



# Viability Commentary

Evidence Report  
September 2013

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## 1.0 Introduction

### Introduction

- 1.1 Fenland District Council is producing the Fenland Core Strategy, which sets out the framework for how development will be considered across the District to 2031.
- 1.2 This Evidence Report (which is one of a collection) provides background information and justification on the viability of the plan policies within the document.

### National Policy

- 1.3 The National Planning Policy Framework (NPPF) was published in March 2012. This has a specific section on viability, and the sections relevant to plan making are as follows:

#### ***Ensuring viability and deliverability***

*173. Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.*

*174. Local planning authorities should set out their policy on local standards in the Local Plan, including requirements for affordable housing. They should assess the likely cumulative impacts on development in their area of all existing and proposed local standards, supplementary planning documents and policies that support the development plan, when added to nationally required standards. In order to be appropriate, the cumulative impact of these standards and policies should not put implementation of the plan at serious risk, and should facilitate development throughout the economic cycle. Evidence supporting the assessment should be proportionate, using only appropriate available evidence.*

and

*177. It is equally important to ensure that there is a reasonable prospect that planned infrastructure is deliverable in a timely fashion. To facilitate this, it is important that local planning authorities understand district-wide development costs at the time Local Plans are drawn up. For this reason, infrastructure and development policies should be planned at the same time, in the Local Plan. Any affordable housing or local standards requirements that may be applied to development should be assessed at the plan-making stage, where possible, and kept under review.*

- 1.4 The above NPPF guidance has been taken into account in preparing the Core Strategy as a whole, and this evidence report has been compiled to give brief commentary as to why Fenland District Council believe its Core Strategy is compatible with the above national guidance.

## **2. Methodology**

- 2.1 In this report, each Policy is appraised individually.
- 2.2 First, it summarises the policy, identifying the key features that relate to the implementation of development (note: detailed background to many of the policies in the Core Strategy can be found in separate evidence reports available on our website).
- 2.3 Second, it explains whether the policy introduces any 'burdens' (such as a local design standard) which could impact on viability, and confirms the status of such a burden (such as whether the policy requires something, or whether it is desirable or subject to negotiation).
- 2.4 Third, it concludes whether the policy overall could be regarded as having an impact on the viability of development proposals, and if so to what degree.
- 2.5 Once each policy has been appraised in this way, an overall conclusion is reached.

## **3. Commentary on Viability: A Policy by Policy Appraisal**

### **Policy CS1 – A Presumption in Favour of Sustainable Development**

- 3.1 This is a standard policy introduced to the plan at the request of the Secretary of State and the Planning Inspectorate. In general terms, it reinforces the messages as set out in the NPPF.
- 3.2 From a Fenland perspective, it does not add any new local standards or burdens to developers and therefore does not impact on the viability of proposals.

### **Policy CS2 – Facilitating Health and Wellbeing of Fenland Residents**

- 3.3 This policy sets the framework for the rest of the Core Strategy, emphasising the important role that new development can have on improving the health and wellbeing of residents. It largely signposts to other policies in the plan (which are viability appraised elsewhere in this report), but also includes in the last two paragraphs of the policy some specific elements not covered elsewhere.
- 3.4 The first of these relates to local food production. However, this does not set any specific requirements but rather asks the applicant to acknowledge the role of various local food related activities, and provide or protect as appropriate. Implementation of this part of the policy is not considered to have any material impact on viability.
- 3.5 The second (and last paragraph of the policy) does introduce a requirement not required at a national level, and therefore could be described as a local 'burden'. However, for the vast majority of developments (i.e. all minor developments of less than 10 dwellings) there is no requirement to do anything, and for developments of 10-250 dwellings the only requirement is to state, via the Design and Access Statement, how the policy has influenced the proposals. For the very few developments of 250 or more dwellings, the policy does state that its preference is

for a Health Impact Assessment to be complete. However, for developments of this scale, the issues covered by a HIA should be routine issues which any development of such a scale should cover – the HIA is simply a way of demonstrating how health issues have been considered.

- 3.6 As such, overall, the Council considers that implementation of Policy CS2 is only a very minor burden on developers and has negligible impact on viability of development in Fenland.

### **Policy CS3 – Spatial Strategy, the Settlement Hierarchy and the Countryside**

- 3.7 This policy establishes the overall strategy for the location of new development in Fenland. It identifies a hierarchy of settlements, comprising market towns, growth villages, limited growth villages, small villages and other villages, with the general principle being that the majority of new development should be directed to the larger, more sustainable locations in the hierarchy. Development in the countryside will be restricted to a limited range of uses.
- 3.8 The policy does not add any new local standards or burdens to developers.
- 3.9 The Council therefore considers that implementation of Policy CS3 will not impact on the viability of developments in Fenland.

### **Policy CS4 – Housing**

- 3.10 There are two parts to this policy. Part A establishes the overall number of dwellings which the Plan enables to be built between 2011 and 2031, distributing them between the four market towns and other locations. Part B identifies the key policies of the Plan that will apply when assessing housing development proposals in different locations.
- 3.11 There are no specific developer requirements in the policy and the Council therefore considers that it will not have any impact on development viability.

### **Policy CS5 – Meeting Housing Need**

- 3.12 There are four parts to this policy. Part A explains that the Council will require, through negotiation, a specified proportion of dwellings on housing development sites to be affordable houses, with the proportion varying according to the scale of development proposed. It requires the exact tenure mix of the affordable housing to be informed by the latest government guidance and an up-to-date local SHMA. In some circumstances, the Council will accept provision on another site or payment of a financial contribution of broadly equivalent value. This part of the policy explains that the Council will negotiate with developers, to take into account the financial viability of any individual scheme, if a viability assessment indicates that the targets cannot be met in full.
- 3.13 Part B explains that the Council will apply the policy if there are two separate schemes that come forward at different points in time, but are obviously linked, and in combination provide 5 or more dwellings (5 dwellings being the threshold above which the policy applies).
- 3.14 Part C explains that the Council will seek, and developers are expected to provide in appropriate circumstances, housing solutions that meet the needs of all sectors of the community. It says that where appropriate and viable, the Council will seek all new housing to be of a Lifetime Homes Standard.

- 3.15 Part D sets out the criteria which will be used when deciding planning applications for sites to accommodate Gypsies and Travellers and Travelling Showpeople.
- 3.16 This approach to meeting the full, objectively assessed needs for market and affordable housing is entirely consistent with the NPPF (paragraphs 47 and 50). The requirement for a developer to provide affordable housing (or, in some circumstances, payment of a financial contribution) is clearly a cost which the developer must bear, but it is a cost that, as a matter of principle, is legitimate for the Council to seek in order to achieve sustainable development.
- 3.17 This cost will become a burden that adversely impacts on viability if the Council has set its requirements at too high a level or is not prepared to shift from the target that it seeks in the face of evidence regarding the viability of a specific scheme.
- 3.18 The targets and thresholds included in the policy have been informed by local market conditions, levels of need and viability/feasibility testing, as set out in the Affordable Housing Economic Viability Assessment document, undertaken for a consortium of local planning authorities, including Fenland District Council. They have been set at a level that in general terms will not adversely impact on viability. The Core Strategy covers a time period which runs from 2011 to 2031, and it follows that the policy will apply throughout that period. There is little doubt that the state of the economy will fluctuate over the course of 20 years, and there will be times when viability is marginal and other times when viability is pretty good. By explicitly stating that the Council will be prepared to negotiate if a viability assessment indicates that a scheme would not be viable, the policy ensures that the burden placed on a developer is not so great as to threaten the implementation of the plan.
- 3.19 Part C of the policy seeks certain things from developers, but these are not expressed as inalterable requirements. For example, the final sentence of this part says that “where appropriate and viable” the Council will seek all new housing to be of a Lifetime Homes Standard. Therefore, it is clear that although this might add to the costs incurred by a developer, it will never be to the extent that a development becomes unviable.
- 3.20 Parts B and D of the policy do not impose any additional burden on the development industry.
- 3.21 In conclusion, therefore:
- The policy seeks to secure sustainable development (in the form of housing that meets the needs of all sectors of the community) and is consistent with national policy in the NPPF.
  - The targets in the policy are justified by an evidence-based study, and are set at a level that, over the lifetime of the plan, will not adversely affect development viability.
  - If there is a particular scheme that at some point over the lifetime of the plan would not be viable, the policy makes it clear that the Council will be prepared to negotiate with developers if there is a viability assessment that demonstrates this.
- 3.22 Therefore, read as a whole, the policy will not put implementation of the plan at serious risk, and will facilitate sustainable development throughout the economic cycle.

### **Policy CS6 – Employment, Tourism, Community Facilities and Retail**

- 3.23 This policy sets a target for the growth of jobs in the District, along with targets for the allocation of land for new business, industrial and distribution uses in the District as a whole and in the four market towns. There are nine criteria against which new employment proposals will be assessed.
- 3.24 The policy establishes the approach to new tourism development, proposals that would result in the loss of cultural, tourist or visitor facilities, and proposals that would lead to the loss of community facilities.
- 3.25 For retail development, the policy establishes a hierarchy of centres and explains the sequential approach that will be applied. It sets out the approach to retail and non-retail uses in Primary Shopping Frontages.
- 3.26 Whilst the policy will clearly have an impact on the location of new development for different types of use, and the scale of development that might be acceptable in certain locations, its requirements are all derived from sound planning principles that are necessary to achieve sustainable development, consistent with national policy. There are no requirements that will result in a developer incurring excessive costs over and above those which are a normal part of the development process.

### **Policy CS7 – Urban Extensions**

- 3.27 This policy sets out the Council's overall approach to the development of urban extensions, with the main emphasis being on the need for comprehensive and co-ordinated delivery schemes, linked to the timely delivery of key infrastructure.
- 3.28 The policy will require different developers and landowners to work together, but that does not amount to any particular financial burden. There is a reference to the possible use of legal agreements to ensure the delivery of key aspects of the comprehensive scheme.
- 3.29 The policy includes a list of 22 criteria that each urban extension will need to satisfy.
- 3.30 There is no doubt that the construction of urban extensions can involve considerable costs, but the returns can be very high. The Council has considered each of the criteria contained in Policy CS7 to assess whether they would be likely to impose an excessive or unjustified burden on the developer or developers. Its conclusion is that each criterion can be justified as being necessary to achieve a sustainable form of development and consistent with national policy. For example, requirements such as the need to provide education facilities, to protect and where possible enhance features of biodiversity value, to incorporate appropriate flood alleviation measures and to maximise the use of energy from on-site or decentralised renewable or low carbon energy sources, are legitimate planning concerns that a developer would reasonably be expected to factor into the costs of development.
- 3.31 In practice, the majority of the items referred to in the list of criteria will be secured through some form of planning obligation, agreed and signed by the Council and the landowner/developer. This will be subject to negotiation and the Council will always be bound by the standard tests which apply to all obligations, referred to in paragraphs 204 to 206 of the NPPF. These will ensure that everything that is sought by the Council is reasonable in all respects and sufficiently flexible to prevent planned development being stalled.
- 3.32 In conclusion, although Policy CS7 will clearly impose costs on a developer, these are all what might reasonably be expected as part of the normal activity of undertaking development, and there are checks and balances in the planning

system to ensure that the Council does not impose any excessive or unreasonable burdens.

### **Policy CS8 – Wisbech**

- 3.33 This policy promotes Wisbech as a main focus for housing, employment and retail growth. One strategic allocation and three broad locations for growth are identified. For each location, there are references to the key planning requirements that are necessary to enable development to proceed.
- 3.34 These requirements are typical of what might be expected for any major development – highway works, including off-site roads and junction improvements; noise mitigation and screening measures; flood risk mitigation works; the retention and enhancement of existing areas of high quality woodland etc.
- 3.35 As with policy CS7, these policy requirements will clearly impose costs on a developer, but they are all what might reasonably be expected as part of the normal activity of undertaking development.
- 3.36 In the specific case of the proposed West Wisbech Broad Location for Growth, where a link road connecting the A1101 in the north to the B198 Cromwell Road in the south is highly likely to be required, the policy specifically states: “To enable this link road to be constructed using significant developer contributions from this urban extension, the Council will be willing to negotiate appropriate levels of other wider infrastructure, such as affordable housing, to ensure development remains viable.”
- 3.37 Thus it can be seen that the Council is alert to the need to adjust its policy stance on developer requirements if it seems that the likely cumulative impact would impose too great a burden on a developer.
- 3.38 In conclusion, although Policy CS8 will clearly impose costs on a developer, these are all what might reasonably be expected as part of the normal activity of undertaking development. There is a specific reference to the need for the Council to modify its position to ensure development remains viable. Therefore, in overall terms, implementation of the policy is unlikely to threaten the viability of any development.

### **Policy CS9 – March**

- 3.39 This policy promotes March as a main focus for housing, employment and retail growth. Two strategic allocations and two broad locations for growth are identified. For each location, there are references to the key planning requirements that are necessary to enable development to proceed.
- 3.40 These requirements are typical of what might be expected for any major development – cycle and pedestrian links; provision of education and local shopping facilities; noise and landscape mitigation measures; and flood risk mitigation works.
- 3.41 As with other policies, there is nothing abnormal or particularly onerous about these requirements, which any developer would anticipate as part of the normal activity of undertaking development. The Council’s overall conclusion is that the implementation of the policy is unlikely to threaten the viability of any development.



### **Policy CS10 – Chatteris**

- 3.42 The policy identifies Chatteris as a market town which is the focus for some growth. Two strategic allocations and one broad location for growth are identified. For each location, there are references to the key planning requirements that are necessary to enable development to proceed.
- 3.43 These requirements are typical of what might be expected for any major development – cycle and pedestrian links; provision of a primary school and local shopping facilities; noise mitigation measures; and enhanced landscaping works along particularly sensitive edges of the site.
- 3.44 As with other policies, there is nothing abnormal or particularly onerous about these requirements, which any developer would anticipate as part of the normal activity of undertaking development. The Council's overall conclusion is that the implementation of the policy is unlikely to threaten the viability of any development.

### **Policy CS11 – Whittlesey**

- 3.45 The policy identifies Whittlesey as a focus for some housing, employment and retail growth. A new urban extension (strategic allocation) is proposed north and south of Eastrea Road and the policy sets out key planning requirements for the site.
- 3.46 There has been developer interest in the past in creating a regional freight interchange to the west of Whittlesey (partly in Fenland and partly in the adjoining local authority of Peterborough). Policy CS11 identifies a range of issues that the developer will need to address and there is a reference to the need for a planning obligation to address any matters that cannot be resolved through appropriate works on site, or through the imposition of conditions on a planning permission.
- 3.47 The requirements specified for the strategic allocation at Eastrea Road are typical of what might be expected for any major development. There is nothing abnormal or particularly onerous about these requirements, which any developer would anticipate as part of the normal activity of undertaking development. The Council's overall conclusion is that the implementation of this part of the policy is unlikely to threaten the viability of the development.
- 3.48 In respect of the Regional Freight Interchange, the various policy requirements will clearly impose costs on the development. Whilst the scheme has the potential to bring benefits to Fenland, it clearly also has the potential to cause a wide range of problems if the issues that are identified in the policy are not satisfactorily addressed. The Plan is not reliant on this development in order to achieve its vision and objectives. Accordingly, there is no need for the Council to relax its requirements simply to make the development viable. It will be for the prospective developer to reach a commercial decision on the viability of the scheme, once the costs arising from the Council's legitimate planning requirements have been factored in. On this particular aspect of the policy, therefore, the fact that there might be viability issues will not jeopardise the successful implementation of the Plan as a whole.

### **Policy CS12 – Rural Areas Development Policy**

- 3.49 There are five parts to this policy. Part A deals with proposals for new development in villages and sets out a number of criteria which a development would need to satisfy. These generally relate to the location and scale of the proposal and do not impose any requirements that would add to a developer's normally anticipated costs.

- 3.50 Part B focuses on proposals for the re-use and conversion of rural buildings for residential use. Part C focuses on proposals for the replacement of a dwelling outside the developed footprint of a village. Part D focuses on new dwellings associated with enterprises in the countryside. Part E concerns applications for mobile homes. As with Part A, each of these has a number of criteria which a development proposal would need to satisfy but they do not impose any requirements that would add to a developer's normally anticipated costs.
- 3.51 As there are no specific developer requirements in the policy, the Council considers that it will not have any impact on development viability.

**Policy CS13 – Supporting and Managing the Impact of a Growing District**

- 3.52 This policy establishes the principle that all new development should be supported by infrastructure. It explains that planning permission would not be granted if there is inadequate infrastructure. Conditions or a planning obligation are likely to be required in order to ensure the provision of infrastructure or to phase the development in line with the timing of infrastructure provision.
- 3.53 The policy explains that developers will either need to make direct provision for infrastructure or will need to make a contribution to the infrastructure that is required as a result of the development on its own or cumulatively with other developments. It is explicitly stated that “where a planning obligation is required...this will be negotiated on a site-by-site basis”.
- 3.54 There is a reference to guidance which will be produced in a separate document, dealing with matters such as the types of infrastructure for which contributions will be sought; how contributions will be collected; and how they will be spent (with the content depending on whether or not the Council proceeds with a CIL).
- 3.55 Clearly, the operation of this policy will impose costs on a development, as a developer will either have to pay for necessary infrastructure or commit to a planning obligation which will involve the payment of money for infrastructure provision by another party. There is nothing in the policy to suggest what those costs might be, as these will clearly depend on the particular characteristics of each individual development – taking into account its nature, scale and location, and the capacity of existing infrastructure that may be available to serve the development.
- 3.56 What is clear from the policy is that it is not seeking anything that could be described as excessive – it merely seeks to ensure that a development will have the necessary infrastructure to enable it to proceed; in other words, to ensure sustainable development. By explaining that each obligation would be negotiated on a site-by-site basis, the policy clearly acknowledges the need to take viability considerations into account. In all cases, the national tests for planning obligations, contained in paragraphs 204 and 205 of the NPPF, will apply.
- 3.57 The conclusion is, therefore, that this policy has the potential to result in a cost burden for a developer, but that cost burden is something that any developer might reasonably be expected to bear as part of the normal activity of undertaking development. There is nothing in the policy to suggest that the burden would be unjustified or so great as to render all development unviable.

**Policy CS14 – Responding to Climate Change and Managing the Risk of Flooding in Fenland**

- 3.58 There are two parts to this policy.

- 3.59 Part A says that the Council will expect all developments over a certain threshold to demonstrate what reasonable contribution they will make towards minimising resource consumption above and beyond what is required by the Building Regulations. The policy includes examples of what a developer could do “through negotiation”. Developments are “encouraged” to incorporate on site renewable and/or decentralised renewable or low carbon energy sources, water saving measures and measures to help the development withstand the longer term impacts of climate change. This part of the policy also sets out the Council’s approach to proposals for renewable energy development. Finally, it explains the circumstances in which the Council will accept an “allowable solution” – a financial contribution to some form of local offset fund where a developer cannot meet the requirements of the Building Regulations (or other regulations), in respect of carbon emissions reduction, on-site.
- 3.60 Part B of the policy deals with flood risk and drainage. After identifying the evidence sources that will be used in reaching decisions on planning applications, it explains the circumstances under which planning permission might be granted in areas at greater risk of flooding. It requires the use of sustainable drainage systems for developments on all previously developed undeveloped sites and on developed sites where feasible. The discharge of surface water from developments should be designed to contribute to an improvement in water quality in the receiving water course or aquifer.
- 3.61 Again, there is no doubt that the operation of this policy will impose some costs on some developments (but not necessarily on all). Under part A, certain developments will have to make a ‘reasonable contribution’ to minimising resource consumption, but the explicit use of the words ‘reasonable’ and ‘through negotiation’ makes it clear that these are not inflexible standards that are being imposed. The policy is worded in a flexible way that seeks to improve the sustainability characteristics of new development, whilst accepting that this cannot be done with a ‘one size fits all’ solution.
- 3.62 It should also be noted that, by the point of the Hearing Sessions of the examination of the Core Strategy, the Council hopes to have published a draft SPD on the implementation of this part of the policy, which will further demonstrate that, to meet the ‘reasonable contribution’ requirement of the policy, there will only be a limited, if any, cost burden on the developer.
- 3.63 The section of the policy dealing with allowable solutions ought to be neutral in its cost impact. This is because it is simply setting out an alternative way in which a development can fulfil its requirements under national Building Regulations, rather than achieving them on-site. It is not imposing any new local burden.
- 3.64 Part B has the potential to impose costs on a developer – for example, in relation to flood mitigation and prevention works, and drainage infrastructure. These are items that can reasonably be expected as part of the normal activity of undertaking development, particularly in an area like Fenland, where there are large areas of flat, low-lying land at greater potential risk of flooding. The requirements of this part of the policy are perfectly legitimate to achieve safe, sustainable development, consistent with paragraphs 99 to 103 of the NPPF, and cannot reasonably be regarded as an ‘additional’ burden on development.
- 3.65 The conclusion is, therefore, that this policy has the potential to result in a cost burden for a developer, but that cost burden is something that any developer might reasonably be expected to bear as part of the normal activity of undertaking development. There is nothing in the policy to suggest that the burden would be unjustified or so great as to render all development unviable.

### **Policy CS15 – Facilitating the Creation of a More Sustainable Transport Network in Fenland**

- 3.66 There are three parts to this policy.
- 3.67 Part A establishes the vision for a sustainable transport network in Fenland, including a reference to the Local Transport Plan or its successor document.
- 3.68 Part B identifies eleven transport objectives, under the sub-headings of 'Strategic Transport Infrastructure', 'Public and Community Transport Infrastructure' and 'Walking & Cycling Infrastructure'. All development proposals should contribute to their delivery either directly where appropriate or indirectly (such as through some form of developer contributions or CIL financial payment).
- 3.69 Part C sets out the criteria that development proposals would have to meet, dealing with such matters as accessibility, public highway works, transport statements, design and parking standards.
- 3.70 There is nothing in part A that imposes any costs on development.
- 3.71 A developer could meet the requirements of Part B simply through the way in which the development is designed; or through the making of some form of financial contribution. If the latter is achieved in due course through payment of a CIL charge, then the burden would have been tested via examination of the CIL Charging Schedule, and the actual charge rate would have been set at a level that took into account the economic viability of development across the area. Until then, any contribution will be negotiated as a planning obligation, and the national tests contained in paragraphs 204 and 205 of the NPPF, will apply. Under these circumstances, the Council would not be able to demand a contribution that would render the development unviable.
- 3.72 Part C of the policy will operate in a similar way to part B. It does not impose any rigid, inflexible standards, but places requirements on a development that any developer might reasonably be expected to bear as part of the normal activity of undertaking development.
- 3.73 The conclusion is that parts of this policy have the potential to result in a cost burden for a developer, but that cost burden is something that any developer might reasonably be expected to bear as part of the normal activity of undertaking development. Where the Council might seek a contribution to achieve broader transport objectives, this will either be done via CIL (which has its own mechanism for testing economic viability through an examination before it can be brought into effect); or via a planning obligation, where the Council must adhere to the national tests in the NPPF. Accordingly, there is nothing in the policy to suggest that the burden would be unjustified or so great as to render all development unviable.

### **Policy CS16 – Delivering and Protecting High Quality Environments across the District**

- 3.74 Policy CS16 seeks to ensure that new developments deliver a high quality environment in all respects, protecting and enhancing amenity and features of value in the existing environment. There are 13 criteria against which proposals for new development will be judged. These are wide-ranging, covering such matters as heritage assets, biodiversity, local distinctiveness and character, residential amenity, landscaping and the provision of open space.
- 3.75 These criteria can be regarded as representing the fundamental aspects of good planning, consistent with national policy as expressed in the NPPF. They will

require a development to achieve or deliver certain things, but none of these are particularly innovative or onerous. They are matters that any development might reasonably be expected to achieve or deliver as part of the normal planning process in any local planning authority area.

- 3.76 Criterion (g) requires developments to provide open space in accordance with standards which appear in Appendix B. If on-site provision of open space is impracticable, there is the possibility of making a financial contribution of equivalent value instead. Clearly, the provision of open space (or a financial contribution) represents a cost to a developer, but the standards are not set at an excessive level and are justified on the basis of securing sustainable forms of development that meet the needs of the community. The Appendix makes it clear that there will be a separate SPD to explain how financial contributions will be sought in circumstances when there is no on-site provision. This will be the point when the Council sets out its approach to negotiations to take viability considerations into account.
- 3.77 In conclusion, the policy does not impose any cost burdens other than those which are a normal part of the development process. The most significant costs are likely to arise from the need to provide open space (or a financial contribution of equivalent value), but these, too, can be regarded as being a normal part of the development process.
- 3.78 Indeed, one might argue that the thrust of the policy (high quality environments) will lead to more viable development due to the higher value developers can command for well designed development schemes.

#### **Policy CS17- Community Safety**

- 3.79 This policy requires new development proposals to demonstrate how they create safe environments and prevent crime, by reference to eight criteria.
- 3.80 The criteria can all be satisfied through a good design solution and are unlikely to result in any excessive cost burden for a developer.

#### **Policy CS18 – The Historic Environment**

- 3.81 This policy explains the various ways in which the Council will protect, conserve and seek opportunities to enhance Fenland's historic environment. It sets out the matters that a development proposal that would affect a heritage asset will be required to address, and confirms that development proposals that would affect a heritage asset will be determined in accordance with local policy and national policy, as set out in the NPPF.
- 3.82 The policy was devised at the request of, and support by, English Heritage.
- 3.83 It does not impose any cost burdens other than those which are a normal part of the development process.

#### **Policy CS19 – The Natural Environment**

- 3.84 This policy explains the various ways in which the Council will conserve, enhance and promote the biodiversity and geological interest of the natural environment throughout Fenland. These ways include the development delivery process. There is a reference to the possible use of planning obligations (for example, to secure appropriate mitigation and/or compensation measures or a net gain for biodiversity).

- 3.85 The policy does not impose any cost burdens other than those which are a normal part of the development process. If the Council were to seek a planning obligation, this would have to comply with the national tests for planning obligations, contained in paragraphs 204 and 205 of the NPPF, and so would not render the development unviable.

#### 4. **Overall Conclusion**

- 4.1 The overall conclusion is that there are clearly policy requirements in the Plan that represent a cost for a developer. It would be remarkable if that were not the case – developers routinely factor a whole range of costs associated with site preparation, construction, mitigation and the provision of infrastructure, into their financial calculations prior to and during any construction project.
- 4.2 What is relevant, in terms of the tests in paragraphs 173 and 174 of the NPPF, is whether the burden of those costs is excessive or so onerous as to put implementation of the Plan at serious risk; whether the sum of all requirements will still provide competitive returns to a willing land owner and willing developer to enable development to be deliverable.
- 4.3 The analysis has found that the great majority of policies either have no impact on development viability or impose requirements that are fully justified in order to achieve sustainable development, and whose costs any developer might reasonably be expected to bear as part of the normal activity of undertaking development.
- 4.4 Where policies specifically refer to the use of planning obligations (for example, in relation to affordable housing, infrastructure provision, open space or transport) there is usually a reference to the Council's willingness to negotiate. In the case of Policy CS5, concerning affordable housing, it is explicitly stated that the Council, in undertaking negotiations "will take into account the financial viability of any individual scheme (using a recognised viability model)".
- 4.5 None of the policies demand absolute compliance with some standard without the possibility of any negotiation. Furthermore, in any circumstance where the Council seeks a planning obligation in order to satisfy the requirements of one of the policies, it will be bound by the tests in paragraphs 204 and 205 of the NPPF, thus ensuring that viability considerations come into play.
- 4.6 The plan avoids many of the 'local standards' which many Local Plans often attempt to impose without negotiation, such as Code for Sustainable Homes, Space Standards, Lifetime Homes, Wheelchair Access, Merton Rule and many more.
- 4.7 Finally, where a policy refers to the possibility of using CIL in the future, this will not place any excessive cost burden on development. This is because the CIL rate or rates must, in law, be set so that they take into account the potential effects (taken as a whole) of their imposition on the economic viability of development across the local authority area. The rate(s) will be set in the full knowledge of all the other requirements which will have already been established through the adoption of the Plan.
- 4.8 Therefore, it can be concluded that the policies in the Plan do not, when considered in combination, and together with national requirements from the NPPF, put implementation of the Plan at serious risk.

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