

## **Plan:MK**

Representations to Examination in Public –  
Infrastructure and Viability

## **Written Statement**

Matter 7, Issue 4: Plan-wide Viability

August 2018

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**Client**

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# 1. Introduction

- 1.1 These representations form a written statement submitted on behalf of Hermes CMK GP Limited (our “Client”), which provides responses to the Inspector’s Matters, Issue and Options in relation to Matter 7: Infrastructure and Viability.
- 1.1 Our client holds the controlling interest in the draft allocation CMK Food Centre site, which is identified for 298 units within Plan:MK. The site, in its entirety, extends to approximately 6 acres (2.43ha). Having conducted initial feasibility, the client considers that the CMK Food Centre site has the capacity to accommodate a higher density development of up to 1,000 institutionally funded PRS units (interchangeably referred to as ‘Build to Rent’/BTR). This reflects a density of 412 dwellings per gross hectare.
- 1.2 A development of this scale, height and density would not be dissimilar to the PRS scheme already permitted, and presently under construction, in close proximity on Land At 809 To 811 Silbury Boulevard, Central Milton Keynes (ref: 16/03038/FUL)<sup>1</sup>.
- 1.3 Given discussions at earlier EIP Hearing Sessions where concern was expressed by various parties regarding the ability of the Council to meet its objectively assessed needs (OAN) over the plan period (due to prospective infrastructure delivery/funding constraints impacting on the deliverability major allocations), additional sites may need to be identified to meet the OAN – or additional capacity generated by increasing the dwelling yield in existing allocations. The opportunity posed by increasing the capacity of the CMK Food Centre allocation, to deliver a scheme of up to 1,000 PRS units in Central Milton Keynes, would alleviate the risk to the deliverability of Plan:MK posed by infrastructure delivery/funding constraints on other site allocations.
- 1.4 This written statement should be framed by this context. Specifically, this written statement responds to questions 7.11 and 7.12 within Matter 7, which are set out under Issue 4 of the Inspector’s Matters, Issues and Questions (May 2018) for the Plan:MK Examination.
- 1.5 For completeness, it is recommended that this written statement is read in conjunction with the response to Matter 8 (Issues 1, 2 and 5) prepared on behalf of our client due to a degree of overlap.
- 1.6 Our representations continue to rely on those submitted to previous consultations of Plan:MK, including the Preferred Options and Proposed Submission stages.
- 1.7 This written statement will focus on the following:
  - a. Which part of Plan:MK is unsound;
  - b. Which of the soundness criteria it fails to meet;

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<sup>1</sup> Description of development: The demolition of the two existing buildings and the erection of one building of up to seven storeys in height comprising commercial floorspace (Use Class A1, A2, A3, A4, A5, B1 or D1) ancillary uses at ground floor; and 139 residential apartments (Use Class C3) on upper floors; together with landscaped gardens, off road car and cycle parking, and associated works.

c. Why it fails;

d. How Plan:MK can be made sound; and

e. The precise modifications or amendment to wording we are seeking.

1.8 Our consideration of soundness is based on the criteria set out in paragraph 182 of the National Planning Policy Framework (NPPF), 2012<sup>2</sup>. To surmise, this is that Plan:MK is:

- Positively prepared;
- Justified;
- Effective; and
- Consistent with national policy.

1.9 **Section 2** comprises our representations on behalf of the client, and commentary on the soundness of the emerging Plan:MK, in relation to viability. This is considered in light of the prevailing national planning policy and guidance requirements (as well as the overarching legislation, as relevant).

1.10 In summary, it is our view that the emerging Plan:MK does not meet the criteria for soundness as set out in paragraph 182 of the NPPF 2012.

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<sup>2</sup> Reflecting that, paragraph 214 of the NPPF 2018 confirms that the policies in the previous NPPF (2012) will apply for the purpose of examining plans, where those plans are submitted on or before 24 January 2019.

## 2. Inspector's Matters, Issues and Questions

### Matter 7: Infrastructure and Viability

#### Issue 4: Viability

***Q7.11: Has the preparation of the Plan ensured that collectively its policies and proposals are viable and deliverable? (NPPF paragraphs 173-177). Is there a reasonable prospect that necessary infrastructure to support the Plan's proposals will be delivered in a timely fashion?***

- 2.1 In responding to the first part of the Inspector's question, the preparation of the Plan has not ensured that, collectively, its policies and proposals are viable and deliverable in accordance with paragraphs 173-177 of the NPPF (2012). Resultantly, Plan:MK does not meet the soundness tests of paragraph 182 of the NPPF.
- 2.2 Due to the nature of our client's specific interests, we are particularly concerned with Part C of Policy HN2, which requires that Build to Rent (BTR) development will be required to provide 31% affordable housing as a discounted market rent (DMR) product, which will be managed by the BTR operator, or as an alternative financial contribution in lieu of on-site DMR provision.
- 2.3 The policy requires that housing costs for DMR units to be set at no more than 31% of a gross household income. However, this poses several major issues for soundness:
  - (a) It is unclear as to how this income measure is to be calculated, which dataset is to be used, and how this should be applied to units of different sizes (by bedrooms).
  - (b) From an evidential basis, there is no justification provided for the setting of the rate of 31% of gross household income.
  - (c) The requirement for 31% affordable housing provision in BTR schemes directly contradicts the underpinning viability evidence, which is set out within the MK Whole Plan Viability Study (MK/INF/006). This concludes that BTR development cannot viably accommodate affordable housing alongside the other collective policy requirements of Plan:MK.
- 2.4 In light of the above, and on the basis that Part C of Policy HN2 is inconsistent with paragraphs 173-174, it is our considered view that Policy HN5 does not meet the soundness tests of paragraph 182 of the NPPF.
- 2.5 Strictly speaking, to rectify this and in the absence of any available evidence to the contrary, Part C of Policy HN2 should be replaced with a concise policy wording that confirms that PRS/BTR development, where conforming with the Council's definition of 'Build to Rent' as set out under paragraph 7.19 of Plan:MK, will be exempt from any requirement to provide affordable housing (i.e. a 0% requirement).

2.6 However, in recognising that this is unlikely to be satisfactory to the Council, the client is supportive of a pragmatic compromise position being adopted. It is recommended that Part C of Policy HN2 is revised to reflect the Government's national policy set out within the NPPF (2018) and draft Planning Practice Guidance (PPG) on Build to Rent, which was published by MHCLG for consultation in March 2018 (ref: ISBN 978-1-4098-5214-8).

2.7 Annex 2 (Glossary) within the NPPF introduces a definition for BTR in order to simplify its treatment in the planning system:

**Build to Rent:** *Purpose built housing that is typically 100% rented out. It can form part of a wider multi-tenure development comprising either flats or houses, but should be on the same site and/or contiguous with the main development. Schemes will usually offer longer tenancy agreements of three years or more, and will typically be professionally managed stock in single ownership and management control.*

2.8 Annex 2 (Glossary) within the NPPF defines affordable housing provision within BTR development as 'Affordable Private Rent', which is set at least 20% below local market rents (including service charges where applicable). For clarity, the relevant section (a) is set out as follows:

**a) Affordable housing for rent:** *meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).*

2.9 Draft PPG on Build to Rent has not yet been published in final form, but is expected to be in place by October 2018, based on Turley's liaison with MHCLG. The draft guidance expects Local Planning Authorities to encourage BTR development. It states, on p.52, that 20% is a suitable general benchmark for the level of Affordable Private Rent provision (to be maintained in perpetuity) in any build to rent scheme. If a Local Planning Authority wishes to set a different proportion then this should be justified based on evidence from their local housing needs assessment. Similarly, any benchmark set within Local Plan policy should be flexible to alteration subject to viability assessment.

2.10 The draft guidance proceeds to confirm on p.53 that both the proportion of affordable private rent units, and discount offered on them can be varied across a development, over time. Similarly, it should be possible to explore a trade-off between the proportion of discounted units and the discount(s) offered on them, with the proviso being that these should accord with the headline affordable housing contribution agreed through the planning permission.

2.11 The above should be reflected in Part C of Policy HN2, and supporting text, in Plan:MK.

**Q7.12: Does the viability assessment work take account of all the Plan's policy requirements? Does it show that there would be a competitive return to developers and landowners?**

- 2.12 As set out in response to Q7.11, the MK Whole Plan Viability Study (MK/INF/006) demonstrates that Part C of Policy HN2 is both unviable and undeliverable. It specifically states the following with respect to PRS/BTR development at paragraph 10.70 on p.163:

*...typologies which are modelled as Private Rented Schemes and on the assumption that the use of the schemes will be restricted to a PRS use through some form of planning restriction...are shown as not being viable as the value of housing that is restricted to being Private Rented Sector (PRS) housing is different (less in Milton Keynes) to that of unrestricted market housing...If the council is to plan for PRS housing, this should not be subject to affordable housing.*

- 2.13 This is reinforced in paragraph 10.71, which states:

*This sector should not be subject to affordable housing.*

- 2.14 This evidence is clearly set out within Table 10.4 Residential Development – Residual Values Cumulative Impact of Policy Requirements on p.140 of the MK Whole Plan Viability Study (MK/INF/006), this confirms that the full cost (assumed) of meeting policy requirements renders large brownfield sites (120 units) as 'marginal' (i.e. without viability buffer allowance as required by PPG on Viability at Paragraph: 008 Reference ID: 10-008-20140306).

- 2.15 In addition, of greater concern, the full cost (assumed) of meeting policy requirements renders flatted development with undercroft parking (Site 15) and PRS development (Site 22 and 24) in Central Milton Keynes as financially unviable.

- 2.16 All brownfield, flatted and PRS development site typologies in the City core / Older Centres and City market locations are also financially unviable when the full cost (assumed) of meeting policy requirements is applied.

- 2.17 As a result, the MK Whole Plan Viability Study (MK/INF/006) confirms that Part C of Policy HN2 fails to comply with paragraph 173 of the NPPF, which requires that 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. Equally, paragraph 174 requires that policies in the Plan should facilitate development, and be based upon appropriate available evidence.

- 2.18 Having reviewed the MK Whole Plan Viability Study (MK/INF/006), we have the following further concerns:

- A cost of £5/m<sup>2</sup> has been allowed on development for 'Energy and Carbon'. Whilst lacking clarity, this is assumed to reflect the estimated costs on development of Policy SC1 part B. Energy and Climate. There is, however, no

confirmation as to how this cost has been arrived at, no underpinning build up, or clarity as to what the aspects of the policy the cost meets. This does not provide appropriate evidence to justify that the rate of £5/m<sup>2</sup> will be sufficient to meet the cost of Policy SC1 part B. Energy and Climate.

- The MK Whole Plan Viability Study (MK/INF/006) does not appear to include the full cost of part 2 of Policy SC1 part C. Water – specifically with respect to both the cost of meeting the water efficiency standard of 110 litres/person/day and requirement for rainwater harvesting.
- There is no specific allowance made in the MK Whole Plan Viability Study (MK/INF/006) viability testing for the cost of Policy CC1 (Percent for Art), which is stated as being 0.5% of the capital cost of new development. There is, instead, a notional ‘lump sum’ allowance of £20,000/unit introduced into the viability assessment of site typologies to hypothetically cover all Section 106 (S106) planning obligations. It is unclear as to whether the £20,000/unit is representative of the full Section 106 costs to be applied to development via policy within Plan:MK. In applying a notional allowance, no elemental ‘build up’ has been provided by either the Council or within the MK Whole Plan Viability Study (MK/INF/006) in order to test the appropriateness of this against the likely cumulative impacts on development of policies that support Plan:MK. The latter is a requirement of paragraph 174 of the NPPF. By way of an example, when tested in an site typology (Site 1 Strategic Green 1,000) and drawing on the appraisal figures within the MK Whole Plan Viability Study (MK/INF/006), then 0.5% of the stated development cost (of £136,146,056 assuming the base cost only ) would equate (on 1,000 units) to £6,807.30 per unit. This is a very considerable sum – representing 34% of the entire £20,000/unit allowance modelled within the MK Whole Plan Viability Study (MK/INF/006).

2.19 On the basis of the above, it does not appear that the full, evidenced costs of policies within Plan:MK have been tested cumulatively for the impact on development viability in accordance with paragraph 174 of the NPPF, meaning that the Council has no evidence to demonstrate that policies, as drafted, is viable in combination with other policy requirements of Plan:MK.

2.20 Resultantly, Plan:MK does not meet the soundness tests of paragraph 182 of the NPPF.

***Q7.13: In addition to funding from development, how will other agencies and organisations will be involved in delivering this spatial Plan? What level of commitment/agreement is there? Are there review mechanisms given the changeable nature of funding? Explain what funding is currently secured and what funding gap remains?***

2.21 This is considered to represent a question for the Council to respond to.



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