

Plan:MK

Representations to Examination in Public –
Policies for Managing Development

Written Statement

Matter 8, Issues 1, 2 and 5

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 8: Policies for Managing Development.
- 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)¹.
- 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 8.1, 8.2, 8.3 and 8.5 within Matter 8, which are set out under Issue 1 of the Inspector’s Matters, Issues and Questions (May 2018) for the Plan:MK Examination.
- 1.5 It also responds to questions 8.10 and 8.12, which are set out under Issue 2, and question 8.23, which is set out under Issue 5 of the Inspector’s Matters, Issues and Questions (May 2018) for the Plan:MK Examination.
- 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;

¹ 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), 2012². 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.

² 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 8: Policies for Managing Development

Issue 1: Homes and Neighbourhoods

Q8.1: Does the Plan adequately address the needs for all types of housing and the needs of different groups in the community as required by paragraph 50 of the NPPF? Do Policies HN1 (Housing Mix and Density), HN3 (Supported and Specialist Housing) and HN4 (Adaptability of Homes) give clear and sufficient guidance about the basis on which planning applications will be determined in order to meet the Plan's expectations in this regard?

2.1 This is considered to be a question for the Council to answer.

Q8.2: Is the Borough wide target for affordable housing in Policy HN2 sufficiently clear and is it viable and deliverable? Does the Policy present a pragmatic approach to deliver a variety of affordable housing options and is it consistent with national policy? Should the Policy allow for off-site contributions where this would aid viability under Part B of the policy?

2.2 Part C of Policy HN2 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. As an alternative, a financial contribution in lieu of on-site DMR provision will be accepted, with the financial contribution to be subject to viability assessment.

2.3 The client welcomes the flexibility in Part C of Policy HN2 to allow for affordable housing provision by way of a financial contribution.

2.4 However, Part C of Policy HN2 is significantly lacking in clarity to the point at which it is not possible to determine how the policy should be interpreted and implemented. Specifically, it states that:

...the Council will require housing costs to be set at no more than 31% of a gross household income. Household income data for Milton Keynes should be calculated using the most up to date data from the Office of National Statistics (ONS - or any successor government body/agency). If the ONS subsequently publishes data at a Milton Keynes administrative district level, then this will be preferred.

2.5 From a practical perspective the policy wording provides no explanation of which measure of 'gross household income' is to apply, how this is to be calculated, which dataset is to be used and how this should be applied to units of different size (by bedrooms). Equally important for a test of soundness, from an evidential basis, there is no justification provided for the setting of the rate of 31% of gross household income.

- 2.6 Confusingly, the policy text proceeds to state that ‘any rent set’ should be below the median private sector rent for the applicable dwelling type in Milton Keynes as set out by the Valuation Office Agency (or any successor government body/agency) Statistics in its Private Rental Market. This infers that there are two tests to be applied to the setting of rental levels in BTR schemes, with the lower measure forming the ceiling for setting rents. It is, however, unclear whether the reference to ‘any rent set’ is relevant only to affordable housing provision or if it also includes market rent units, which would be highly inappropriate.
- 2.7 Moreover, the requirement for 31% affordable housing provision in BTR schemes is not justified based on the underpinning viability evidence, which is set out within the MK Whole Plan Viability Study (MK/INF/006).
- 2.8 Table 10.6 Residential Development – Residual Values Impact of Affordable Tenure based on 31% Requirement, which is set out on p.144 of the MK Whole Plan Viability Study (MK/INF/006), clearly demonstrates that the BTR scheme typologies tested generate highly unviable results when subject to 31% affordable housing (with provision tested on the basis of affordable rent tenure).
- 2.9 Furthermore, the MK Whole Plan Viability Study (MK/INF/006) firmly concludes 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.*
- 2.10 This is reinforced in paragraph 10.71, which states:
- This sector should not be subject to affordable housing.*
- 2.11 If the Council is including a specific policy applicable to PRS/BTR development, as is the case within Part C of Policy HN2, it rationally follows that Plan:MK is planning for this type of development.
- 2.12 Consequently, 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.
- 2.13 As an indicator of market signals, we note that the aforementioned PRS scheme permitted on Land At 809 To 811 Silbury Boulevard, Central Milton Keynes (ref: 16/03038/FUL) is subject to a Section 106 Agreement (dated 3 March 2017), which covenants that the proposed development will include 14no. 1-bed units as DMR with

the rent capped at 85% of Market Rent. This equates to affordable housing provision of 10% of the total units permitted. It demonstrates that if the DMR was capped at less than 85% of Market Rent, then the provision of affordable units would decrease to between 9% and 0% (dependent on the scale of discount). Whilst this confirms that a modest proportion of affordable housing can be provided (albeit circumstances will be site-specific), it is clear that provision within BTR development in Central Milton Keynes will be highly restricted in order for development to be financially viable. This has evidently already been recognised and accepted by the Council in respect of this permitted scheme.

- 2.14 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.
- 2.15 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).
- 2.16 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).
- 2.17 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.

- 2.18 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).

- 2.19 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.
- 2.20 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.
- 2.21 The above should be reflected in Part C of Policy HN2, and supporting text, in Plan:MK.

Q8.3: Is Policy HN4 consistent with the Written Ministerial Standard (March 2015) and Planning Practice Guidance on optional technical standards for housing? In particular are the proposed nationally described space standard and accessibility standards:

i) Locally justified by the particular evidence for MK as required by PPG? (paras 56-002-20160519) Does the Council's 2017 assessment (MK/HOU/002) for NDSS justify the inclusion of the standard in Policy HN4? What is the evidence base for accessible and adaptable housing (PPG paras 56-005 to 007-20150327)? Having regard to PPG para 56-009-20150327 should M4(3) housing only be applied to affordable provision?

ii) Viable taking into account all other Plan:MK requirements? (PPG 56-003-20150327)

iii) Have the impacts of Policy HN4 been considered as part of the assessment of housing land supply in terms of net densities and market delivery?

- 2.22 Part (i) is considered to be a question for the Council to answer.
- 2.23 In responding to Part (ii) of the Inspector's question, it appears that the MK Whole Plan Viability Study (MK/INF/006) makes the following allowances for meeting the requirements set out in Policy HN4 (stated in paragraph 10.9 on p.128):
- Accessible and Adaptable on 65% of homes: £6.5/m² (£1,000x0.65).
 - Wheelchair on 5% Market and 10% Affordable: £10/m² (£6,500x15%)
- 2.24 There is no explanation for how the costs utilised have been calculated, or the evidence upon which they are based. This is a clear deficiency, as it is unclear whether

the costs are realistic or justified or can be relied upon for the purposes of testing the deliverability of the plan.

- 2.25 Moreover, when reviewing Table 10.2b Residential Development – Residual Values Compared to Viability (£/ha) Full Policy Requirements - Central MK, on p. 134 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 as ‘marginal’ (i.e. without viability buffer allowance as required by PPG on Viability at Paragraph: 008 Reference ID: 10-008-20140306).
- 2.26 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) as financially unviable.
- 2.27 This issue is further clearly demonstrated in 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), which also shows the estimated impact on viability of introducing District Heating.
- 2.28 In summary, the evidence base confirms that it will be necessary for cumulative policy costs to be reduced in order to support financially viable PRS development.
- 2.29 Part (iii) is considered to be a question for the Council to answer.

Q8.5 Are the requirements in Policy HN5 for self-build and custom housebuilding justified and deliverable? Is it consistent with the PPG content at Section 57 (July 2017)?

- 2.30 Policy HN5 sets out the Council will seek for the allocations set out within Plan:MK to make provision for serviced plots of land to contribute towards meeting evidenced demand for Self-build and Custom Housebuilding in the Borough. In particular, the Council will strongly support proposals for self-build and custom housebuilding that involve the creation of low-cost and Affordable Housing.
- 2.31 Policy HN5 is highly generalised and does not clearly set out the scale of provision required to be made within allocations, which is in appropriate. Neither policy HN5 nor supporting commentary in paragraph 7.43 provides the necessary clarification. There is no direction for applicants towards underpinning evidence to demonstrate demand for Self-build and Custom Housebuilding in the Borough. There is no clarity as to how the requirements of paragraph 011 (Reference ID: 57-011-20160401) of PPG for Self-build and Custom Housing have been met by the Council, or to how this has directly underpinned the requirements of Policy HN5.
- 2.32 Paragraph 173 of the NPPF (2012) requires the following in plan-making:

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.

- 2.33 The Council's evidence for testing the implications on viability of Policy HN5 is set out within the MK Whole Plan Viability Study (November 2017) (MK/INF/006). Due to the lack of specificity in Policy HN5, the MK Whole Plan Viability Study (MK/INF/006) states at paragraph 10.74 on p.166:

The new policy HN2 requires self-build and custom build plots to be incorporated on strategic sites. The policy is not specific. In order test the effect such a policy it is necessary to make some assumptions – although it is important to note that these are assumptions and not the Councils position of preference. A requirement of 5% on sites of 20 units and over has been considered.

- 2.34 The lack of specificity in Policy HN5 is clearly referenced as a limitation on the assessment of the impact of the policy on the viability of identified allocations within the Plan:MK. Instead, it has been necessary to introduce assumptions on the scale and nature of required provision, which are specifically cited as being inconsistent with the Council's 'position of preference'. The latter, however, remains unstated.

- 2.35 Moreover, the methodology applied to viability testing of Policy HN5 within the MK Whole Plan Viability Study (MK/INF/006) falls short of the requirements set out within paragraphs 173-174 of the NPPF (2012) and PPG on Viability (Paragraph: 006 Reference ID: 10-006-20140306).

- 2.36 It does not actually test the implications of introducing Policy HN5 within the viability assessment of development typologies reflecting the scale and nature of identified allocations within the Plan:MK.

- 2.37 Instead, a basic comparison exercise is undertaken drawing on a limited range of single /small plot asking prices, and drawing broad conclusions regarding arising profit generated. This is inadequate, as it provides no detail on the comparability of the single /small plots cited in Table 10.15 on p.166, which means:

- their representativeness as serviced plots of land (in accordance with the Council's expectations for provision) cannot be ascertained; and
- it is unclear whether the sites are serviced or un-serviced or other local market or site-specific locational factors are influencing the asking prices; and
- the examples reflect asking prices – not transactions, and it is unclear as to whether the asking prices are realistic or achievable.

- 2.38 The conclusions are drawn by comparing the asking prices of the single /small plots cited in Table 10.15 with the profit level arising (average) from wider development site typologies tested elsewhere in the MK Whole Plan Viability Study (MK/INF/006). It is stated at paragraph 10.80 on p.166 that:

Based on the above analysis it is unlikely that the requirements for self-build plots will adversely impact on viability.

- 2.39 This does not fulfil the requirements of the NPPF (2012).
- 2.40 Moreover, there is no testing of the implications on viability – or practical delivery – of Policy HN5 upon sites allocated with suitability for higher density apartment development within Plan:MK. It is considered that Policy HN5 would neither be deliverable (in a practical sense) or financially viable, if applied to higher density schemes of apartments.
- 2.41 Despite the policy prospectively representing a cost to development, Policy HN5 makes no reference to the policy being subject to viability.
- 2.42 For the reasons set out above, it is our considered view that Policy HN5 does not meet the soundness tests of paragraph 182 of the NPPF.
- 2.43 If retained, Policy HN5 must be amended to:
- be specific in the provision sought by the Council and justify this via robust evidence of need and demand;
 - reflect robust evidence on viability that confirms that the scale of provision specified does not render sites of the type and scale allocated undeliverable or unviable;
 - confirm that the policy does not apply to apartment developments; and
 - confirm that propensity for provision can be tested subject to viability on a site-specific level during the decision-making process.

Issue 2 - Design & Sustainable Construction

Q8.10: Is the requirement for a 19% carbon reduction above Part L 2013 Building Regulations and on site renewable energy generation or connection to a renewable energy scheme that contributes to a further 20% reduction in the residual carbon emissions justified, effective and consistent with national policy (NPPF paragraphs 95 and 96)? Would it be viable in combination with other policy requirements of Plan:MK?

- 2.44 It is not considered that this requirement, as set out in Policy SC1 part B. Energy and Climate within Plan:MK, is justified, effective and consistent with national policy. It therefore fails to meet the criteria for soundness as set out in paragraph 182 of the NPPF 2012.
- 2.45 Paragraph 95 of the NPPF (2012) states that local planning authorities should:
- when setting any local requirement for a building's sustainability, do so in a way consistent with the Government's zero carbon buildings policy and adopt nationally described standards.*

2.46 In 2015, the Government announced its intention not to proceed with its 2016 zero carbon homes target and the 2019 target for non-domestic zero carbon. As a result, the nationally described standards reflect the requirements set out in Part L of the Building Regulations. As a result, Policy SC1 part B. Energy and Climate is inconsistent with paragraph 95 of the NPPF (2012).

2.47 Paragraph 96 of the NPPF (2012) states that the local planning authority should have due regard to both the feasibility and financial viability upon development of adopted Local Plan policies relating to requirements for decentralised energy supply. This is reinforced by paragraph 174 of the NPPF that clearly states:

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.

2.48 It states the following with respect to Policy SC1 in Table 8.1 on p. 102 of the MK Whole Plan Viability Study (MK/INF/006):

There are two aspects to this policy. The first is a surrounding compliance. The professional fees (at 10%) are sufficient to cover these costs. The costs of meeting the lower carbon emissions can be substantial. The offset payment to achieve 'carbon neutrality' is on average of £500 per dwelling in Milton Keynes.

2.49 This makes clear that there are substantial costs to development associated with complying with the policy as proposed in Plan:MK (albeit the cost levels specified are not evidenced and have not been verified).

2.50 However, paragraph 7.4 on p.89 of the MK Whole Plan Viability Study (MK/INF/006) states that there has been no allowance made for construction to higher environmental standards than the Government's nationally required standards set out in the Building Regulation Part L 2010 Standards:

The base assumption in this report is that homes are built to the basic Building Regulation Part L 2010 Standards but not to higher environmental standards.

2.51 Consequently, at face value, it does not appear that such costs 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 the policy, as drafted, is viable in combination with other policy requirements of Plan:MK.

2.52 However, careful review of the MK Whole Plan Viability Study (MK/INF/006), this confirms at paragraph 10.9 of p.128 under point (b) 'Standards' that a cost of £5/m² 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.

- 2.53 Moreover, when reviewing Table 10.2b Residential Development – Residual Values Compared to Viability (£/ha) Full Policy Requirements - Central MK, on p. 134 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 as ‘marginal’ (i.e. without viability buffer allowance as required by PPG on Viability at Paragraph: 008 Reference ID: 10-008-20140306).
- 2.54 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) as financially unviable. It will be necessary for cumulative policy costs to be reduced in order to support financially viable PRS development.
- 2.55 In summary, as a minimum, Policy SC1 part B. Energy and Climate must be amended to:
- reflect robust evidence on viability that confirms that the cumulative effect of the policy, alongside other policy costs applied, does not render sites of the type and scale allocated undeliverable or unviable; and
 - incorporate confirmation that policy is applied subject to both feasibility *and* viability.
- 2.56 Should this not be forthcoming from the Council, the policy should be amended to ensure it is consistent with paragraph 95 of the NPPF (2012), with construction of development required to comply with adopt nationally described standards.

Q8.11: The PPG states that all new homes already have to meet the mandatory national standard in the Building Regulations of 125 litres/person/day. Where there is a clear local need, local planning authorities can set out Local Plan policies requiring new dwellings to meet the tighter Building Regulations requirement of 110 litres/person/day (PPG para 56-014- 20150327). Is the standard of 110 litres/person/day in Policy SC1 justified on available, upto- date evidence?

- 2.57 It is considered that this is question for the Council to answer.

Q8.12: The PPG also states that it will be for a local planning authority to establish a clear need based on, amongst other things, a consideration of the impact on viability and housing supply of such a requirement. Has this been done? Will the standard of 110 litres/person/day be viable?

- 2.58 The MK Whole Plan Viability Study (MK/INF/006) states the following within Table 8.1 on p.102:

The costs of meeting the water efficiency standard is about £6-9/dwelling (too small to be modelled in this study).

- 2.59 It appears that this approximated cost has been drawn from Table 26 – Water standards costs summary of the Housing Standards Review – Cost Impacts (September

2014) document prepared by EC Harris on behalf of MHCLG (formerly DCLG). The MK Whole Plan Viability Study (MK/INF/006) does not include this cost within modelling.

2.60 Of greater concern, the MK Whole Plan Viability Study (MK/INF/006) does not include the cost of part 2 of Policy SC1 part C. Water. Specifically, here Plan:MK requires that:

Water reuse and recycling and rainwater harvesting should also be incorporated wherever feasible to reduce demand on mains water supply.

2.61 Table 26 – Water standards costs summary of the Housing Standards Review – Cost Impacts (September 2014) document also sets out the extra-over costs for rainwater harvesting. This ranges from £887/unit to £2,674/unit depending on unit type/size. This is a far more substantial cost, and the impact of this on the viability of development does not appear to have been assessed.

2.62 As a minimum, to resolve this, part 2 of Policy SC1 part C. Water must be amended to:

- reflect robust evidence on viability that confirms that the cumulative effect of the policy, alongside other policy costs applied, does not render sites of the type and scale allocated undeliverable or unviable; and
- incorporate confirmation that policy is applied subject to both feasibility *and* viability.

Issue 5 – Other Policies

Q8.23 Is Policy CC1 (Percent for Art), justified and effective? Has it been considered as part of the plan-wide viability assessment? How will the requirement be lawfully implemented in the context of the CIL Regulations 2010 (as amended)?

2.63 Policy CC1, as presently drafted in Plan:MK, is considered ineffective and unsound. It is non-specific and as such fails to set out the expectations set by policy upon development.

2.64 Having reviewed the MK Whole Plan Viability Study (MK/INF/006), it states in Table 8.1 on p. 105 that at least 0.5% of the capital cost of new development is required, and that this, '*is built into the base appraisals*'. Having reviewed the appraisals set out in Appendix 11, there is no specified cost allowance made.

2.65 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.

2.66 However, this in itself raises a prospective further issue of soundness. For, 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.

- 2.67 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.
- 2.68 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).
- 2.69 If abnormal costs increase the capital cost of development in line with the cost allowance made on brownfield site typologies within the MK Whole Plan Viability Study (MK/INF/006), then the cost of policy CC1 (Percent for Art) increases further to £6,985/unit.
- 2.70 For the reasons set out above, it is our considered view that Policy CC1 does not meet the soundness tests of paragraph 182 of the NPPF.
- 2.71 If retained, Policy CC2 must be amended to:
- be specific in the provision sought by the Council;
 - reflect robust evidence on viability that confirms that the scale of provision specified does not render sites of the type and scale allocated undeliverable or unviable; and
 - confirm that propensity for provision can be tested subject to viability on a site-specific level during the decision-making process.

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