professional Guidance, which includes other potential users which are operating in the market, in addition to office and residential. The Council's evidence, on the other hand, is based on the residual based analyses of an office occupier development and a housing scheme, with 40% affordable housing. This approach, ignores other potentially higher land values including Class D1 use, student accommodation and serviced apartments, none of which would be required to provide affordable housing and all of which could potentially be achieved on the appeal site. No residual appraisals of such uses have been undertaken in determining the BLV put forward by the Council." Section

Additional case studies

Appeal decision date	Appeal case no.	Address	Scheme	Parties (and their representatives)	Issue (pertinent to viability)	Appraisal model	Handling of landowner's return	Handling of developer's return	Handling of input uncertainty using (a) sensitivity and risk analysis, (b) forecasting and review models	Decision and remarks	
11.	23/02/2016	APP/X5210/S/15/3133785	22 Tower Street, Camden, WC2H 9TW	Conversion of the property to 22 residential units, along with internal and external alterations. The associated Planning Obligation included, amongst other matters, the provision of 4 affordable housing units within the development		Viability - reduce PIL for affordable housing to £250,000, LPA argued for £1,415,320. Issue Benchmark Land value	Residual mainly	Land price £19m. Gerald Eve used land price, LPA using suggested policy compliant value was £14.62m	Profit was discussed as a target of 20% on cost		The Inspector appears to have relied on comparables to reinforce the decision to pay £19 million and so confirms that this is not an overbid. This case illustrates that the Planning Inspector believes comparison based market value is acceptable proof of policy compliant prices. Inspector comments - "However the comparison method can be a useful check and there is nothing before me which leads to the conclusion that there is any "significant overbid" (to use the language of the Guidance) which should be disregarded." Also comments "As indicated above, I prefer the appellant's evidence related to the viability appraisal. Therefore, were a PIL to represent the appropriate solution to the viability issue, I consider that the appellant's calculation of the maximum PIL which the scheme could support is more robust - although I am conscious that the return on cost is well below the target benchmark."

Appeal decision date	Appeal case no.	Address	Scheme	Parties (and their representatives)	Issue (pertinent to viability)	Appraisal model	Handling of landowner's return	Handling of developer's return	Handling of input uncertainty using (a) sensitivity and risk analysis, (b) forecasting and review models	Decision and remarks
09/06/2011	APP/V5570/A/10/2139585/NWF	243 Junction Road, London N19 5QG	Demolition of existing building and its replacement with a five storey building comprising 25 residential flats and associated communal open space to rear		Level of affordable housing provision	Three Dragons	Existing Use Value	Appellant 25% LPA @17.5% of either cost or value, PI decision does not make it clear which of these criteria it is based on		No obligations to AH - not viable based on EUV above MV
22/09/2015	APP/V5570/A/14/2227656	65-69 Parkhurst Road, London N7 0LP	The development proposed is demolition of existing buildings and erection of buildings of 4, 5 and 6 storeys accommodating 112 residential units (use class C3) together with associated cycle parking, accessible car parking, highways, landscaping and infrastructure works		Whether the proposal complies with policy objectives relating to the provision of affordable housing	Residual	Existing Use value agreed at £750,000. Appellant uses £13.26 million which was purchase price in 2013	Inspector quotes 20% on costs and 16.67% on values as normal target. In this case the quoted rates are 16.5% and 14.3%		Finds that the price paid is confirmed by market comparables and therefore the AH offered by the developers is fair. "the appellant's land value figure can be regarded as adequately reflecting policy requirements on affordable housing. Bearing in mind that the development plan policy is to seek the maximum reasonable rather than the maximum possible amount of affordable housing, on the available evidence of the current position I consider that what is being offered in this case would achieve that." The Inspector states that PPG says that viability assessments must "reflect policy requirements and planning obligations and,

Appeal decision date	Appeal case no.	Address	Scheme	Parties (and their representatives)	Issue (pertinent to viability)	Appraisal model	Handling of landowner's return	Handling of developer's return	Handling of input uncertainty using (a) sensitivity and risk analysis, (b) forecasting and review models	Decision and remarks
										<p>where applicable, any Community Infrastructure Levy (CIL) charge” but then goes onto say; “informed by comparable, market-based evidence wherever possible. Where transacted bids are significantly above the market norm, they should not be used as part of this exercise.”</p> <p>Comment - Market values based on market transactions are all based within the market place; a market place that knows it can persuade PIs that comparable based site values comply with PPG guidance. But this is a market place that also knows it can renegotiate POs based on the prices they and their competitors pay for sites so the “norm” could be non-policy compliant</p>

Appeal decision date	Appeal case no.	Address	Scheme	Parties (and their representatives)	Issue (pertinent to viability)	Appraisal model	Handling of landowner's return	Handling of developer's return	Handling of input uncertainty using (a) sensitivity and risk analysis, (b) forecasting and review models	Decision and remarks	
14.	24/11/2015	APP/A5840/S/15/3121484	2/2A Crystal Palace Rd, East Dulwich, SE22 9HB	The demolition of the existing building, and the erection of a part 3, part 4-storey building, comprising 22 residential units, together with basement car parking, landscaping and works incidental to the development. Applicant trying to get out of AH provisions		(i) Whether the proposed development, with the AH requirement as it currently stands, has been shown to be not economically viable; ii) Whether the evidence produced by the Appellants for the purposes of the appeal is consistent with their submissions made during the application process, and accounts for any differences	Residual	The methodology of the viability statement involves establishing a 'Benchmark Value' (BLV), which is based on the site's existing use value, plus a landowner's premium. It then compares this to the 'Residualised Price' (RP), which is effectively the residual land value. The RP is derived from the proposed development's 'Net Realisation' value, less all relevant development costs. The latter include construction costs, fees, and the developer's target profit. EUV based on industrial values agreed at £1,381,000. EUV + 20% suggested = £1,657,200 by BNP for appellants	20% GDV, appellant, 17% LPA, decision 20%		Finds for appellant that it is unviable and no AH. First, PI suggests that initial yields are good evidence for cap rates based on rack rental value estimates - yet again not getting the valuation issues that drive the need for equivalent rather than initial yields. Also appears that the LPA have not undertaken enough research to seriously question the Appellant's valuation. It was a very one-sided hearing with the PI dismissing just about everything the LPA suggested

Appeal decision date	Appeal case no.	Address	Scheme	Parties (and their representatives)	Issue (pertinent to viability)	Appraisal model	Handling of landowner's return	Handling of developer's return	Handling of input uncertainty using (a) sensitivity and risk analysis, (b) forecasting and review models	Decision and remarks
15.	28/04/2016	APP/E5330/S/16/3143743	38 Wellington Street, SE18 6PE	Demolition of the existing building and the construction of a new development comprising a lower ground level with 5 storeys above providing 231 square metres of A3 / A4 / D2 space on the ground floor and 38 residential units (15 x 1 bed flats and 23 x 2 bed flats) with associated disabled car parking, cycle parking and refuse storage.		Appeal against failure to change AH provision				Appeal allowed. No AH? No real details of appraisal, main issue seemed to be valuations of units rather than Benchmark Land Value

Extracts from PI report Parkhurst Road Paras 63 to 75

63. The Council has carried out residual valuation calculations using the same values and costs and target profit level, the latter which is also not in dispute. The calculations use the alternatives of 50%, 40% and 32% affordable housing (as a percentage of floor area, compared with the appeal scheme's 15% on the same basis adjusted to achieve break-even point). The calculations give a residual land value of £4.98M, £7.32M and £9.35M respectively. On this basis it is argued that the price paid for the site was excessive since it did not properly reflect the policy imperative to maximise affordable housing, with an expectation of 50% provision.

64. The Council has put forward no market-based evidence, which the PPG indicates is important, to support its suggested land value figures. Conversely, the appellant relies on several elements of evidence to support the figure of £13.26M, as follows.

65. The first is the purchase price itself. The RICS guidance on Financial Viability in Planning (2012b) expresses some caution about reliance on purchase price in arriving at site value for assessment of financial viability, including having regard to the assumptions made by the developer, which might be unreasonable or over-optimistic. In this case the Ministry of Defence was bound by a best consideration requirement, and can be regarded as a rational seller. In addition to the successful bid, certain other information from the bid process is available. The underbid was only 2% lower and was by a Registered Provider. The appellant's argument that such a purchaser can be assumed to have reasonable knowledge of the local market and be unwilling to overpay for land is not contested. There were also what are described as "a number" of bids within 13% of the winning bid, which would therefore have been above around £11M. Full information is not available on these unsuccessful bids, including on the assumptions made by the bidders and on their financial positions. There is also some confusion regarding the extent of confidentiality requirements that apply to the

details of these bids. However, the accuracy of the available information is not questioned, and this suggests that the successful bid was not significantly out of kilter with other bids that were made for the site.

66. Secondly, the site has been the subject of a recent (May 2015) unsolicited offer made by one of the previously unsuccessful bidders, a major housebuilder. The offer was at £15.75M for an unconditional purchase.

67. Thirdly, an independent valuation of the site on a Red Book basis has given it a value of £15.5M as at May 2015. This appears to have relied strongly on the evidence of the sale of the site and of a residual appraisal that was undertaken based on 25% affordable housing provision (in a scheme of 125 units). However, other market evidence was also considered, and such a valuation is bound by the relevant professional responsibility requirements as needing to be a true reflection of the market.

68. Finally, the appellant has carried out an assessment of what are described as comparable transactions. This analysis is of 21 larger residential development land sales in Islington since 2010. It produces a wide range of prices paid pro rata to area, with the equivalent price paid for the appeal site being at the lower end of this range. A further sub-set of 7 sites are examined which are considered by the appellant to be particularly relevant. While not all in Islington, they are relatively nearby and can be regarded as within the same market area. The results generate a comparable range in value for the appeal site of £12.98-16.44M, so that the site value used by the appellant is again towards the lower end of a range. Clearly the details of the comparator sites will vary in terms of location, nature, size, constraints, and the content of proposed schemes. The assumptions made by purchasers are also again unknown. However, the RICS guidance emphasises the importance of comparable evidence, while recognising that in many cases relevant up-to-date evidence may not be available.

69. These individual elements of the appellant's evidence each have limitations. However, taken together they provide a consistent indication that the price paid for the site was not at a level significantly above a market norm. There is no counter evidence to contradict this picture. Having regard to the advice of the PPG, there is no reason to exclude the purchase price as part of the exercise of arriving at a land value for the site.

70. The Council points to the PPG's statement that land or site value should reflect policy requirements as well as planning obligations and CIL. This is consistent with the special assumption approach of the RICS in its definition of site value: that this should equate to the market value but "has regard to development plan policies and all other material planning considerations and disregards that which is contrary to the development plan". In this respect it is argued that the appellant's evidence generally contains no assessment as to whether the comparisons used were policy compliant, in particular with regard to affordable housing and/or the justification for the specific level of provision of this that was made in each case. It is therefore contended that the appellant has not engaged with the need to adjust the market evidence in accordance with the special assumption; and that, conversely, in effect the particular constraints of other sites are imported into the valuation of the appeal site, leading to a benchmark which assumes that a low level of affordable housing will be acceptable.

71. Detailed information was produced by both parties on the levels of affordable housing achieved in recent decisions in the borough. This was not examined at the inquiry, with the parties content to rely on the written material. It indicates that around 25% provision is typical but with a wide range. Nevertheless, as set out above, while compliance with the development plan policy can involve an acceptance of provision down to 0%, as argued by the appellant, this does preclude the need to consider whether the maximum reasonable amount is being secured in a particular case. In the present one, it is fair to characterise the site

as appearing to be relatively unencumbered by abnormal costs such as might arise for example from demolition or remediation complexities, notwithstanding the location adjacent to a Conservation Area. This is in addition to the site having a very low existing use value, with consequent scope for a substantial uplift in value from a potential residential development even on the Council's lowest residual valuation figure.

72. In this context I can understand the wider concern of the Council about the possible effect of inputting purchase prices which are based on a downgrading of the policy expectation for affordable housing on the eventual outcome of a scheme viability appraisal. If such prices are used to justify a lower level of provision, developers could then in effect be recovering the excess paid for a site through a reduced level of affordable housing provision. Such a circularity has been recognised in research for the RICS, and the Council in its SPD and the GLA (in its Development Appraisal Toolkit Guidance Notes of 2014) are alive to this potential outcome of using purchase price as an input in viability assessment. The Council postulates an undesirable scenario of diminishing returns of affordable housing and eradication of the potential to achieve its delivery. It argues that the current appeal is an opportunity to return to a proper approach.

73. However, the PPG clearly distinguishes land value from the viability of a particular scheme. The appellant appropriately contends that different purchasers will have different views on a likely scheme, and residual valuations can be very sensitive to small variables. Moreover, the PPG stresses the need to take account of market signals. The only information on such signals in this case supports the use of the appellant's land value figure. Importantly, the evidence does not suggest that a reasonable landowner would be incentivised to release the land for development at the value suggested by the Council. The options for a rational owner in a rising market include that of holding onto the land rather than selling it below a value indicated by the market.

74. In this respect, an essential aspect of development plan policy on affordable housing is to encourage rather than restrain development. This is consistent with national guidance which seeks to avoid jeopardising viability. The boosting of housing development in general terms assists in the supply of affordable housing. National policy is firmly in favour of realism and flexibility where the viability of a development is in question. In this case, the market evidence supports a higher valuation for the site than that used by the appellant and the scheme is strictly not viable on the current figures.

75. Taking all of the above into account, the appellant's land value figure can be regarded as adequately reflecting policy requirements on affordable housing. Bearing in mind that the development plan policy is to seek the maximum reasonable rather than the maximum possible amount of affordable housing, on the available evidence of the current position I consider that what is being offered in this case would achieve that.

Appendix C:

The Questionnaire

The Impact of Planning Changes on Land Values in London

We would like to explore the following key issues with you; we acknowledge that your experience may lead you to have expertise in only some of the areas and we confirm anonymity. Our study period starts in January 2007 and we are tracking statistics since then with a concentration on the period since 2012, which saw the introduction of National Planning Policy Framework [NPPF].

The Planning System and recent changes

- The NPPF brought in a new planning framework aimed at a plan led system tied in to a notion of ‘viability testing’. To what extent was this a new concept in your experience? Was viability testing a reality prior to 2012 even if not mandated? We are particularly interested in when you first experienced the concept in practice.
- With reference to your actual experience and knowledge, is the level of S.106 contribution normally determined prior to the land being purchased? Did this reflect in the value agreed?
- Has the introduction of viability testing itself affected the price paid? Why do you say this and what evidence do you have?
- In your experience, how have land values changed since the advent of the NPPF? (gone up, stayed level, decreased)
- Do you believe the NPPF has had an impact on the value of land? If so how? And how can any changes you identify be linked to the NPPF as opposed to other wider market changes?
- Do you believe that other changes to the planning system since 2012 (e.g. Permitted Development Rights [PDR]; issue of Planning Policy Guidance [PPG]; rescinding of S.106 for infrastructure) has had an

effect on land values and the provision of affordable housing? Do you have any evidence that would suggest / help to quantify such a correlation?

Economic /regulatory Factors impacting on Land Value Dynamics

- What economic/ fiscal/ regulatory factors do you consider might have provided either a ‘shock’ to land values or a change in trend values since 2007 (for example: the financial crash of 2008/09; changes to stamp duty land tax; the comprehensive spending review)?
- For each would you regard the impact as slight or very significant (scale 1-5)? Why?
- Where you identified changes – are these general structural impacts caused by changes to overall supply versus demand – or localised changes (e.g. promotion or lack of new infrastructure)?
- Are you aware of any future intended changes which might impact on land values?

Economic Viability

- What approach to establishing an acceptable level of ‘economic viability’ would you advocate in terms of area level policy? Keep it simple to full and detailed (1-5 scale). Why?
- What level of complexity do you think is appropriate for an economic viability appraisal at the individual site level? Keep it simple to full and detailed (1-5 scale). Why?
- In your experience does CIL ever/ occasionally/ frequently impact on the viability of development?
- In your experience do local policy requirements for affordable housing / infrastructure ever/occasionally/

frequently/always impact on the viability of development? Why?

- What % of development cost do these requirements typically present? (0-5%; 5+ -10%; 10+- 20%; more than 20%). Do these requirements lead to a decrease in land values to compensate? If not, why not?
- Benchmark or Threshold Land Values are used in assessing viability. In your view, which of the following methods is most appropriate? why?
 - An 'existing use value plus' approach (with the residual being the land value)?
 - RICS market value approach (having regard to policy requirements for affordable housing/ infrastructure etc)?
 - A split of the development profit, bearing in mind the need to fully reflect policy requirements in line with PPG?
- Which of the above is more likely to achieve the NPPF goals of sustainable development? Why?

Competitive Returns

- The NPPF states that a developer should be entitled to 'competitive returns'. What in your view/experience is the range of required returns acceptable to developers/ finance providers? How do they vary for different sites, development types and circumstances?
- To what extent have these changed over the study period? Why? In particular to what extent has the interest rate environment and/or finance availability been important in impacting views as to what is a 'competitive' return?
- In your opinion what do you regard as being a reasonable minimum requirement for a 'competitive' return? Why?
- In your opinion is the level of return obtained by a developer a legitimate Government concern? Why/why not?

The Method of Establishing Land Values

- There are three main methods of finding land value: comparison, residual valuation and cash flow. We would like your views on these:
 - Direct comparison with other comparable transaction is normally regarded as the 'best method' of establishing a true market value. Do you regard this as workable in London? Why/why not?
 - Does a residual valuation approach provide a sound basis for establishing land value– or is it too easily manipulated? Why?
 - An explicit cash flow use similar inputs to a residual. In your view is it more accurate as a method of finding 'competitive returns'?
- When undertaking a residual calculation (or cash flow) how is required return generally calculated? As a return on cost or on development value or an Internal Rate of Return [IRR]? Which do you think is most appropriate for planning purposes?
- In your experience what drives the level of profit – and how has this changed over the last decade?
- A residual valuation assumes that a development is 100% debt financed even when it is not. In your view should finance costs be taken into account in the calculation? If yes, how should they be calculated?

The Reasons for Housing Supply Shortage

- Please rank (1 being most important) the factors which you consider lead to lack of new development, especially affordable housing, in London:
 - CIL levels too high to protect viability
 - S.106 affordable housing requirements too high
 - Other planning conditions too onerous (e.g. design considerations)
 - Unavailability of land
 - Unrealistic price requirements of land owners/developers pay too much
 - Available land requires de-risking
 - Developers' competitive returns/profit levels set too high

- Future private sector demand unsure
- Social rented sector rent caps make development viability uncertain
- Costs/availability of finance too high/difficult.
- Are there other factors which you would identify as preventing supply coming forward?

Potential Recommendations better to assure the delivery of housing stock and affordable housing

- Statistics show clearly that the level of housing delivery across London is falling short of addressing objectively assessed need; this is particularly the case for affordable housing. In your view what steps could/should be taken at a national, London wide or Borough level to:
 - Bring more sites forward
 - Deliver the required levels of affordable housing
 - To what extent do you think the following may be useful / realistic parts of a solution. Please rank the them (1 as most useful to 7 as least useful):
 - tightening of planning guidance;
 - making appraisals transparent and in the public domain;
 - set a specific approach for assessing viability including adoption of either EUV + or MV approach or a split of RLV-EUV;
 - increasing the level of evidence to be supplied by applicants;
 - increasing resources to LAs to commission independent viability report;
 - taking active steps to discourage or/and prevent land banking by developers.
 - set a fixed affordable housing target that has to be provided on all sites except in tightly prescribed exceptional circumstances and abolishing viability assessments except for such exceptional cases?
 - Any there any other potential solutions?
 - Is there any other information which you hold that may enable us to report comprehensively to the commissioning Boroughs?

Cover Letter

Dear

The Impact of Planning Changes on Land Values in London

Thank you for agreeing to be interviewed as part of a Research Project that the Royal Agricultural University, the University of Reading, Kingston University and Ramidus are conducting on behalf of a consortium of The London Boroughs of Barking and Dagenham, Brent, Camden, Croydon, Enfield, Greenwich, Islington, Lambeth, Merton, Newham, Southwark, Tower Hamlets and Waltham Forest. The overall purpose of the research is to assess the extent to which changes in the planning system, in particular the increased emphasis on viability assessments within the decision making process, are impacting on land values and ultimately on the provision of housing, especially affordable housing.

We are conducting statistical analysis from a range of data sources including an analysis of individual case studies, but we wish both to triangulate the findings and to deepen understanding through conducting interviews with a range of stakeholders and experts drawn from across the supply chain.

I am attaching a copy of main questions that we wish to explore; each will be developed in more depth depending on the interviewee's own experience. Whilst we appreciate that not every interviewee will be able to contribute to all aspects, in the interests of transparency, we are circulating all questions to all parties.

We are intending to conduct the majority of interviews by telephone and anticipate that each will last for between 30 – 45 minutes. If you are unable to give an interview of this length we would be happy to have a shortened discussion rather than no interview, as we consider you are an important stakeholder in the process.

Following the interview we will write to you with a summary of the discussion but please accept our assurance that you will not have any comments directly attributed to you as the data will be collated and used anonymously. We would however be grateful if you would consent to your name or/and affiliation being given to the client as part of our reporting process.

If there is any further information you require before the interview or if you need to alter any of the arrangements please do not hesitate to contact either myself or Professor Sarah Sayce who is leading the project (sarah.sayce@rau.ac.uk).

Yours sincerely,

Appendix D:

List of Interviewees

Name	Organisation
Beaman, Mick	Regenerate
Bowie, Duncan	University of Westminster
Breen, Mark	Savills
Brown, Chris	Igloo Regeneration
Carlisle, David	AECOM
Day, Gary	McCarthy & Stone
Drummond-Hay, Simon	Hdh planning
Edge, Jeremy	Edge Planning & Development
Elder, Tom	Crest Nicholson
Fourt, Robert	Gerald Eve
Gaze, Justin	Knight Frank
Gladwell, Pete	Legal & General
Kiely, Mike	Planning Officers Society
Lee, Anthony	BNP Paribas
Lloyd, Toby	Shelter
MacInnes, Gillian	Planning Advisory Service
Mortimer, Dick	Family Mosaic
Mulhall, Tony	RICS
Peters, Jennifer	GLA
Pidgley, Tony	Berkeley Group
Sanham, Steve	Hub Group
Scanlon, Kathleen	LSE
Smart, Gavin	CIH
Ward, Jim	Savills
Whitehead, Christine	LSE
Williams, Finn	GLA Regeneration manager

Appendix E:

Bibliography

List of references:

- Adams, D. (2015) Compulsory sale orders as a response to hardcore urban vacancy and dereliction. In *Transience and Permanence in Urban Development Workshop*, University of Sheffield
- Arcadis (2015) *Signs of construction consolidation – has 2015 been as good as it gets? Market View - Winter 2015*. Available from: https://www.arcadis.com/media/0/F/B/%7B0FB89FE2-364D-4F8E-93BF-E079EFE8B05F%7D9486_Market%20View%20Autumn%202015.pdf
- AREF (quarterly) *Survey of Independent Financial Advisors*. Association of Real Estate Funds: London
- Bank of England/FCA (2015) *New Business Volumes*
- Barker, K. (2004) *Review of Housing Supply: delivering stability, securing our future housing needs*. Available from: www.barkerreview.org.uk
- Baum, A. and Crosby, N. (2008) *Property Investment Appraisal* (3e) Blackwell: Oxford
- BCIS (2015) *Construction Costs*. Available from: <http://www.rics.org/uk/knowledge/bcis/>
- Brealey, R., Myers, S. and Allen, F. (2008) *Principles of Corporate Finance*. McGraw-Hill: Boston
- Brownill, S. et al. (2015) *Rethinking planning obligations. Balancing housing numbers and affordability*. Joseph Rowntree Foundation. Available from: <https://www.jrf.org.uk/report/rethinking-planning-obligations-balancing-housing-numbers-and-affordability>
- Byrne, P., McAllister, P. and Wyatt, P. (2011) Precisely wrong or roughly right? An evaluation of development viability appraisal modelling, *Journal of Financial Management of Property and Construction*, 16(3), pp. 249-271
- Carpenter, J. (2016) GLA team to assist boroughs with viability advice. *Planning Resource*, 7th June. Available from: <http://www.planningresource.co.uk/article/1397837/gla-team-assist-boroughs-viability-advice>
- Christophers, B. (2014) Wild Dragons in the City: Urban Political Economy, Affordable Housing Development and the Performative World-making of Economic Models *International Journal of urban and Regional Research* Volume 38 Issue 1 pp:79 - 97
- Coleman, C., Crosby, N., McAllister, P. and Wyatt, P. (2012). Development appraisal in practice: some evidence from the planning system. *Journal of Property Research*, 30(2), pp.144-165
- Crosby, N., McAllister, P. and Wyatt, P. (2013). Fit for planning? An evaluation of the application of development viability appraisal models in the UK planning system. *Environment and Planning B: Planning and Design*, 40(1), pp.3-22
- Crosby, N. and Wyatt, P. (2015) *Financial viability appraisal in planning decisions: theory and practice*. RICS Research Trust: London

Crosby, N. and Wyatt, P. (2016) Financial viability appraisals for site-specific planning decisions in England. *Environment and Planning C: Government and Policy*, 0(0): 1-18

Cross, L. (2015) Housing Associations ordered to cut social housing rents by 1% per year for four years, *Social Housing*, 8th June. Available from: <http://www.socialhousing.co.uk/has-ordered-to-cut-social-housing-rents-by-1-per-year-for-four-years/7010692.article>

DCLG (2012) *National Planning Policy Framework*. Department for Communities and Local Government: London. Available from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf

DCLG (2013) *Guidance on Rents for Social Housing*. Available from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/254282/13-10-29_Draft_Local_Authority_Rent_Guidance.pdf

DCLG (2015) *Affordable Housing Supply Statistics*. Available from: <https://www.gov.uk/government/collections/affordable-housing-supply>

DCLG (2016) *House Building Statistics* available from <https://www.gov.uk/government/statistics/house-building-in-england-january-to-march-2016>

EG (2016) Galliard's Towering Costs. *Estates Gazette*, June 18th, p 29

Gardiner, J (2016) Nightmare on Nine Elms street? *Building Magazine*, 14th April. Available from: <http://www.building.co.uk/nightmare-on-nine-elms-street/?/5081104.article>

Goodall, M. (2010) *Affordable housing ruled out*. Available from: <http://planninglawblog.blogspot.co.uk/2010/12/affordable-housing-ruled-out.html>

GLA Intelligence (2015) *GLA 2014 Round of Trend-based Population Projections - Results*

Halifax (2016) *£11,321 buys 1m 2 of a home in Chelsea: five times the national average* [press release]. Available from: <http://static.halifax.co.uk/assets/pdf/mortgages/pdf/20160520-halifax-house-prices-FINAL.pdf>

Hayward, R. (2008) *Valuation: principles into practice*. Taylor & Francis

Helical Bar (2008) *Half year report for the six months to 30 September 2008*. Available from: http://www.helical.co.uk/~media/Files/H/Helical-Bar-V2/hb/pdf/investor/results/hf_yr_res_08/hf_yr_res_08.pdf

Henneberry, J., Crook, T. and Whitehead, C. (2015) Development Viability. *Planning Gain: Providing Infrastructure and Affordable Housing*, p.115

Highbury Group on Housing Delivery (2012). *Viability in Planning – Discussion Paper*. University of Westminster: London

Homes and Communities Agency (2009) *Investment and planning obligations: responding to the downturn, Good Practice Note*. Homes and Communities Agency: London

House of Commons, Communities and Local Government Committee (2006) *Planning Gain Supplement* (Fifth Report of Session 2005–06, Volume 1). Report, together with oral and supplementary written evidence and formal minutes. London: The Stationery Office

House of Commons Library (2016) *Stimulating housing supply - Government initiatives* (England) Paper Number 06416. Available from: <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06416>

House of Lords Select Committee on Economic Affairs (2016) *Building more homes, Report of Session 2016-17*. London. Available from: <http://www.publications.parliament.uk/pa/ld201617/ldselect/ldeconaf/20/20.pdf>

-
- House of Lords Select Committee on National Policy for the Built Environment (2016) *Building Better Places* Available from: <http://www.publications.parliament.uk/pa/ld201516/ldselect/ldbuilt/100/100.pdf>
- Housing and Planning Act 2016. Available from: <http://services.parliament.uk/bills/2015-16/housingandplanning.html>
- Land Registry (2015) *Median and Lower Quartile Ratio of House Prices to Earnings*
- Lees, E. and Shepherd, E., 2015. Incoherence and incompatibility in planning law. *International Journal of Law in the Built Environment*, 7(2), pp.111-126
- Letter of the London Assembly to Mayor of London (February, 2016). Available from https://www.london.gov.uk/sites/default/files/london_assembly_planning_committee_letter_-_viability_assessments_final.pdf
- Leunig, T. (2011) *Community land auctions: working towards implementation* CentreForum. Available from <http://www.centreforum.org/assets/pubs/community-land-auctions.pdf>
- Local Housing Delivery Group (2012) *Viability Testing Local Plans (the Harman Review)*. Local Housing Delivery Group. Available from: http://www.nhbc.co.uk/NewsandComment/Documents/filedownload_47339,en.pdf
- London Development Database (LDD) Data from the London Plan Annual monitoring Reports. Available from London.gov.uk
- London Housing Commission (2016) *Building a New Deal For London, the final report of the London Housing Corporation* available from http://www.ippr.org/files/publications/pdf/building-a-new-deal_LHC-final_March2016.pdf?noredirect=1
- Lumby, S. and Jones, C. (2003) *Corporate Finance Theory and Practice* (7e) Thomson: London
- Mayor of London (2014) *The 2013 London Strategic Housing Market Assessment* Greater London Authority
- Mayor of London (2016a) *Housing. Supplementary planning guidance*. London Plan 2016. Greater London Authority
- Mayor of London (2016b) Mayor reveals full extent of London's housing crisis, 16th May. Available from: <https://www.london.gov.uk/press-releases/mayoral/londons-housing-crisis-revealed-by-mayor>
- McAllister, P., Street, E. and Wyatt, P., 2015. Governing calculative practices: An investigation of development viability modelling in the English planning system. *Urban Studies*
- Mulhall, T. (2016) Home truths. *RICS Land Journal* (March-April), pp. 6-8
- ONS (2014) *Mid-year Population Estimates*. Available from: <http://data.london.gov.uk/dataset/office-national-statistics-ons-population-estimates-borough>
- ONS (2016) *Output in the Construction Industry*
- Planning Officers Society (2016a) *Planning for a better future, our planning manifesto for the government. Delivering Affordable Housing in a more effective way*. Available from: http://www.planningofficers.org.uk/downloads/pdf/POS%20Manifesto_Affordable%20Housing_Jan16.pdf
- Planning Officers Society (2016b) *Proposed changes to the national planning policy*. Available from: <http://www.planningofficers.org.uk/downloads/pdf/POS%20response%20to%20NPPF%2022%20Feb%202016%20.pdf>

Planning Resource (2008) *Legal Report - Court takes tough line on viability and soundness*, 5th September. Available from: <http://www.planningresource.co.uk/article/843748/legal-report---court-takes-tough-line-viability-soundness>

RICS (2008) *The Valuation of Development Land, Valuation Information Paper 12* RICS: London

RICS (2012b) *Financial Viability in Planning. Guidance Note*. RICS: London

RICS (2014) *RICS Valuation – Professional Standards*. RICS: London

RICS (2016) *The Valuation of Land for Affordable Housing Guidance Note 2nd Edition*. RICS: London

Ryan, B. (2007) *Corporate Finance and Valuation*. Thomson: London

Shapiro, E., Mackmin, D. and Sams, G. (2012) *Modern methods of valuation*. Taylor & Francis

Sheppard, A. and Askew, J. (2015) Law and disorder: Permitted development rights and the loss of proportionate control. In: AESOP 2015: Definite space fuzzy responsibility, Prague, Czech Republic, 14 - 16 July 2015. Available from: <http://eprints.uwe.ac.uk/28099>

St. Modwen (2013) Regeneration of new Covent Garden Market. Available from: <http://www.stmodwen.co.uk/uploads/documents/ncgm-investor-presentation.pdf>

UK Government (n.d.) *Right to Acquire: buying your housing association home*. Available from: <https://www.gov.uk/right-to-acquire-buying-housing-association-home/overview>

Further bibliography:

- Adams, D., and Watkins, C. (2014) *The Value of Planning*. RTPI Research report no. 5. RTPI. Available from: http://www.rtpi.org.uk/media/1024627/rtpi_research_report_value_of_planning_full_report_june_2014.pdf
- Apps, P. (2016) Khan's 50% target 'achievable' say associations. *Inside Housing*, 12th May. Available from: <http://www.insidehousing.co.uk/khans-50-target-achievable-say-associations/7015166.article>
- Bahaj, S., Foulis, A., and Pinter, G. (2016) *The residential Collateral Channel*. Available from: <http://www.centreformacroeconomics.ac.uk/Discussion-Papers/2016/CFMDP2016-07-Paper.pdf>
- Banfield, A. (2014) *A valuer's guide to the RICS Red Book 2014*. Revised for the January 2014 edition of *RICS Valuation – Professional Standards*. RICS: Norwich
- Barnes, S. (2016) Councils consider building Starter Homes out of borough. *Inside Housing*, 10th May. Available from: <http://www.insidehousing.co.uk/councils-consider-building-starter-homes-out-of-borough/7015131.article>
- Barnes, S. (2016) Starter Homes risk distorting housing market, say lenders. *Inside Housing*, 18th May. Available from: <http://www.insidehousing.co.uk/starter-homes-risk-distorting-housing-market-say-lenders/7015274.article>
- Barnes, S. (2016) Starter Homes to eat up affordable supply. *Inside Housing*, 19th May. Available from: <http://www.insidehousing.co.uk/starter-homes-to-eat-up-affordable-supply/7015263.article>
- Barnes, S. (2016) The Housing and Planning Act. *Inside Housing*, 19th May. Available from: <http://www.insidehousing.co.uk/the-housing-and-planning-act/7015275.article>
- BNP Paribas Real Estate (2013) *Community Infrastructure Levy: Viability Study*. Report for London Borough of Hackney. Available from: <http://www.hackney.gov.uk/Assets/Documents/Hackney-CIL-Viability-report-with-Appendices.pdf>
- Bowie, D. (2016) Housing and Planning in London under the Conservative Government –spatial impacts, social polarisation, sustainable development and social justice. In: *The European Network for Housing Research Conference, Belfast, 28 June - 1 July 2016*
- Brown, C. (2016) Opinion: Conflicts of interest in planning. *Place making resource*, 19th May. Available from: <http://www.placemakingresource.com/article/1395607/opinion-conflicts-interest-planning>
- Brownill, S. and O'Hara, G. (2015) From planning to opportunism? Re-examining the creation of the London Docklands Development Corporation. *Planning Perspectives*, 30:4, 537-570. Available from: http://www.tandfonline.com/doi/full/10.1080/02665433.2014.989894#.V3Ewl_krLcs
- Carlisle, D. (2016) *Introduction to Development Economics and Viability*. Planning Advisory Service
- Crisp, R., Eadson, W., and While, A. (2016) *Tackling poverty through housing and planning policy in city regions*. Centre for Regional Economic and Social Research (Sheffield Hallam University) and JRF. Available from: <http://www4.shu.ac.uk/research/cresr/sites/shu.ac.uk/files/tackling-poverty-housing-planning-city-regions.pdf>
- DCLG (2015) *Land value estimates for policy appraisal*. Available from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/488041/Land_values_2015.pdf
- DCLG (2016) *Technical consultation on implementation of planning changes*. Available from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/507019/160310_planning_consultation.pdf

-
- DCLG (2016) *Land Use Change Statistics in England: 2014-15*. Available from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/511627/Land_use_change_statistics_England_2014-15.pdf
- Drummond-Hay, S. (2014) *Viability, Infrastructure and CIL, making sure development still happens*. HDH Planning & Development Ltd. Available from: http://www.emcouncils.gov.uk/write/Viability,_Infrastructure_and_CIL_-_Simon_Drummond-Hay.pdf
- Edge, J. (2013) *Exploring the developer's view of neighbourhood planning*. Edge Planning and Development LLP
- Future of London (2016) *Capturing value, A London 2050 Briefing Paper*. Available from: <http://www.futureoflondon.org.uk/futureoflondon/wp-content/uploads/downloads/2015/04/2050-Capturing-value-web1.pdf>
- Gavron, Nicky (2016) *The need for Supplementary Planning Guidance on Viability Assessments*. London Assembly Planning Committee
- Geoghegan, J. (2016) DCLG land disposal programme must consider best value as well as new homes, says senior official. *Planning Resource*, 24th June. Available from: <http://www.planningresource.co.uk/article/1400092/dclg-land-disposal-programme-consider-best-value-new-homes-says-senior-official>
- Hill, D. (2016) What will housing success look like under Sadiq Khan? *The Guardian*, 8th June. Available from: <https://www.theguardian.com/uk-news/davehillblog/2016/jun/08/what-will-housing-success-look-like-under-sadiq-khan>
- Home Builders Federation (2014) *New Housing Pipeline. Q4 2014 Report*. Available from: http://www.hbf.co.uk/uploads/media/Housing_pipeline_report_Q2_2014_-_Sep_2014.pdf
- Home Builders Federation (2014) *Permissions to Land: Busting the myths about house builders and 'land banking'*. Available from: http://www.hbf.co.uk/uploads/media/HBF_Report_-_Landbanking_May.pdf
- Home Builders Federation (2016) *Capitalising on growth: A blueprint for Building the homes London needs. London Elections*. Available from: http://www.hbf.co.uk/?eID=dam_frontend_push&docID=25126&filename=London_Manifesto_2016_SQUARE_WEB.pdf
- Home Builders Federation (2016) *New housing pipeline Q4 2015*. Available from: http://www.hbf.co.uk/?eID=dam_frontend_push&docID=25203&filename=HPL_REPORT_2015_Q4.pdf
- Inquiry into the Economics of the United Kingdom Housing Market - Call for Evidence Summary of the submission from the London Borough of Islington – December 2015
- IPPR (2016) *Final report of the London Housing Commission: Building a new deal for London*. London Housing Commission. Available from: http://www.ippr.org/files/publications/pdf/building-a-new-deal_LHC-final_March2016.pdf?noredirect=1
- Islington Council (2015) House of Commons Public Bill Committee on Housing and Planning Bill 2015-16. Submission from the London Borough of Islington on the Proposed Changes to the Planning System to be introduced through the Bill. 10th December
- Knight Frank (2011) *Residential development Land Index, Q3 2011*
- Knight Frank (2012) *Residential development Land Index, Q3 2012*
- Knight Frank (2013) *Residential development Land Index, Q3 2013*
- Knight Frank (2014) *Residential development Land Index, Q3 2014*

-
- Knight Frank (2015) *Residential development Land Index, Q1 2015*. Available from: <http://content.knightfrank.com/research/161/documents/en/q1-2015-2860.pdf>
- Knight Frank (2015) *Residential development Land Index, Q2 2015*. Available from: <http://content.knightfrank.com/research/161/documents/en/q2-2015-3105.pdf>
- Knight Frank (2015) *Residential development Land Index, Q3 2015*. Available from: <http://content.knightfrank.com/research/161/documents/en/q3-2015-3353.pdf>
- Knight Frank (2015) *Residential development Land Index, Q4 2015*
- Land Registry (2016) *House Price Index, March 2016*. Available from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/520083/HPIReport20160429.pdf
- London Assembly Planning Committee (2015) *Minutes of the Planning Committee, Tuesday 17th November 2015*. Available from: <https://www.london.gov.uk/moderngov/documents/b13386/Minutes%20-%20Appendix%201%20-%20Transcript%20of%20Item%206%20Tuesday%2017-Nov-2015%2010.00%20Planning%20Committee.pdf?T=9>
- London Assembly Planning Committee (2016) *The need for Supplementary Planning Guidance on Viability Assessments*. Available from: <https://www.london.gov.uk/about-us/london-assembly/london-assembly-publications/need-supplementary-planning-guidance-viability>
- London Borough Development Viability Group (2016) *London Borough Development Viability Protocol, Consultation Draft*. Available from: https://www.brent.gov.uk/media/16404331/d513-london-borough-viability_protocol.pdf
- London First (2013) *The impact of inward investment on the London housing market*. Available from: <http://londonfirst.co.uk/wp-content/uploads/2013/09/The-impact-of-inward-investment-on-the-London-housing-market.pdf>
- London Planning Analyst (2015) *Viability assessments drawn into the open*. Issue 4: 8 December 2015. Available from: <http://londonplanninganalyst.com/2015/12/08/viability-assessments-drawn-into-the-open/>
- Marsh, C. and Lee, A. (2012) *Royal Borough of Greenwich. Affordable Housing Viability Assessment*. Christopher Marsh & Co & BNP Paribas Real Estate
- Milne, R. (2016) Majority of councils say NPPF viability test hinders affordable homes provision. *Planning Portal*, 20th May. Available from: https://www.planningportal.co.uk/news/article/293/majority_of_councils_say_nppf_viability_test_hinders_affordable_homes_provision
- Nathaniel Lichfield & Partners (n.d) *Viability – A Planner’s Perspective*
- NPPG (2014). *Planning Practice Guidance*. DCLG: London. Available from: <http://planningguidance.communities.gov.uk/blog/guidance/viability-guidance/viability-and-plan-making/>
- Oxford Brookes University (2015) *Response to the London Housing Commission Call for Evidence; Questions 2E and 2B*
- Peace, A. (2016) Opinion divided over housing starts. *Estates Gazette*, 18th June. Available from: <http://www.estatesgazette.com/opinion-divided-housing-starts/>
- Planning Committee (2015) *Transcript of Item 6 - Development Viability. 17 November 2015*
- Planning Service (2016) *Development Viability Guidance Note*. London Borough of Hackney. Available from: http://www.hackney.gov.uk/media/6955/Development-viability-guidance-note/pdf/Development_Viability_Guidance_Note

-
- RICS (2012a) *Comparable Evidence in Property Valuation*. Information Paper. RICS: London
- Savills Research (2015) *Development land statistical supplement, Quarter 3*. Savills Research
- Savills (2015) *Market in Minutes, UK Residential Development Land, May*. Savills World Research UK Residential
- Savills (2015) *Market in Minutes, UK Residential Development Land, September*. Savills World Research UK Residential
- Savills (2016) *Benchmark Land Values for Sites in Central Urban Areas. Research into Benchmark Land Values for the purposes of Community Infrastructure Levy Testing*. HBF
- Savills (2016) *Market in Minutes, Prime London Residential Markets, January*. Savills World Research UK Residential
- Savills (2016) *Market in Minutes, UK Residential Development Land, February*. Savills World Research UK Residential. Available from: <http://pdf.euro.savills.co.uk/uk/commercial-development-activity-uk/market-in-minutes-uk-residential-development-land-february-2016.pdf>
- Savills (2016) *New homes on public sector land accelerating delivery*. Telereal Trillium, London
- Savills (2016) *Policy Response: Additional Tax on Additional Homes*. Savills World Research UK Residential
- Savills (2016) *Policy Response: Starter Homes*. Savills World Research UK Residential
- Savills (2016) *Policy Response: The impact of new housing measures on development*. Savills World Research UK Residential. Available from: <http://pdf.euro.savills.co.uk/uk/residential---other/policy-response-new-housing-measures-2016.pdf>
- Wilding, M. (2016) Are viability assessments falling short of ethical standards? *Planning Resource*, 17th June. Available from: <http://www.planningresource.co.uk/article/1398735/viability-assessments-falling-short-ethical-standards>

Acknowledgements:

The research team would like to thank those who have been involved in the project, in particular those who gave interviews which helped to inform the study.

