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Please ask for: Clare Medland

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Our Ref: CM/CM

Your Ref:

Date: 15th March 2021

Dear Mr Kemp,

Tewkesbury Borough Plan – Viability Update

We write further to your email of the 8 March 2021 advising of the additional information pertaining to the Borough Plan viability and inviting comments on four questions set out by the Inspector.

Gloucestershire County Council welcomes the Viability Addendum ('the Addendum') produced by Tewkesbury Borough Council and comments as follows in respect of the questions presented:

- 1) Does the updated information adequately assess the impact of current practice in relation to higher S106 contributions?

The Addendum suggests that it was the change in the CIL Regulations in 2019 that affected the manner in which CIL and S106 contributions were sought from development proposals. This is not correct.

During the Examination of the Tewkesbury CIL Charging Schedule, the way CIL and S106 contributions were seeking to be sought and applied changed, with the final adopted version of the CIL Charging Schedule and its associated Regulation 123 list (October 2018) making it clear that where the development itself had an impact on education provision and social and community facilities S106 contributions would be sought. Thus, maintaining the 'status quo'.

This interpretation of the CIL regime in Tewkesbury has been reinforced by a number of Inspectors in recent appeal decisions. I attached two recent appeal decisions by way of example: Land at Stoke Road, Bishop's Cleeve (APP/G1630/W/19/3229581) and Land off Ashmead Drive, Gotherington (APP/G1630/W/20/3256319)/

The Addendum proceeds to advise that the County Council's position in respect of contributions is an 'interim position'. The County Council has consistently sought developer contributions towards community facilities and education in accordance with the stated position within the Local Developer Guide 2016. The financial sums sought reflect inflation and the most up to date information pertaining to Pupil Product Ratios, in accordance with the DfE guidance. This is not therefore an 'interim position'.

Gloucestershire County Council welcomes range of contributions being tested within the Addendum. This is reflective of the unknown exact position pertaining to availability of school places at this time and that the full extent of contributions to be sought can only be ascertained when considering individual planning applications, at which time the availability of school places can be ascertained. As correctly identified within the conclusions to the Addendum, “there maybe no or little requirement for s106 contributions, including education contributions, on sites where there is existing capacity within local infrastructure to absorb their potential impacts.”

To test a range of potential s106 contributions is therefore entirely appropriate when testing viability.

- 2) Should the updated sales values and/or build costs in Addendum Note 1 be taken into account?

Addendum Note 1A identifies updated sales values and build costs, when comparing to the 2019 Viability Assessment, there has been a significant increase in sales value of between 11-12% for dwellings and approximately 9% for flats. The build costs remain relatively static, showing a less than 1% change in costs per sqm.

This therefore shows an increase in profitability of development.

In order to ensure an accurate assessment of viability to be considered, Gloucestershire County Council is of the opinion that the updated sales and build costs should be taken into account.

- 3) In the light of new viability information, are there any implications for the policies in the submitted TBP?

The Addendum concludes that site BRO1 is viable with the lower level of S106 contributions, the Addendum correctly identifies that an application for this site has been submitted for 166 dwellings. This was granted in December 2020.

COO1 is identified as being unviable at any level, however, as the Addendum identifies, an application has been submitted for 150 dwellings. The Applicant for this site has appealed against the non-determination of the application. In December 2020 submitted a ‘Wheatcroft’ amendment to request that the scheme being considered at appeal be amended to 95 dwellings. The Applicant/Appellant in respect of this pending proposal are regular developers within Tewkesbury and are therefore familiar with the nature of s106 contributions sought. It is therefore assumed the Applicant/Appellant would be able to provide evidence to the Examination demonstrating that the site remains deliverable, should the Inspector have any reservations.

As these are the only two sites that are affected by the change in the viability assessment, Gloucestershire County Council do not consider that this updated information effects the efficacy of the policies within the emerging Borough Plan.

- 4) Following on from (3), taken as a whole, would the policies in the submitted TBP together with those in the JCS undermine the deliverability of the TBP, and if so, what are the implications of this?

There is a clear need to ensure education places are available to meet the needs arising from residential developments, where there is a shortfall in places available, if developer contributions are not sought it falls to the County Council to fund those places as the Local Education Authority has a statutory duty to ensure a school place is available for all pupils requesting one.

The allocation of sites that are known to be unviable and therefore likely to challenge developer contributions at application stage should be resisted, as a lack of developer contributions places an inordinate burden on the 'public purse', in favour of developer profit.

We trust this is of assistance to the Inspector in considering the Addendum.

Yours sincerely,



Clare Medland

Head of Service - Commissioning for Learning

Education, Children's Services