



Development Viability Supplementary Planning Document (SPD)

Report on Second Consultation

September 2017

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Section 1: Introduction

What is the Development Viability Supplementary Planning Document (SPD)?

- 1.1 Paragraph 173 of the National Planning Policy Framework (NPPF) requires that Development Plan Policies and Planning Obligations are considered in terms of their impact on the viability of a development.
- 1.2 The Development Viability SPD sets out a number of important measures the Council considers will:
 - Enhance public participation in planning;
 - Support the compliance of planning regulations and guidance;
 - Provide certainty to applicants and developers;
 - Help maximise the benefits of development for local people.
- 1.3 The SPD sets out the Council's requirements for Financial Viability Assessments (FVAs) to be made public and the process for assessing these appraisals. It will ensure the assessment of the viability of planning applications is efficient, consistent and transparent.
- 1.4 The document supports the Development Plan by providing further detail on how we will implement our planning policies where viability is an issue.

What is this Consultation Report?

- 1.5 This report explains the second consultation on the Draft SPD that took place from the 27/04/2017 to 08/06/2017 and how comments that individuals and organisations have made have been taken into account and how they have influenced changes to the SPD.
- 1.6 The consultation undertaken was done so in accordance with both local and regulatory requirements. The Council's local requirements are set out in our Statement of Community Involvement (SCI) (2012) which explains how the Council consults on planning policy documents and also on planning applications. The Council's Regulatory requirements arise from Town and Country Planning (Local Planning) (England) Regulations 2012.

Where to get more information

- 1.7 The draft Development Viability SPD and associated documents can all be viewed at our website:
<http://www.towerhamlets.gov.uk/viability>
- 1.8 Copies are also available by contacting the Infrastructure Planning Team at:

Infrastructure Planning Team
London Borough of Tower Hamlets
Mulberry Place
5 Clove Crescent
London
E14 1BY
Email: viability@towerhamlets.gov.uk
Tel: 020 7364 2343 / 0207 7364 1666

What happens next?

- 1.9 The SPD has now been subject to two consultations. Following this, the consultation responses received will be considered and the final version of the SPD will be formed and referred to the Mayor in Cabinet for approval to adopt. If adopted, the impact and effectiveness of the SPD will be monitored on an ongoing basis.

Section 2: Draft Development Viability SPD Consultation

- 2.1 The Council undertook an initial consultation on the SPD for a period of six weeks from 31/01/2017 to 14/03/2017.
- 2.2 The Council undertook a second consultation on the SPD for a period of six weeks from 27/04/2017 to 08/06/2017.

Who was consulted and how?

- 2.3 We consulted a wide range of residents, developers, land owners and planning agents on the draft Development Viability SPD. The parties consulted consisted of statutory consultees as well as parties who have been active in Tower Hamlets in the past few years and all parties on the Council's consultation list which included all of the parties who were consulted as part of the Council's Regulation 18 version of its new draft Local Plan.
- 2.4 The extent of consultation described in the paragraph above means the Council met the requirements of the Statement of Community Involvement (2012) (SCI) and the requirements of the Town and Country Planning (Local Planning) (England) Regulations 2012.
- 2.5 The draft SPD was accompanied by a Consultation Statement which outlined how the Council consulted on the document and how parties were able to make representations.
- 2.6 Copies of the SPD and supporting documents were made available at the Town Hall and the Council's Idea Stores and main Libraries.
- 2.7 In addition, the Localism Act 2011 requires co-operation between local authorities and a range of other bodies and organisations as an integral part of the preparation of planning policy and guidance. This is called the "Duty to co-operate". The Town and Country Planning (Local Planning) (England) Regulations 2012 and the

National Planning Policy Framework (2012) set out these prescribed bodies and further information on the need for local authorities to work with these bodies and also their neighbouring boroughs on strategic planning issues and cross boundary issues. The Council engaged with these bodies as part of the consultation.

Section 3: Representations on the Draft SPD

Responses received in respect of the consultation on the draft SPD

3.1 Eighteen formal representations were received in respect of the second consultation on the SPD, from the following parties:

- DVSPD01 - 4 Estates Forum
- DVSPD02 - Port of London Authority
- DVSPD03 - QUOD on behalf of Canary Wharf Group
- DVSPD04 - QUOD on behalf of One Housing Group working with Argent
- DVSPD05 - The Kingsbridge Estate Tenants and Residents Association
- DVSPD06 - Berkeley Group
- DVSPD07 - WYG on behalf of Galliard Homes Limited
- DVSPD08 - DS2 on behalf of Bishopsgate Regeneration Limited
- DVSPD09 - DS2 on behalf of The Ballymore Group
- DVSPD10 - Gerald Eve on behalf of Crest Nicholson London Ltd
- DVSPD11 - Carter Jonas on behalf of National Grid Property Holdings
- DVSPD12 - DP9 on behalf of Londonewcastle
- DVSPD13 - Natural England
- DVSPD14 - Aberfeldy New Village on behalf of Prime Place and Poplar HARCA
- DVSPD15 - Transport for London
- DVSPD16 - London Borough of Islington
- DVSPD17 – Greater London Authority
- DVSPD18 - Alpha Grove Freeholders Association
- DVSPD19 – Canary Wharf Community Organisation

3.2 The Council has endeavoured to distil the main points made in each representation and respond to each one. Please find attached at Appendix A, a schedule of the main points made in the representations received and the Council's response to each point.

3.3 A number of matters were raised consistently in the representations received. Please find below a selection of the matters consistently raised alongside the Council's response to these points:

Matter 1: The Council's move towards transparency is welcomed.

The Council's Response: The Council notes the general welcoming of the move towards transparency and considers this key in encouraging public participation in the planning process.

Matter 2: Transparency: The SPD describes that in very limited circumstances information may not be disclosed to the public, or can be aggregated to protect legitimate claims of commercial sensitivity. This is not considered a flexible enough approach to deal with legitimate claims of commercial sensitivity.

The Council's Response: The Council's transparency requirements as described by the SPD have been formed in recognition of the importance of public participation. The Council considers the public availability of viability information as key to ensuring confidence in the planning system and that the process is open to scrutiny. The SPD describes that in very limited circumstances information may not be disclosed to the public, or can be aggregated to protect legitimate claims of commercial sensitivity. The Council does not consider that changes to the proposed SPD are required in this regard.

Matter 3: Estate Regeneration: Several Residents Groups have expressed a requirement for the SPD to contain an obligation for financial information for options set out at any options appraisal stage for an estate regeneration project to be published in accordance with the transparency requirements of the SPD.

The Council's Response: The 'Options Appraisal' stage of Estate Regeneration is not formally part of the planning process so requiring the publication of financial information relating to this stage would be challenging for the Council to enforce. The Council does however want to make sure residents are as informed as possible in such situations. The Council has amended the SPD to encourage the provision of such information, where possible.

Matter 4: The definition of 'substantial implementation': Representations were concerned that the reference to pre-implementation reviews being required if 'substantial implementation' is not completed within two years of permission is not consistent with the draft Mayor of London's Affordable Housing SPG.

The Council's Response: the Council has amended the SPD to clarify that the definition of substantial implementation is a matter that can be agreed between the Council, the applicant and where appropriate the Greater London Authority.

Matter 5: Benchmark Land Values: Some Representors consider the SPD is too definitive in terms of it describing that the Council would generally not expect the level of premium above Existing Use Value for benchmark land values to exceed 20%.

The Council's Response: The Council acknowledges the issue highlighted in establishing an appropriate level of premium. In the Council's experience a premium of 20% is most commonly applied hence the SPDs reference to this level of premium generally. The SPD has been amended to clarify that the premium above EUV that is applied will generally not be expected to exceed 20% but will be considered on a site by site basis.

Summary of the changes made to the SPD

- 3.4 A number of changes to provide further clarification have been made to the SPD following consultation, including:

- A number of minor grammatical and spelling changes have been made to make the document more consistent and easier to understand.
- A number of references to the Mayor of London's Affordable Housing and Viability SPG were made, to reflect the status of this document.
- Section 3 (Key Requirements) has been amended to reflect changes made to the SPD as described in this section.
- Paragraphs 4.1 and 4.2 have been amended to clarify the Council's approach to the "Threshold Approach" to Viability as set out in the Mayor of London's Affordable Housing and Viability Supplementary Planning Guidance.
- A new paragraph (4.3) has been added to encourage the provision of viability information relating to Options Appraisal stages of Estate Regeneration projects.
- A new paragraph (4.16) has been added to ensure, in accordance with the Development Plan and associated guidance that planning applications and associated FVAs appropriately account for available grant funding.
- Paragraph 4.14 has been amended to clarify that the Council appoints external consultants under a competitive tendering process.
- Paragraph 5.4 has been amended to describe that where an applicant considers elements of a submitted FVA should not be made publicly available, that an FVA that aggregates all of the information the applicant considers should remain confidential should also be submitted.
- Paragraph 6.29 has been amended to clarify how the Council will consider the level of premiums applicable above existing use values for Benchmark Land Values.
- Paragraph 6.30 has been amended and a new paragraph (6.31) has been added to clarify when Alternative Use Values can be used as a Benchmark Land Value and the information that should be submitted to support their use.
- A new paragraph (7.2) has been added to clarify the Council's approach to review Mechanisms in the context of the "Threshold Approach" to Viability as set out in the Mayor of London's Affordable Housing and Viability Supplementary Planning Guidance.
- Paragraph 7.7 has been amended to clarify that a definition of 'Substantial Implementation' can be agreed between the Council, the applicant and where appropriate the Greater London Authority.
- A new paragraph 7.8 has been added to clarify that Review Mechanisms can account for deficits against the Benchmark Land Value agreed at the application stage.

- Paragraph 7.13 has been amended to remove a reference to changes in market conditions being relevant to the undertaking of pre-implementation Review Mechanisms.
- Appendix A has been amended to add Planning Contributions to the Appraisal Input Summary Sheet.
- Appendix B: The formulas for Review Mechanisms have been amended to ensure they are consistent with the Mayor of London's Affordable Housing and Viability Supplementary Planning Guidance.

Summary of changes to supporting documents

3.5 The following amendments have been made to supporting documents:

SEA Screening Determination and Sustainability Appraisal Review (2017)

- This document has been reviewed. No substantial changes were made.

Appendix A - Detailed summary of Representations and Council response

	Representation	Councils Response
1	DVSPD01 - 4 Estates Forum	
2	<p>The 4 Estates Forum welcomes Tower Hamlets Draft Development Viability guidance for its intention to provide the public with information necessary to scrutinise developers' Viability Assessments, which detail assumptions about costs and revenues when submitting planning applications. We support the aims, of maximising affordable housing provision, and enabling public debate about how revenues from developments are divided between different interests and public benefits.</p>	Noted
3	<p>We are very concerned that the draft policy as it stands does not require social landlords and their developer partners to publish similarly detailed information about all possible options for the 'regeneration' of social housing estates - at the crucial 'option appraisal' stage, i.e., long before a decision is made on which option to submit a planning application for.</p> <p>This is a terrible omission, because it means that residents facing the possible demolition of their homes are unlikely to be given the detailed information necessary to scrutinise and judge all possible options for the future of their estates, or to suggest changes or alternatives. As a result, landlords could dismiss options, (or policies such as fully delivering a 'right to return') as 'not viable,' without publishing the assumptions and financial details to support such a conclusion.</p> <p>Therefore, we strongly urge the council to add the following policy to its Viability Guidance:</p> <p><i>Social landlords considering the redevelopment of estates where demolition of homes may be proposed will be required to publish full viability information at the option appraisal stage on all possible options</i></p>	<p>The 'Options Appraisal' stage of Estate Regeneration is not formally part of the planning process so requiring the publication of financial information relating to this stage would be challenging for the Council to enforce.</p> <p>The Council does however want to make sure residents are as informed as possible in such situations. The Council has amended the SPD to encourage the provision of such information, where possible.</p>

	<p><i>for the future of estates.</i></p> <p><i>Published information should include all the assumptions and financial details that a social landlord inevitably has to prepare to evaluate options itself, including: costs of planned maintenance and repairs, and possible refurbishments. In the event of redevelopments; costs of demolitions and compensation for tenants and owners; strategy for facilitating the right to return for tenants and owners, and the financial implications; sales values and rental yields of private units; affordable housing quantities and tenures, including housing costs for intermediate tenures and social/affordable rent levels; payments made by social landlords for affordable housing units; CIL & S106 contributions; developers' profits and social landlord surpluses; construction costs; professional fees; other costs.</i></p> <p><i>Elements that can be legitimately considered commercially confidential should be designated as such in accordance with the principles of this viability guidance. This policy is necessary to enable residents affected and the wider public to objectively evaluate all possible options' viability, costs and benefits, and to ensure that residents and landlords make fully informed decisions.</i></p>	
4	DVSPD02 - Port of London Authority (no substantive comments made)	
5	DVSPD03 - QUOD on behalf of Canary Wharf Group	
6	<p>Whilst the SPD consultation period post-dates the end of the GLA's consultation on the Homes for Londoners Affordable Housing and Viability Supplementary Planning Guidance ("the SPG") it is prior to publication of the final version. There are a several areas where the two documents whilst seemingly intended to be aligned lack consistency. These areas need to be addressed if the SPD is to be able to provide clarity on the approach the Council is to be taking to viability. It is also considered to be premature to finalise the SPD prior to the GLA adopting the SPG – this is noted in KR3. It would be appropriate for a further opportunity to consult on the LBTH SPD once the GLA SPG is published providing reassurance from an Applicant's perspective.</p>	<p>The Council is working closely with the GLA in order to ensure appropriately consistency between the respective documents.</p> <p>The Council has now undertaken two consultations on its SPD and does not consider that there is a need to undertake further consultations.</p>

7	<p>The approach being taken by LBTH in the SPD mirrors that of the GLA's Threshold Approach to Viability (KR3). However, as drafted, the application of this approach in the context of LBTH policy is unclear and requires clarification. KR2 advises that "all planning applications which trigger a planning policy requirement to provide affordable housing and the policy requirement is not met, are required to provide a financial viability assessment (FVA)". However the SPD does not define 'policy compliant' in the context of affordable housing. The GLA's approach in their SPG is clear, schemes meeting or exceeding 35 percent affordable housing without public subsidy are not required to submit viability information (para 2.3). In the context of LBTH policy the Local Plan sets a target of 35-50% (by habitable room), as currently worded it is unclear how the LBTH will be defining policy compliant which presents a challenge in interpreting and applying KR2 and KR21. Where 35% affordable housing is to be provided the SPD needs to be amended to ensure consistency with the approach taken by the GLA.</p>	<p>Now the GLA's position with regards to the threshold approach is clearer, the SPD has been amended to make the Council's approach clearer.</p>
8	<p>The approach to review mechanisms set out in KR21-KR25 is overly prescriptive and does not provide the flexibility to reflect scheme specific circumstances. For example, the approach taken to a high density scheme involving towers may be very different to one where there is partial estate regeneration or a build to rent scheme. The GLA approach is to recognise that there may be alternative approaches and forms of review mechanisms (para 3.53 of SPD)</p>	<p>The approach of the SPD in this regard is consistent with the approach set out in the Mayor of London's Affordable Housing and Viability SPG.</p>
9	<p>Where a scheme is not achieving 35% and it is considered necessary for a review to be imposed there must be flexibility for the individual circumstances of schemes coming forward to be reflected in the approach and the triggers. It is therefore important to consider the appropriateness of review mechanisms to the scheme specific circumstances particularly where they are complex in nature. This will also enable concerns with Formula 3 to be addressed as it will ensure that the complex funding and programme arrangements for high density schemes and those in Opportunity Areas will be given proper consideration and therefore promote the delivery of homes.</p>	<p>The Council will work with applicants/developers in respect of review mechanisms drafted in specific S106 agreements but consider it important to set out a framework in the SPD for the basis of the formation of these parts of the agreements.</p>

10	<p>Paragraph 7.6 sets out the timings of review mechanisms including pre-implementation review if substantial implementation hasn't occurred within 24 months. The level of implementation needs to be amended for consistency with the SPG. Page 15 of the SPG states "an early review would apply where an agreed level of progress on implementing the permission (this will be agreed by applicant and LPA, and the Mayor where relevant, on a site by site basis) is not made within two years of the permission being granted." The LBTH SPD needs to therefore be amended on this basis.</p>	<p>Noted, the SPD has been amended to provide greater clarity in terms of 'substantial implementation' being a matter that can be agreed between the Council, the applicant and where appropriate the Greater London Authority.</p>
11	<p>In the case of schemes delivering 35% affordable housing, a review should only be imposed where the agreed level of progress review is triggered at the two year trigger not an end of scheme review, this is clearly set out in Annex A of the SPG where near end of development reviews are clearly limited to schemes progressing through Route A. Consistency with the approach taken by the GLA is essential. The proposal to require Mid Term Reviews is inconsistent with the approach taken by the GLA and is not considered to work in practice. The financial dynamics of multi-phase schemes are very complex which is not reflected in KR23. This should be deleted. This is not a GLA requirement and is not workable in practice.</p>	<p>The Council has updated the SPD to clarify that the approach to review mechanisms where the 'Threshold' approach applies will be consistent with the approach described in the Mayor of London's Affordable Housing and Viability SPG.</p>
12	<p>Both KR11 and KR14 of the Key Requirements state that FVAs cannot demonstrate that schemes as proposed are technically unviable and that they may be adjusted in terms of impact on the scheme's profit. Whilst this may be helpful as part of sensitivity testing it is not appropriate for the baseline position to be artificially amended to evidence a scheme viability in excess of what is able to be evidenced using robust inputs and assumptions. These requirements should be removed and the formulas set out Appendix B amended to reflect agreed profit thresholds. Furthermore it is not clear as to how the Council consider an Applicant will be able to meet the requirement to demonstrate a scheme is deliverable (KR12). Further guidance is required if this is to be retained as a requirement.</p>	<p>The requirement of the SPD to express any deficit against a benchmark land value in terms of an impact against the scheme's profit is to better inform the Council of the position of applicants where schemes demonstrate a deficit.</p>

13	<p>The intention which underlies KR8-10 relating to transparency of information is understood and shared by Canary Wharf Group albeit there are circumstances where it is essential to limit disclosure of aspects of a viability assessment, particularly where this may involve live commercial or contractual negotiations (e.g. rights of light negotiations). Ensuring development is not prejudiced through the release of information which is commercially sensitive is critical to supporting the key objective of the NPPF which is to encourage development and not frustrate it. Further clarification should be recognised in KR10 as to when information will be treated in confidence to avoid this being negotiated on individual applications.</p>	<p>The Council's transparency requirements as described by the SPD have been formed in recognition of the importance of public participation. The Council considers the public availability of viability information as key to ensuring confidence in the planning system and that the process is open to scrutiny.</p> <p>The SPD describes that in very limited circumstances information may not be disclosed to the public, or can be aggregated to protect legitimate claims of commercial sensitivity. As such, the Council does not consider that changes to the proposed SPD are required in this regard.</p>
14	<p>KR25 sets out the share of surplus 60.40 in favour of the Council. A 50/50 apportionment would appear to be more equitable and ensure a clear incentive to maximise outcomes.</p>	<p>The approach of the SPD to review mechanisms is consistent with the approach set out in the Mayor of London's Affordable Housing and Viability SPG.</p>
15	<p>There are also a number of areas where the SPD fails to mirror the flexibility being afforded by the GLA regarding the approach to viability, for example their draft SPG clearly differentiates Opportunity Areas where a bespoke approach is encouraged in relation to viability and tenure mix (para 3.55-3.57). We would encourage further alignment on critical points such as this.</p>	<p>The Council may consider applying flexibility to tenure splits in Opportunity Areas and this will be assessed on a case by case basis. It is not necessary for this to be reflected in the SPD document.</p>
16	<p>Against this background the SPD should be amended to:</p>	
17	<ul style="list-style-type: none"> • Remove the reference and link to the London borough Viability Protocol (para 1.7). This document has no material weight and has not been subject to any formal consultation nor is it a document supported by the GLA. 	<p>The Council does not consider this necessary.</p>
18	<ul style="list-style-type: none"> • Provide clarity in relation to KR2, KR3 and KR21 that, consistent with that provided by the GLA, where 35% affordable housing is to be provided: <ul style="list-style-type: none"> ○ Viability information will not be required; 	<p>The SPD has been updated to provide greater clarity concerning the approach to the 'Threshold Approach'.</p>

	<ul style="list-style-type: none"> ○ KR22 will only be required where agreed progress has not been achieved within 2 years; and, ○ KR23 and KR24 do not apply. 	
19	<ul style="list-style-type: none"> ● Allow flexibility for alternative review mechanisms to be agreed to reflect site specific circumstances. 	The Council will work with applicants/developers in respect of review mechanisms drafted in specific S106 agreements but consider it important to set out a framework in the SPD for the basis of the formation of these parts of the agreements.
20	<ul style="list-style-type: none"> ● Delete KR11, KR12, KR14 and KR23. 	The Council has considered the Key Requirements and made appropriate amendments.
21	<ul style="list-style-type: none"> ● Be consistent with the approach being promoted by the GLA in relation to Opportunity Areas, ensuring flexibility in relation to viability and tenure mix. 	The Council may consider applying flexibility to tenure splits in Opportunity Areas and this will be assessed on a case by case basis and in the context of the Development Plan. It is not necessary for this to be reflected in the SPD document.
22	DVSPD04 - QUOD on behalf of One Housing Group & Argent	
23	<p>Development Viability in Opportunity Areas & Estate Renewal – It is important to consider the planning policy requirement for affordable housing in the context of estate renewal schemes. We submitted representations on this point previously within the Local Plan representations, seeking amendments to policy H2 to ensure flexibility regarding the approach to viability for this type of development. More recently, paragraphs 3.55-3.57 of the Draft GLA Housing and Viability SPG also set out the approach to Opportunity Areas and housing zones. In these circumstances LPAs are encouraged to consider a bespoke approach to affordable housing taking account the nature of specific sites. The approach should be informed by:</p> <p><i>“significant research and an in-depth understanding of the area, its strengths and weaknesses, and how to deliver a successful place”</i></p> <p>The GLA threshold approach to viability then allows Opportunity Area sites to be compliant via delivery of the right mix of homes for the area rather than the standard mix required for smaller sites. We would suggest that the Tower Hamlets SPD be amended to include a similar approach to the GLA SPG. As such, and subject to a thorough analysis, Opportunity Area sites would be enabled to deliver the right mix of housing types and tenures to ensure a successful new place.</p>	The Council may consider applying flexibility to tenure splits in Opportunity Areas and this will be assessed on a case by case basis and in the context of the Development Plan. It is not necessary for this to be reflected in the SPD document.

24	Pre-application advice – We welcome the flexibility in regards to the level of detail that can be provided at the pre-application stage in respect of draft FVA given the scheme evolution until planning submission.	Noted.
25	Threshold Approach to Viability. We are supportive of the introduction of a threshold approach to viability that enables schemes exceeding the threshold to progress quickly through planning without the need for detailed viability information or comprehensive review mechanisms. As currently worded the GLA SPG sets the threshold at 35% by habitable rooms, however the LBTH Local Plan sets a target of 35-50% by habitable room. It is therefore unclear how the LBTH is seeking to amend their policy to be in accordance with GLA wording given the policy compliant positions are different. We would welcome further understanding of how the LBTH seek to address this current differential between the two approaches.	The Council has updated its SPD to provide clarity in this regard.
26	Transparency of Information – We welcome transparency of information regarding viability. Whilst the SPD notes that there are limited circumstances where disclosure of an element of a viability assessment would cause harm to the public interest to an extent that it is not outweighed by the benefits of disclosure (KR10), it does not say explicitly what they might be. Some viability information is particularly commercially sensitive and cannot be made publicly available. This includes information that could prejudice the commercial position of a developer in respect of a future settlement for development related compensation (i.e. rights of light). This is particularly relevant on large mixed regeneration schemes where land interests may also need to be acquired.	<p>The Council's transparency requirements as described by the SPD have been formed in recognition of the importance of public participation. The Council considers the public availability of viability information as key to ensuring confidence in the planning system and that the process is open to scrutiny.</p> <p>The SPD describes that in very limited circumstances information may not be disclosed to the public, or can be aggregated to protect legitimate claims of commercial sensitivity. As such, the Council does not consider that changes to the proposed SPD are required in this regard.</p>
27	Review Mechanisms – We are concerned with the prescriptive approach to review mechanisms within the SPD. The review mechanism currently drafted assumes a one size fits all approach and should recognise the unique nature of schemes including build to rent and estate renewal. It is important to consider the individual circumstances of schemes coming forward and review triggers. For example estate regeneration projects	The Council will work with applicants/developers in respect of review mechanisms drafted in specific S106 agreements but consider it important to set out a framework in the SPD for the basis of the formation of these parts of the agreements.

	often need to fund large upfront infrastructure and replacement homes costs. In these cases funders need certainty on the scheme details for the period over which they will recoup the initial investment, this could be over a large number of years if the initial costs are high. It therefore important to consider the appropriateness of review mechanisms on these types of schemes as well as the phasing of review mechanisms.	
28	Build to Rent – We welcome recognition of the Build to Rent tenure in paragraphs 6.33-6.34. It is important to consider the appropriate affordable housing tenures that can be provided alongside Build to Rent e.g. Affordable Private Rent set out in the Housing White Paper consultation. It is also important to understand the need for all homes to be delivered under single management and as such delivered as discounted market rent managed by a build to rent provider. It is important to consider the covenants and approach to viability for Build to Rent schemes and how review mechanisms need to be flexible to this type of tenure.	Noted. The Council is monitoring both national and regional approaches to the treatment of Build to Rent development and will develop its approach accordingly in due course.
29	Share of Surplus – We would question whether it is appropriate that any surplus determined as a result of the viability review is split 60/40 in favour of the Council. A 50/50 apportionment would appear to be more equitable and ensure a clear incentive to maximise outcomes. In some cases such as estate regeneration it may also be appropriate for the Council share to be reinvested on-site in additional affordable housing outcomes.	The approach of the SPD to review mechanisms is consistent with the approach set out in the Mayor of London’s Affordable Housing and Viability SPG.
30	Appraisal Input Summary Sheet – It is important that the sheet also include the required Community Infrastructure Levy and fixed s106 contributions. These are currently excluded from the summary sheet. We note there is a requirement to submit a new sheet with every change in an applicant’s viability position, however some flexibility here may be appropriate given the likely numerous minor updates to the scheme throughout the determination process. We agree that a summary should be issued once the viability position is agreed and the scheme is brought forward to committee.	Noted. Estimated CIL and S106 contributions have been added to the appraisal inputs summary sheet.

31	<p>Formula 2 – This refers to Additional London Affordable Rent and additional intermediate tenure. However it is important to consider the individual scheme circumstances and what the appropriate on-site tenures would be having regard to ensuring mixed and balanced communities on-site. Therefore there should not be a London average value and the value should be based on individual scheme specifics.</p>	<p>The formulas included are consistent with the Mayor of London's Affordable Housing and Viability SPG.</p>
32	<p>Formula 3 - This formula contains prescriptive calculations to determine profit e.g. P1 – profit achieved up to point in review. However it is important to consider that estate regeneration schemes often have a large amount of enabling and infrastructure works early on in the development programme. Secondly there are complex funding and programme arrangements for this type of project, therefore levels of profit are difficult to determine at a specific point in time. In essence the profit within an estate regeneration scheme is the risk margin required to ensure deliverability, often over many years. As such it is essential that this be carefully assessed so as not to risk delivery.</p>	<p>The viability process at the application stage and at review stage can account for enabling and infrastructure works early in a development programme, as well as funding and programme arrangements.</p>
33	<p>Deliverability –Both KR11 and KR14 of the Key Requirements state that FVAs cannot demonstrate that schemes as proposed are technically unviable and that profit should be adjusted to show a viable scheme. Estate regeneration schemes are inevitably financially challenging and often need to proceed on a basis that is not technically viable using standardised measures. In these circumstances there is in reality no single basis for the decision to proceed (i.e. it is not an assumption on a profit reduction or value growth). Instead, a wide range of factors are considered in the round including place making growth, cost targets, phasing opportunities funding options and many other issues. As such there is no single scenario and the SPD should be amended to remove this requirement.</p>	<p>The requirement of the SPD to express any deficit against a benchmark land value in terms of an impact against the scheme's profit is to better inform the Council of the position of applicants where schemes demonstrate a deficit..</p> <p>The SPD does emphasise that growth projections can be included in an FVA to account for any deficit.</p>
34	<p>Estate Regeneration – We would in general note that it may be appropriate for the SPD to address some key points specific to estate regeneration. This could include for example the need to fund the costs of</p>	<p>The Council does not consider there is a need for the SPD to refer to these matters as it would risk making the SPD overly prescriptive. The Council's general approach to considering submitted Financial Viability Assessments</p>

	replacement homes in the first instance prior to considering what potential affordable housing can be delivered in the net additional homes.	means these key points can be picked up as part of the application process.
35	DVSPD05 - Kingsbridge Tenants and Residents Association	
36	The Kingsbridge Estate Tenants and Residents Association (KTRA) welcomes the draft Development Viability guidance for its intention to enable public scrutiny and debate.	Noted.
37	<p>The Kingsbridge Estate would kindly request an addition to this draft to: <i>'Require social landlords considering the redevelopment of estates where demolition of homes may be proposed to publish full viability information at the option appraisal stage, for all options developed by residents or put to residents for the future of estates, ie, long before a decision is made on submitting a planning application for a single option.</i></p> <p><i>Published information should include all the assumptions and financial details that a social landlord has to prepare to evaluate options, including: costs of planned maintenance and repairs, and possible refurbishments. In the event of redevelopments; costs of demolitions and compensation for tenants and owners; strategy for facilitating the right to return for tenants and owners, and the financial implications; sales values and rental yields of private units; affordable housing - quantities, tenures, rent levels, costs, and values; CIL & S106 contributions; developers' profits and social landlord surpluses; construction costs; professional fees etc. The general principles of this viability guidance apply to any information considered commercially confidential.</i></p> <p>Only this addition can implement the accepted policy principles - as set out in London Guidance and the Local Plan - that residents facing the potential demolition of their homes are given the information necessary to evaluate all the options for the future of their estates, make informed decisions, and express their views.</p>	<p>The 'Options Appraisal' stage of Estate Regeneration is not formally part of the planning process so requiring the publication of financial information relating to this stage would be challenging for the Council to enforce.</p> <p>The Council does however want to make sure residents are as informed as possible in such situations. The Council has amended the SPD to encourage the provision of such information, where possible.</p>
38	DVSPD06 - Berkeley Group	
39	It is acknowledged that BLV's should reflect policy requirements, planning obligations and CIL charges and therefore BLV should be negotiated on a site by site basis.	<p>This is noted.</p> <p>The Council consider that generally the most appropriate way to ensure</p>

		this is via adopting an 'Existing Use Value plus' approach however the SPD does allow for a range of approaches.
40	The preferred approach to use EUV+ to establish a BLV is considered too rigid and inconsistent with NPPG. We consider that there should be flexibility in how BLVs are established and that a combination of approaches (including AUVs and market evidence) would assist in providing greater certainty. This is particularly relevant where an EUV is generating a very low land value which is unrealistic and inconsistent with comparable market evidence and would not incentivise a landowner to sell.	<p>The Council has made a minor amendment to the section relating to the formation of Benchmark Land Values to clarify where an EUV+ approach might be appropriate and where an AUV approach might be appropriate.</p> <p>The Council has concerns over the use of market evidence in establishing BLVs due to the potential for the individual circumstances of other sites to be inappropriately imported to apply to another. In addition, the basis for forming Benchmark Land Values in FVAs is different to the basis on which a party bidding for a site will establish the bid amount.</p> <p>The SPD does state that it will only accept purchase price or market value as an approach where these figures fully reflect policy requirements.</p>
41	<p>The proposal to cap the premium at 20% should be evidenced and whilst the wording in the SPD seems to suggest that the cap is not an absolute it is likely that decision makers may adopt this approach in any event. As such, we consider it would be helpful if the SPD provided further clarity on the approach to agreeing the appropriate level of premium and that this could be higher than 20% if supported by evidence. We appreciate there is a lack of adopted guidance on how appropriate premiums are calculated but market evidence can be helpful in this regard as suggested in NPPG.</p> <p>Recent Appeal Decisions have shown that in some cases the premium can be in excess of the 20% as set out by the SPD. Landowners will only sell and make land available for housing if they are incentivised. The dependence on EUV+ will prevent sites coming forward and hinder housing delivery, especially on those sites which have low EUV's and a cap on the level of premium. This will be particularly relevant for all St William sites which have very unique characteristics - where flexibility will be paramount to ensure the re-development of these redundant gas holder sites.</p>	The Council acknowledges the issue highlighted in establishing an appropriate level of premium. In the Council's experience a premium of 20% is most commonly applied hence the SPDs reference to this level of premium generally. A small addition has been made to clarify that the level of premium that should apply will be considered on a site by site basis.
42	An AUV helps to provide more context in terms of what is an appropriate	The Council considers it important that appropriate guidelines are set out

	land value and is very relevant to a land owner in seeking the highest sale price. The removal of the requirement within the SPD to have a permission in place to 'prove' an alternative use is welcomed, however it would be beneficial if the updated criteria contained in KR19 were less prescriptive. The need to prepare an alternative proposal to an equivalent level of detail is unduly onerous and will incur significant further costs and cause delays to the application process. We consider that a site layout plan, schedule of accommodation and relevant costs/values should be sufficient to determine the validity of an AUV.	in terms of how an AUV can be formed. The SPD has been amended to clarify the information the Council will generally require to support an AUV benchmark.
43	The NPPF makes it clear that a competitive return to a willing developer should be provided to enable a development to be 'deliverable'; the level of profit achieved by developers is dependent on a number of factors including investment risk and market conditions. The SPD should acknowledge that in instances where a Viability Assessment suggests a scheme to be technically unviable then the onus will be on the developer to demonstrate how the development can be delivered (e.g. using growth forecasting) rather than a requirement to reduce profit expectation. This is a more proactive approach and would remove the risk of the development not coming forward.	The requirement of the SPD to express any deficit against a benchmark land value in terms of an impact against the scheme's profit is to better inform the Council of the position of applicants where schemes demonstrate a deficit. This requirement is not intending to replace the need for the adjustment of planning obligations as described by the NPPF. The SPD does emphasise that growth projections can be included in an FVA to account for any deficit.
44	We consider that on larger phased developments viability appraisals should be modelled using an IRR based approach. This is the most accurate way in which to assess large scale development and it would be helpful if this was referenced in the SPD.	The SPD makes allowances for the use of an Internal Rate of Return approach.
45	Typically, on longer term developments, developers have to invest significant sums for site preparation and provision of early infrastructure, as well as CIL payments. The inclusion of review mechanisms is likely to increase the cost of capital as it is seen as an increased risk by funders. Therefore, any review must fully account of cost increases, start at the position that the development is not in deficit, and be capped at the outset so that the full risk is known to the applicant and their funders. Where growth assumptions are included in the assessment, we do not think it is reasonable to include a review mechanism as this would effectively be double counting.	The Council will work with applicants/developers in respect of review mechanisms drafted in specific S106 agreements but consider it important to set out a framework in the SPD for the basis of the formation of these parts of the agreements.
46	Where a review mechanism is secured on larger developments, it is	The approach of the SPD to review mechanisms is consistent with the

	critical that a review is triggered per phases as opposed to Advance Stage Reviews as proposed.	approach set out in the Mayor of London's Affordable Housing and Viability SPG.
47	As it is the developer that makes significant early investment and takes any risk associated with development, any surplus generated should be calculated in a way that does not act as a disincentive to the developer.	The approach of the SPD to review mechanisms is consistent with the approach set out in the Mayor of London's Affordable Housing and Viability SPG.
48	In terms of transparency, many assessments include information which is commercially sensitive. For example, this could include allowance for acquisition of third party land, rights of light or other information that would severely compromise the applicant's commercial position, therefore applicants should not be compelled to allow all details of sensitive information to be published publically. This is in line with previous FOI decisions (which recognises that some information is commercially sensitive. We do however, agree that it would be helpful to provide a non-technical executive summary of the viability assessment explaining the key factors and conclusions. On this basis it would not be unreasonable to request that the Council should also agree full transparency of its review of viability and advice from advisors including (for example) instructions to consultants.	<p>The Council's transparency requirements as described by the SPD have been formed in recognition of the importance of public participation. The Council considers the public availability of viability information as key to ensuring confidence in the planning system and that the process is open to scrutiny.</p> <p>The SPD describes that in very limited circumstances information may not be disclosed to the public, or can be aggregated to protect legitimate claims of commercial sensitivity. The Council firmly considers that changes to the proposed SPD are not required in this regard.</p>
49	DVSPD07 - WYG on behalf of Galliard Homes Limited	
50	Paragraph 4.1 states schemes proposing off site or cash in lieu contributions are not suitable for a threshold approach. However, we believe that the threshold approach should be applied in such circumstances to promote commercial delivery of projects and equally in the interests of consistency, fairness and to promote certainty so that applicants may have confidence in the process. Off-site and cash in lieu scenarios should be equally bound by the same threshold as on-site provision.	The Council disagrees with this point. Emphasis should be placed on providing an incentive to deliver affordable housing on site to encouraged mixed and balanced communities.
51	KR1: The principle of submitting a draft financial viability assessment (FVA) at pre-application stage in order to minimise delay in decision making during the application process is supported. However, in practice this may not be possible on many sites due to the complexities involved, design implications effecting key components within the scheme and unknown input/outputs at that pre-application stage. Not only might this be premature when key details are uncertain, it may create a false	<p>The SPD aims to encourage early submission of viability information to lessen the likelihood of viability discussions causing delays in decision-making. It does not require the submission of viability information at the pre-application stage.</p> <p>The SPD acknowledges that the levels of detail that can be provided will vary from scheme to scheme. The Council does not consider any change</p>

	impression of delivery, raising expectations which, upon further review and consolidation, may not be achievable leading to subsequent frustration and delay. Further acknowledgement to this affect needs to be made within the final SPD.	to the document is necessary in this regard.
52	Current experience has demonstrated that there is no in-house experience available to discuss viabilities, and officers need to approach 3rd party consultants to act on their behalf. Clarity is needed as to how this is will operate. Also, if external advice is received, clarity is needed as to how this will be reported, acknowledged and weighted in affordable housing negotiations.	<p>The Council has two members of staff who sit in the Council's Viability Team and has experience in dealing with matters of viability.</p> <p>The Council has a process for using external consultants. This process needs some flexibility to ensure it can react to scheme specific circumstances and wider approaches to viability. Therefore, the Council does not consider it appropriate to provide fine grained detail on its process for appointing and using external consultants in the SPD, however the Council's Development Management and Viability Teams are able to answer any queries and applicant may have about the process on a case by case basis.</p>
53	It should only be acceptable to submit a draft FVA once certainty in proposed quantum and design together with other key inputs and outputs have been established by the applicant and agreed with the Council. The cost of instructing a consultant to provide a viability appraisal before the principle of scale and massing of a scheme represents an unnecessary expenditure. It should be noted, that our experience of financial viability assessments is that they are only usually finalised toward the end of the design stage, prior to submission. This is owing to fluctuations in inputs/outputs as a consequence of the design stage process and key decisions being made on the final scheme. For example, a scheme proposing a multi-storey tower could have a significant variation in building costs if there were a simple change in fenestration material, ultimately affecting an affordable housing offer.	This is noted, although the SPD acknowledges that the levels of detail that can be provided will vary from scheme to scheme. The Council does not consider any change to the document is necessary in this regard.
54	KR8 which states that FVAs that support pre-application discussions will be treated as confidential is also supported.	Noted.
55	Paragraph 4.1 states "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset,	The Council considers the SPD provides enough clarity in this regard in that it says it applies to 'designated heritage assets' as per the requirement

	an FVA may be required to be submitted to demonstrate that the proposal is securing the heritage asset's optimum viable use." In the interests of clarity to all parties, applicants, consultants, council officers, statutory consultees and the public, clarification is required to establish the extent to which this applies, i.e. that it only applies to any scheme in the setting of a heritage asset, or just on listed buildings or within conservation areas.	described in paragraph 134 of the National Planning Policy Framework.
56	Further to KR9, stating the full FVA and Executive Summary and any subsequent revisions will usually be published, and KR10 which refers to there being limited circumstances that may restrict the disclosure of an element of a viability assessment, the need for transparency and public confidence in the planning process is supported.	Noted.
57	The commercial sensitivity of some elements of the information cannot be emphasised enough, in that the disclosure of some financial information may be used by third parties to raise costs or prejudice and undermine existing financial agreements, compromising the ability of a scheme to be delivered in the form applied. Such a scenario may lead to costly delays in bringing sites and housing forward, additional costs that may ultimately adversely affect the viability of the scheme and of the redevelopment of the site, adversely affect regenerative benefits or even prevent delivery of underused resources. The aggregation of costs may not resolve such potential conflicts and a more flexible approach to allow for restricted disclosure of sensitive information should be incorporated.	<p>The Council's transparency requirements as described by the SPD have been formed in recognition of the importance of public participation. The Council considers the public availability of viability information as key to ensuring confidence in the planning system and that the process is open to scrutiny.</p> <p>The SPD describes that in very limited circumstances information may not be disclosed to the public and can be aggregated to protect legitimate claims of commercial sensitivity. The Council firmly considers that changes to the proposed SPD are not required in this regard.</p>
58	KR13 It is agreed the Residual Land Value methodology should be applied to undertake viability assessment and this approach is supported (para. 6.1).	Noted.
59	Paragraph 6.16 the suggestion that marketing costs for larger developments is generally expected to be lower, due to economies of scale, is unfounded and offers a narrow view on the marketing requirements and costs for larger schemes. Tougher economic pressures generally require great incentives to sell schemes.	Whilst the Council considers economies of scale in terms of marketing costs will apply in many instances, the SPD is not absolute in this regard.

60	Paragraph 6.17 the principle of the Council providing assistance in the calculation of likely financial contributions at pre-application stage is welcomed.	Noted.
61	KR18 (para. 6.30) accepts Benchmark Land Value will normally apply the Existing Use Value plus a maximum premium of 20%.	The SPD does not describe that a maximum premium of 20% applies. It states that premiums will generally not be expected to exceed 20%, in line with the Council's experience on the matter.
62	KR19 the use of Alternative Land Values as a Benchmark Land Value is supported where the Council accepts that a planning permission for the ALV is not necessary. Such an approach would be particularly onerous, expensive and time consuming. Where the document states that a "...detailed alternative proposal is required to be worked up..." clarification is sought that this only applies to the financial viability appraisal and not the submission of equivalent planning application documents.	Noted. Clarification has been provided in the SPD.
63	KR22 (para. 7.11 and 7.12) further definition of substantial implementation is required. Are all the works specified within para. 7.12 required to be completed or commenced where they apply? This requirement would appear particularly onerous and effectively creates a 2-year planning permission. Large sites are more likely to involve complex land assembly arrangements, be subject to widespread contamination and other mitigation site preparation requirements and beholden on the discharge of pre-commencement conditions. All of these will cumulatively put pressure on the ability to achieve an undefined point in the programme of development which would have major implications for the financial structure of the whole scheme. Further definition of quantum thresholds in regard to phased development is also required. Phased developments may vary in size and may involve some parallel works.	Noted, the SPD has been amended to provide greater clarity in terms of 'substantial implementation' being a matter that can be agreed between the Council, the applicant and where appropriate the Greater London Authority.
64	Paragraph 7.13 regarding the re-allocation of private units in an original scheme to affordable housing in line with the Council's required tenure split will have several serious implications for the ability of large schemes to commit to off-plan sales, often referred to as being at 100% within most independent viability assessments conducted on behalf of the Council.	The Council notes this point. The Council will be able to consider how to provide additional affordable housing identified via a review with regard to site specific circumstances but notes that delivering affordable housing on-site is important to achieving mixed and balanced communities.

	High levels of off-plan sales are often identified as being required by funders to large developments. Restrictions on that flow of funds may have serious implications on the finances affecting delivery of schemes. Such requirements are unpractical, unworkable and would seriously affect the financing position of any development, causing uncertainty, undermining confidence of financiers and destabilising the prospect of developments coming forward.	
65	There are design implications for the requirement to not only re-assign areas from private to affordable housing but potentially change the unit sizes and mix. This involves revising access arrangements and communal areas which Registered Providers require to be dedicated entirely per tenure under their demise for management and financial reasons. Floorplates and layouts would be affected as would servicing, mechanical, electrical and plant design, private and communal amenity space requirements and external elevations. There is no mechanism under an existing permission to institute such changes and would necessitate further planning applications, including under s73, at additional cost to the developer, needing to engage a whole new consultant team, delaying the development. Any such changes would also require further S106 agreements to be signed which from practical experience encounter significant delays with legal services and reporting to planning committee.	See response above.
66	By example, a developer only receives the benefit of completions, typically, once the entire tower is complete. There is very little opportunity to re-assign floorplates or units within a tower as the policy suggests. Further consideration needs to be made regarding the ramifications of this policy.	Noted, see response above. The Council would highlight that the policy basis for this approach is set out in the Council's existing and emerging Local plans.
67	Time, delays and uncertainty undermine market and funders' confidence, hindering developers' delivery of much needed housing within the borough. The provision of additional commuted sums as a result of any review to the Council for affordable housing or to meet planning obligation requirements previously accepted as being unviable would alleviate all of	Noted, see response above.

	the above.	
68	The above comments equally apply to KR23 Mid-term reviews (para 7.17). KR24 Advanced stage reviews (para. 7.20) acknowledges the outcome of this review will typically be a financial contribution towards offsite affordable housing provision or other policy requirements which is welcomed.	Noted, see response above.
69	Paragraph 7.21 refers to contributions payable in the event of a surplus at advanced stage reviews. Appendix B stipulates 60% of surplus profit to be paid the Council. Whilst it is recognised why the Council would seek to avoid there being a financial incentive to provide off-site provision, the formula to provide the Council with an increased proportion of contributions greater than returns for the applicant, is wrong. An equitable split in any uplift in returns of 50/50, up to a capped amount, would be fair and reasonable and not lead to accusations that the Council were profiting from development in such circumstances beyond that attributable to the developer.	The approach of the SPD to review mechanisms is consistent with the approach set out in the Mayor of London's Affordable Housing and Viability SPG.
70	DVSPD08 - DS2 on behalf of Bishopsgate Goods Yard Limited DVSPD09 - DS2 on behalf of The Ballymore Group	
71	Pre-application advice - The Ballymore Group/BGY Regeneration Limited raise the question as to why an appraisal inputs summary sheet is needed to validate a planning application. All key inputs would already be set out in the detailed financial viability assessment and the council's independent assessor would have access to the live ARGUS file which would contain these key inputs.	The appraisal inputs summary sheet is required to enable the Council to better capture information contained within submitted Financial Viability Assessments. This will ensure the Council's approaches to viability are better informed generally. The Information Requirements described in the SPD are to encourage and assist with public participation through the course of a planning application. The Council considers it key that an executive summary be submitted as a validation requirement to enable effective public participation.
72	Transparency - The shift towards transparency is welcomed. The Ballymore Group are very willing to share certain information as part of the planning process be it through the publication of information or through presentations on viability matters to Officers and Members.	The Council's transparency requirements as described by the SPD have been formed in recognition of the importance of public participation. The Council considers the public availability of viability information as key to ensuring confidence in the planning system and that the process is open to

	<p>Certain information will not be made available; for example, information relating to funding agreements, rights to light liabilities or joint venture agreements. There is a real risk that too onerous application of this element of the SPD threatens a developer's commercial interests which is contrary to the tests as set out in the 2014 Environmental Regulations.</p>	<p>scrutiny.</p> <p>The SPD describes that in very limited circumstances information may not be disclosed to the public, or can be aggregated to protect legitimate claims of commercial sensitivity. The Council firmly considers that changes to the proposed SPD are not required in this regard.</p>
<p>73</p>	<p>Deliverability - The SPD states that FVAs cannot demonstrate that schemes as proposed are technically unviable and that the applicant should demonstrate how their proposed scheme is delivered. Paragraph 6.2 goes on to further state that where schemes are identified as unviable at the proposed level of planning obligations, the level of profit allowed for should be adjusted to the extent that the scheme as proposed becomes viable so that it will help identify the level of profit/loss the applicant/developer is prepared to accept on a current day basis.</p> <p>The Ballymore Group/ BGY Regeneration Limited are willing to provide this as a sensitivity analysis within the FVA, however, the NPPG states that appraisals should be run on a current day basis, without growth, unless where a scheme requires phased delivery on the medium and longer term.</p> <p>As emphasised in the previous submitted representations The Ballymore Group and their funders would be unwilling and unable to reduce their profit expectations at the expense of delivering planning obligations nor should they be asked to in accordance with the NPPF which explicitly states a competitive return to a willing developer should be provided to enable the development to be deliverable. By reducing the profit expectations to satisfy LBTH that the development is deliverable simply increases the risk of the development not coming forward in the foreseeable future. Not all sites will be technically viable on a present-day basis. It is the applicant's decision to commit to the proposed level of planning obligations, should this indicate in the current day viability appraisal that the scheme is unviable, this doesn't necessarily mean that the scheme will be unviable in the foreseeable future. This is also key for determining viability reviews as the level of profit will need to be agreed at the date of consent so that once a viability review is undertaken it will still allow for a competitive return to the developer.</p>	<p>The requirement of the SPD to express any deficit against a benchmark land value in terms of an impact against the scheme's profit is to better inform the Council of the position of applicants where schemes demonstrate a deficit..</p> <p>The SPD also emphasises that growth projections can be included in an FVA to account for any deficit.</p>

74	<p>Build costs - The Ballymore Group/ BGY Generation Limited believe wherever possible such assessments should be benchmarked against other similar projects, however, benchmarking against BCIS or Spon's is only appropriate for smaller more straight forward projects and would not be appropriate for developments such as the Bishopsgate Goodsyrd scheme. The SPD states that professional and marketing fees adopted at the higher end of typical ranges would be expected to be associated with higher values. This is not always the case, large regeneration sites that have relatively low values are typically expected to have higher professional fees due to the complexity of the scheme. Professional fees and marketing fees should be assessed on a site by site basis.</p>	<p>Noted. The SPD is flexible enough so that the Council can take account of site specific circumstances.</p>
75	<p>In regards to abnormal development costs, whilst it is accepted that some abnormal costs are likely to result in a lower land value than could be achieved on a site, the SPD does not recognise that not all abnormal costs are known by the applicant until the land has been purchased and detailed site investigations have been carried out. Furthermore, the land value, as stated in the NPPF, should still provide a competitive return to the landowner in order to bring forward the site for development and this should be taken into consideration when considering abnormal costs and site value together. Where abnormal costs take the land value below the landowner's reasonable expectation, it may only be flexibility that is permissible in planning gain contributions, that ultimately allows the site to be delivered.</p>	<p>The Council considers the wording of the SPD to be appropriate in respect of the impact of abnormal costs on land value.</p>
76	<p>The Ballymore Group/BGY Regeneration Limited disagree with the statement in the SPD that marketing costs for larger developments, economies of scale are expected to occur, resulting in proportionally lower costs. Large developments involve significantly greater levels of marketing in order to meet the off-plan sales target imposed by funders such as banks to release developer funding. This can involve overseas marketing, marketing suites and greater levels of advertising so that the development stands out from the many other developments being marketed over a long-period of time, which is the case for Canary Wharf</p>	<p>Whilst the Council considers economies of scale in terms of marketing costs will apply in many instances, the Council considers the SPD is flexibly worded to reflect that this may not be the case in every instance.</p>

	<p>and the Isle of Dogs at present with a significant amount of units being sold. For multi-phased schemes, such as The Goodsyard that require constant marketing over a period of time and also the refurbishment of marketing suites that could, for some large schemes, be 3 or 4 years old this all results in significantly higher marketing costs which are generally above the market average for large multi phased schemes.</p>	
77	<p>Developer's profit - As discussed in the section above 'Overview' the level of profit allowed should not be adjusted so that the scheme becomes viable when providing the proposed level of planning obligations. Profit is related to a range of variables including mix, scale and geographical location and is derived from the market and the prevailing conditions. Profit cannot arbitrarily be fixed at a certain level simply to manufacture a particular outcome.</p> <p>The Council states that it expects that profit on residential development, including affordable housing, to be expressed as a percentage of Gross Development Value (GDV). The Ballymore Group/ BGY Regeneration Limited believe that the profit measure should be looked at on a site by site basis as clearly for a long-term, multiple phased scheme, an IRR profit measure is the more appropriate measure to use than a percentage of GDV.</p>	<p>Noted. The requirement in paragraph 5.6 of the SPD to express any deficit against a benchmark land value in terms of an impact against the scheme's profit is to better inform the Council of the position of applicants where schemes demonstrate a deficit.</p> <p>The SPD makes an allowance for the use of Internal Rate of Return as an appropriate measure of profit for certain schemes.</p>
78	<p>Benchmark land value - This section emphasises the comments made in the original submitted representations, The Ballymore Group/BGY Regeneration Limited supports that the SPD recognises that there are a number of ways of establishing an appropriate benchmark land value (BLV) that are aligned with the NPPF, NPPG and Best Practice Guidance. It is for each landowner and practitioner to work through the various tests and often an explanation in accordance with policy and guidance as to the appropriate BLV.</p> <p>The one size fits all approach to land values does not reflect the unique nature of development sites and the SPD seems to acknowledge this by recognising a number of ways of establishing an appropriate BLV. The</p>	<p>Noted.</p> <p>The Council acknowledges the issue highlighted in establishing an appropriate level of premium. In the Council's experience a premium of 20% is most commonly applied hence the SPDs reference to this level of premium generally.</p> <p>Although this may be the case, we will consider the premium on a site by site basis at the Councils discretion.</p>

	<p>SPD recognises that the CUV+ to viability is the preferred approach. However, it is the 'plus' in the equation that is relevant and should reflect the particular characteristics of the site and therefore a premium above 20% could be exceeded depending upon the characteristics of the site.</p> <p>As an example, a site with an existing tenanted office building with good rents may yield a reasonable CUV and with limited scope for a greater amount of space on the site, the uplift from CUV required to release the site may be very limited. Conversely, a cleared site or one with low-density and low-grade industrial uses, with an allocation for mixed use development, perhaps increasing site coverage multiple times, will not likely be released with a premium above CUV of 20% to 30% and it is highly probable that the release value will be a multiple of CUV rather than a margin above.</p>	
<p>79</p>	<p>Timings - The SPD recognises that review mechanisms can contribute to additional planning gain based on future market improvements. Reviews have been incorporated on longer-term schemes, the RICS suggest a five-year development programme might be appropriate or where there are multiple phases. The SPD should seek to avoid the use of reviews on shorter term projects, unless exceptional circumstances exist, as reviews on smaller projects decrease the prospects of funding opportunities and ultimately, deliverability. The time taken to negotiate reviews, particularly on smaller schemes, can also be disproportionate.</p> <p>Reviews can also be time consuming in terms of their collation and their execution. In a single-phase scheme with a development programme of say two to three years, the potential for significant upside is relatively limited.</p> <p>The period of 24 months for the pre-implementation review should not be fixed and should be considered on a site by site basis. Clearly for large strategic sites such as Bishopsgate Goodsyard a longer period is required to reach substantial implementation than for a smaller, less complex site. This should form part of the S106 negotiations.</p>	<p>The approach of the SPD in this regard is consistent with the Mayor of London's Affordable Housing and Viability SPG.</p> <p>To address the issue of certain schemes finding it more challenging to reach substantial implementation, the SPD has been amended to provide greater clarity in terms of 'substantial implementation' being a matter that can be agreed between the Council, the applicant and where appropriate the Greater London Authority.</p>

<p>80</p>	<p>Viability review process - The SPD doesn't recognise that the site value forms part of the viability review and clearly should a review take place 2 or 3 years from the date of the signing of the S106 there needs to be an up to date assessment of the site value to make sure that it is still providing a competitive return to the landowner so that the site would still come forward. Therefore, this is not consistent with the NPPF's reference to a reasonable return to a landowner.</p> <p>A site value at to today's date which incentivises the landowner to release the site for development could be significantly different in 5 years' time, at which point may underestimate the site value and therefore not be consistent with the NPPF as stated above by not providing a reasonable return to a landowner.</p>	<p>The Council does not agree that it is appropriate to account for site value in review mechanisms.</p> <p>The Council's approach to viability reviews is consistent with the Mayor of London's Affordable Housing and Viability SPG.</p>
<p>81</p>	<p>The Ballymore Group/BGY Regeneration Limited accepts the principle of a pre-implementation review, however, would like further clarity on the statement <i>"Where a development has reached 'substantial implementation' within 24 months of the grant of planning permission and market conditions and the viability of a scheme remains relatively unchanged, a pre-implementation review would not normally be required"</i>. The Ballymore Group believe that if 'substantial implementation' is reached within 24 months of the grant of planning permission then a review would not be required. It should not be subject to the council's views over market conditions and the viability of the scheme.</p> <p>The definition of 'substantial implementation' should be defined on a site by site basis. Clearly, for smaller sites 'substantial implementation' based upon the definition provided in the SPD could be reached within 24 months of the grant of planning permission but for the larger regeneration sites this would become significantly harder to achieve.</p> <p>The Ballymore Group does not agree with the reference to a further review if development stalls for a further period of 12 months after 'substantial implication'. Factors outside of the applicant's controls could result in the developer stalling and clearly the implications of a further review would further stall the development.</p>	<p>Noted, the SPD has been amended:</p> <ul style="list-style-type: none"> • To remove the reference to changes in market conditions impacting the extent to whether a pre-implementation review is carried out; • To provide greater clarity in terms of 'substantial implementation' being a matter that can be agreed between the Council, the applicant and where appropriate the Greater London Authority. <p>The Council does consider reviews can be applied as a result of stalled development although the Council highlight that this matter can be considered on a case-by-case basis.</p>

82	Advanced stage reviews - The Ballymore Group would highlight the implications of imposing a viability review once the sale of 75% of residential units have been achieved. The main risk is in regards to securing funding due to the risk that an advanced stage review would cause to the developer. Banks would be reluctant to provide funding if there is a risk that an unforeseen payment could be made at the end of the project and therefore it is likely that the bank would provide funding on the worst case i.e. the affordable housing contribution cap is payable. This is likely to result in more onerous conditions on the developer.	The approach of the SPD in this regard is consistent with the Mayor of London's Affordable Housing and Viability SPG. The Council may consider alternative approaches that are supported by evidence on a case-by-case basis.
83	Payments in Lieu and Off-Site Delivery - The formula is incorrect as it does not consider the cost to the developer of delivering a private unit i.e. profit.	The Council does not agree that this is the case. Profit will be factored into viability negotiations that take place up to the point when the calculation for a payment in lieu takes place.
84	Formula 1 - The Ballymore Group would question why any surplus determined as a result of the viability review is split 60/40 in favour of the Council. The developer takes all of the risk in delivering the project whilst any surplus as an outcome of the developer striving to improve the schemes performance of the scheme is weighted in favour of the Council. If anything, the split should be on an equal 50/50 split if not in favour of the developer.	The SPDs approach to Review Mechanisms has been formed to be consistent with the Mayor of London's Affordable Housing and Viability SPG.
85	Formula 2 - The formula should be calculated on the scheme specific details such as affordable rent floorspace and intermediate floorspace, if known. Affordable rent and intermediate values should be based upon the scheme specifics rather than London average.	The SPDs approach to Review Mechanisms has been formed to be consistent with the Mayor of London's Affordable Housing and Viability SPG.
86	DVSPD10 - Gerald Eve on behalf of Crest Nicholson London	
87	GE notes that aggregation of costs and values can be a helpful way of illustrating viability in summary form. Regarding KR10 GE considers that raising confidentiality concerns should not only be possible at pre-application stage but later too as otherwise this will prevent reasonable application of the law on disclosure. The following amendment to KR10 is therefore proposed:	The Council notes the proposed amendments to the wording but considers that the current wording in the SPD carries the same meaning as the proposal so there is no need to amend this point.

	<p><i>“The Council may allow for exceptions to this in limited circumstances and only in the event that there is a convincing case that disclosure of an element of a viability assessment would cause harm to the public interest to an extent that is not outweighed by the benefits of disclosure. If an applicant considers that a circumstance such that information should be maintained as confidential is likely to arise, this should be raised at an early a stage as possible and preferably, where possible, during the pre-application process”</i></p>	
88	<p>LBTH should note the original comments that an over-reliance on EUV+ as the default methodology is likely to prevent a significant number of sites from being delivered, particularly those with low EUVs. GE notes that at para. 2.10 of the SPD, NPPG is quoted as saying “there are a range of acceptable approaches to assess the value of land...”. The SPD’s prescription that EUV+ should be used is therefore contrary to the NPPG. An explanation should be provided as to how and why EUV+ is consistent with emerging and adopted guidance from the Mayor of London as well as the NPPF and NPPG. Without an explanation this is not robust and not consistent with para. 023 of the NPPG.</p>	<p>The Council does not consider that the SPD as drafted is contrary to the NPPG nor is it absolutely prescriptive in terms of an EUV+ approach. The Council considers the EUV+ approach is generally the most appropriate approach as this is consistent with guidance produced by the Mayor of London. This approach has also been found to be acceptable in appeal decisions.</p>
89	<p>GE notes that the approach is in line with the Mayor’s SPG. GE also notes that the Mayor’s SPG approach to reviews has received significant objections. Our first stage comments still remain. LBTH should note that overly punitive review mechanisms can act as a disincentive to develop in certain circumstances, can act as a barrier to bank lending and can prevent sites from coming forwards for development.</p>	<p>Concerns are noted. The Council considers it very important to be able to appropriately capture future uplift in values to help deliver much needed affordable housing.</p>
90	<p>The SPD should use the example of commercial rents being considered as being deemed commercially sensitive information by the ICO. GE considers that para. 5.3 of the SPD appears to be prejudicing the balancing exercise undertaken as per of the disclosure assessment. Reference to the relevant regulations is appropriate as this ensures LBTH can exercise its discretion as it deems appropriate as a public authority that must adhere to the law as set out in the EIR 2004. Reference to</p>	<p>The Council has sought substantial advice on the matter of disclosure and transparency and, in the context of this, the need to encourage community involvement and the agenda of transparency of the current administration, it is confident the approach set out in the SPD is appropriate.</p> <p>Paragraph 5.4 of the SPD references the Environmental Information Regulations 2004 (EIR) so the Council does not see the need to update</p>

	<p>LBTH having regard to the ICO and Information Tribunal we consider to be appropriate as it does not require LBTH to follow the decisions slavishly but have regard to them in determining application of the EIR Regs 12(4) and (5). It would be a useful reference to those reading and applying the SPD (both officers, members of the public and applicants). Para. 5.3 of the SPD should therefore be revised as follows:</p> <p><i>The Council may allow for exceptions to this in limited circumstances in accordance with Regulation 12(4) and 12(5) of the Environmental Information Regulations 2004 (as may be amended from time to time) in the event that there is a convincing case that disclosure of an element of a FVA would cause harm to the public interest to an extent that is not outweighed by the benefits of disclosure. The Council in making decisions relating to disclosure will have regards to the Information Commissioner’s Office guidance and decisions taken by the Information Commissioner’s Office and the Information Tribunal. In addition, the Council may allow the submission of a FVA that aggregates potentially commercially sensitive inputs.</i></p>	<p>this paragraph.</p>
<p>91</p>	<p>GE has concerns with the term ‘exceptional circumstances’ stated at para. 5.4 and notes that the law does not say it is in exceptional circumstances that public interest would apply. This adds an unnecessary term to the SPD, which can lead people to misunderstand the public interest test referenced in para. 5.3. ‘Limited circumstance’ is how the SPD describes this in para. 5.3 and also KR10.</p> <p>Para. 5.4 of the SPD should therefore be revised as follows:</p> <p><i>If an applicant wishes to make a case for an circumstance in relation to an element of their assessment such that information should be maintained as confidential, they should provide a full justification to the extent to which disclosure of a specific piece of information would cause an “adverse effect” and harm to the “public interest” that is not outweighed by the benefits of disclosure. The Council will consider this carefully, with reference to the “adverse effect” and overriding “public interest” tests in the Environmental Information Regulations 2004 (EIR), as well as the</i></p>	<p>Noted. The Council has amended the paragraph to remove the reference to the term ‘exceptional circumstance’.</p>

	<i>specific circumstance of the case.</i>	
92	<p>KR21 (N.B. this is now KR20 in the latest SPD version). An explanation should be provided as to how this key requirement is consistent with the approach described in the Mayor's Housing SPG and the Mayor's Affordable Housing and Viability SPD. Without an explanation this is not robust and not consistent with the NPPG (paras 023 and 024).</p>	<p>The SPD has been amended to better reflect the Mayor of London's Affordable Housing and Viability SPG in this regard.</p>
93	<p>GE notes that PPG para. 023 is now being quoted properly and in full at para. 2.10 of the SPD. GE considers that it may be of help to practitioners to remind them of the relevance of this paragraph within the 'Benchmark Land Value' section of the SPD.</p>	<p>Noted although the Council does not consider it necessary to quote para 23 of the PPG within the 'Benchmark Land Value' section of the SPD.</p>
94	<p>GE considers that by stipulating a preference for EUV+, LBTH is being overly prescriptive and therefore not in accordance with the NPPG. NPPG contains flexibility within it, which is vital in order to enable different types of sites to be assessed in different ways, thereby enabling delivery. GE has already set out the valuation-based flaws of EUV+ in principle, which LBTH should note. Should LBTH insist on defaulting to EUV+ as the preferred approach to Site Value then this is likely to hinder the delivery complex sites, in particular those with low EUVs.</p>	<p>The Council does not consider that the SPD is absolutely prescriptive in terms of an EUV+ approach. The Council considers the EUV+ approach is generally the most appropriate approach as this is consistent with guidance produced by the Mayor of London. This approach has also been found to be acceptable in appeal decisions.</p>
95	<p>LBTH should note that the RICS Guidance Note was written so as to be strictly in accordance with PPG. Whilst statutorily it does not form part of the Development Plan, it provides best practice guidance endorsed by the RICS and development industry.</p> <p>An explanation should be provided as to specifically how EUV+ is consistent with national guidance and the NPPF. How does the approach allow for competitive returns as set out in the NPPF?</p> <p>How does LBTH envisage calculating the 'plus' element other than stating that generally it will not exceed 20%? This as drafted is wholly prescriptive. How does this approach have regard to market-based evidence as required by PPG para. 023?</p>	<p>The Council have considered all guidance available and have found the EUV+ approach generally best reflects policy. National guidance (paragraph 24 of the Viability and Decision-Taking Planning practice Guidance) specifically refers to a current use value basis being an appropriate option for providing a competitive return for a land owner. It will be for applicants to justify the approach they take to the 'premium' – this can have reference to the condition and occupation status of the site in question. It can also take account of premiums applied in respect of comparable schemes.</p> <p>The SPD does not preclude the account of market-based evidence, but states a clear preference based on the fact that market evidence often imports factors that are not compatible with the required approach to forming Financial Viability Assessments and inappropriately diminishes the requirement for land value to be informed by policy.</p>
96	<p>GE considers that the arbitrary nature of the approach and its</p>	<p>The Council disagree with this view and have answered queries in this</p>

	shortcomings means that EUV+ in principle is not in accordance with PPG.	regard.
97	GE notes the revision to the SPD to the effect that planning permission is not needed for an AUV basis of valuation.	Noted.
98	GE agrees that in order for an AUV to be acceptable in valuation terms it must be in accordance with planning policy. GE does not agree that an AUV scheme, if designed, should be worked up to the equivalent level of detail as a proposed housing-led scheme. Such a requirement would lead to a doubling-up of design work, lengthening of project timescales and commensurate increase in professional fees and holding costs. Such factors are likely to have a negative impact on the viability and planning process and impede rather than encourage delivery.	Noted. The SPD has been amended to clarify the Council's approach.
99	<p>GE agrees that in order for an AUV to be valid, there must be a reasonable active prospect of market demand for such a use. AUV as a basis of valuation is simple and has its basis in the principles of substitution and optionality. The final bullet point suggested by LBTH is therefore not quite correct. It should therefore be amended to read as follows:</p> <ul style="list-style-type: none"> • In the real world the landowner <i>could</i> really develop out the alternative rather than use it as a negotiating lever to force down AH. 	Noted. Amendment made.
100	<p>This is noted. GE maintains that pragmatism will be required in the usage and drafting of review mechanisms, on a case by case basis, so as to not stymie development on complex urban sites.</p> <p>GE maintains that where it has been agreed that a review is necessary such a review should only be undertaken prior to implementation of the scheme or particular phase. Mid-term or advanced stage reviews can often introduce an unacceptable level of risk to a project and can act as a disincentive to development.</p>	Concerns are noted. The Council considers it very important to be able to appropriately capture future uplift in values to help deliver much needed affordable housing.
101	GE welcomes that LBTH will monitor the approaches to Build	Noted.

	to Rent development.	
102	DVSPD11 - Carter Jonas LLP on behalf of National Grid Property Holdings	
103	<p>Transparency - We previously highlighted that the transparency approach is inflexible with the exceptions to this only allowed “in very limited circumstances”. The Council has noted that public availability of information is key to ensuring the confidence in the planning system and that the process is open to scrutiny and that the SPD describes that in ‘very limited circumstances’ information may not be disclosed to the public. The Council considers that this is sufficient and that no changes are required in this regard. However, whilst acknowledging that transparency is important (as stated in our previous submission), there is still further scope for additional flexibility, as the phrase ‘very limited circumstances’ is overly prescriptive and unnecessarily inflexible. Given that a number of these assessments will include commercially sensitive information which could include items such as rights of light information, vacant possession compensation costs or allowance for acquisition of third party land etc. that could genuinely compromise an applicant’s commercial position, it is very important that these commercially sensitive elements are retained as confidential information and that this is reflected in the context of the guidance in paragraph 5.3. It is for the applicant to provide reasoned justification behind why certain information should be redacted, and on this basis, the wording as currently drafted is considered as too inflexible and should be amended.</p>	<p>The Council’s transparency requirements as described by the SPD have been formed in recognition of the importance of public participation. The Council considers the public availability of viability information as key to ensuring confidence in the planning system and that the process is open to scrutiny.</p> <p>The SPD describes that in very limited circumstances information may not be disclosed to the public, or can be aggregated to protect legitimate claims of commercial sensitivity. The Council firmly considers that changes to the proposed SPD are not required in this regard.</p>
104	<p>Developer’s Profit - Paragraphs 6.25 and 6.26 suggest that where schemes are unviable at the proposed level of profit allowed for, the level of profit should be adjusted to the extent that the scheme as proposed becomes viable. It is noted that the Council has amended the wording in paragraph 5.6 to express any deficit against a benchmark land value in terms of an impact against the scheme’s profit is to better inform the Council of the position of applicants where schemes demonstrate a deficit. However, this still seems to contradict the planning policy context elements referred to in Section 2 of the report, which reaffirms the NPPF’s commitment to ensure there are competitive returns for a willing landowner or a developer to enable a development to be deliverable. If profit levels are being driven down, this drives up risk and in the current</p>	<p>Noted. The Council does not consider changes are required in this regard and would highlight that the SPD alternatively allows for the inclusion of growth projections to account for any deficit.</p>

	<p>context where there is a degree of uncertainty in the financial markets (with Brexit etc.) this will raise the risk profile for banks and prospective lenders who would otherwise support a scheme. If the funding is limited and lenders see too much risk in this process, there is a real danger that development will not come forward. Therefore, if this point is progressed the end result could inadvertently be less housing and affordable housing coming forward as a result of certain schemes being seen as too 'risky' from an investment perspective. Therefore, NGPH retains its objection to this element of the FVA methodology and would ask that the wording is reconsidered.</p>	
<p>105</p>	<p>Pre-Implementation Reviews - Paragraph 7.10 confirms the circumstances around when a pre-implementation review would be required. Paragraph 7.11 is supported as it provides details behind what constitutes 'substantial implementation' to ensure that the requirement for pre-implementations reviews is totally clear.</p> <p>There are occasions when circumstances beyond a developer or applicant's control, can slow down the commencement of development. The discharge of pre-commencement conditions can sometimes cause a 'block' to the commencement of development on sites and therefore, there does need to be some sort of assurance from the LB of Tower Hamlets, that it will use best endeavours to ensure that a developer can start promptly on-site through assurances that the Council will progress this paperwork in a timely fashion.</p> <p>Ultimately any delays with pre-commencement conditions could prevent developers from meeting the pre-implementation review threshold. The Council has confirmed that it always uses best endeavours to respond to paperwork in a timely fashion and that it is not considered appropriate to reflect these changes within the SPD. Nevertheless, NGPH still consider that some further flexibility should be incorporated here to ensure that the requirements of the SPG are deliverable.</p>	<p>To address the issue of certain schemes finding it more challenging to reach substantial implementation, the SPD has been amended to provide greater clarity in terms of 'substantial implementation' being a matter that can be agreed between the Council, the applicant and where appropriate the Greater London Authority.</p>
<p>106</p>	<p>Advance Stage Reviews - It is noted that any surplus generated by a review at 75% sale of market residential units will be capped according to the level of contribution required by policy and associated guidance. However, the intention is to re-provide 60% of the surplus profit to be attributed to the delivery of additional affordable housing. Given that there</p>	<p>The Council's proposed approach in this regard is consistent with the Mayor of London's Affordable Housing and Viability SPG.</p>

	<p>is considerable risk inherent in development, NGPH would suggest that any surplus should be shared 60/40 in favour of the applicant, rather than the other way around.</p> <p>The Council has responded to this point confirming that the split is in line with that described with the Mayor of London's draft Affordable Housing and Viability SPG. However, at present the Mayor's document is only in draft and we do not know what the final outcome of this position will be and therefore, it would be premature to assert that this is the final agreed figure in the Mayor's final adopted version of the SPG which has not yet been produced. Therefore, it is not aligned with the NPPF or current adopted regional policy. NGPH also made representations to the Mayor's draft SPG to the same effect and therefore, given the risks associated with development, it is still considered that this amendment should be made.</p>	
107	DVSPD12 – DP9 on behalf of Londonecastle	
108	<p>Pre-Application Advice - The document encourages the submission of a draft financial viability assessment (FVA) as part of the pre-application process with London Borough of Tower Hamlets (LBTH) where a proposal is likely to trigger a requirement to provide affordable housing or where any subsequent application is likely to rely on a FVA to justify a departure from headline planning policy requirements.</p> <p>Although our client supports early engagement with the Council, they do not believe that this is the appropriate forum to prepare a draft viability assessment as details, such as costs and values, of the scheme are unknown and evolve up until the point of the planning submission. Instead, our client would like the document to reflect a discussion on viability at the pre-application stage, but not a requirement to prepare a draft viability assessment.</p>	<p>The SPD aims to encourage early submission of viability information to lessen the likelihood of viability discussions causing delays in decision-making. It does not require the submission of viability information at the pre-application stage.</p> <p>The SPD acknowledges that the levels of detail that can be provided will vary from scheme to scheme. The Council does not consider any change to the document is necessary in this regard.</p>
109	<p>The document notes that applicants are required to meet the cost of the Council reviewing financial viability assessments and provide an undertaking to do so in order to for the planning application to be</p>	<p>Noted. All appointments of viability consultants by the Council are subject to a competitive process – the SPD will be amended to clarify this.</p>

	validated. The document should acknowledge that this is subject to competitive tendering to ensure good value for money for the applicant.	
110	The document notes that FVAs should be accompanied by an Executive Summary which outlines the key conclusions being drawing from the appraisal. Our client understands the need to provide a summary of the assessment so that the key points are presented. However, filling in a summary sheet appears to be an onerous requirement that is unnecessary given that this information is provided by the Argus appraisal summary. Therefore, the document should acknowledge and accept the submission of Argus (or similar) appraisal summaries.	The submission of the Appraisal Input Summary Sheet will remain a mandatory requirement. It is important that information is provided in this way in order to ensure a consistent approach to the collation and reporting of information to the public.
111	Transparency, Deliverability and Information Requirements - The shift towards full transparency is questioned by our client. The requirement of all information to be published creates a significant risk to a developer's commercial interests which is contrary to the tests as set out in the 2014 Environmental Regulations.	<p>The Council's transparency requirements as described by the SPD have been formed in recognition of the importance of public participation. The Council considers the public availability of viability information as key to ensuring confidence in the planning system and that the process is open to scrutiny.</p> <p>The SPD describes that in very limited circumstances information may not be disclosed to the public, or can be aggregated to protect legitimate claims of commercial sensitivity. The Council firmly considers that changes to the proposed SPD are not required in this regard.</p>
112	The document states that FVAs cannot demonstrate that schemes are technically unviable and that the applicant should demonstrate how their proposed scheme is deliverable. The document goes on to note that where schemes are identified as unviable at the proposed level of planning obligations, the level of profit allowed for should be adjusted so that any deficit is expressed in terms of the impact on the scheme's profit. This will better inform the Council of the position of applicants where schemes demonstrate a deficit. Our client would be unwilling and unable to reduce their profit expectations at the expense of delivering planning obligations nor should they be asked to in accordance with the NPPF which explicitly states a competitive return to a willing developer should be provided to enable the	<p>The requirement of the SPD to express any deficit against a benchmark land value in terms of an impact against the scheme's profit is to better inform the Council of the position of applicants where schemes demonstrate a deficit. This requirement is not intending to replace the need for the adjustment of planning obligations as described by the NPPF.</p> <p>The SPD does emphasise that growth projections can be included in an FVA to account for any deficit.</p>

	development to be deliverable. By reducing the profit expectations to satisfy LBTH that the development is deliverable simply increases the risk of the development not coming forward in the foreseeable future.	
113	<p>Methodology: Financial Viability Assessments - Whilst it is accepted that some abnormal costs are likely to result in a lower land value than could be achieved on a site, the document does not recognise that not all abnormal costs are known by the applicant until the land has been purchased and detailed site investigations have been carried out.</p> <p>Furthermore, the land value, as stated in the NPPF, should still provide a competitive return to the landowner in order to bring forward the site for development and this should be taken into consideration when considering abnormal costs and site value together. Where abnormal costs take the land value below the landowner's reasonable expectation, it may only be flexibility that is permissible in planning gain contributions, that ultimately allows the site to be delivered.</p>	The Council considers the wording of the SPD to be appropriate in respect of the impact of abnormal costs on land value.
114	<p>The document notes that the benchmark land value (BLV) should always reflect policy requirements, planning obligations and CIL charges. This is not supported by our client as a BLV based on an existing use on site cannot reflect planning requirements. For example, if a landowner has an existing office, he cannot be expected to reduce the value of the office building to account for planning policy requirements on a development. Although our client agrees that benchmarks based on alternative use values should reflect planning requirements, existing use values cannot be adjusted to absorb planning policies and requirements.</p> <p>The document notes that in most cases BLVs will be assessed with reference to existing use values (EUV) of the site, plus a financial incentive that would ensure the release of the land from its existing use. It goes on to note that the premium above the EUV will generally not be expected to exceed 20%. The document should recognise that the NPPG, in referencing the NPPF 'willing return' requirement at s.173, references the use of market evidence. Whilst EUV might be appropriate in some instances, the margin should be assessed by reference to</p>	<p>The Council considers the EUV+ approach is generally the most appropriate approach as this is consistent with guidance produced by the Mayor of London. This approach has also been found to be acceptable in appeal decisions.</p> <p>In the Council's experience a premium of 20% is most commonly applied hence the SPDs reference to this level of premium generally. The SPD does not describe that a maximum premium of 20% applies.</p>

	evidence in certain circumstances. The document is currently too focused on EUV only and the premium referred to could be deemed to be arbitrary.	
115	It is noted within the document that in some instances an alternative scheme may be used to form a BLV. Although this is accepted, the document should acknowledge that the applicant will incur considerable additional costs to work up an alternative scheme in the equivalent level of detail required. This should be proportionate with the test of agreeing that the alternative use value scheme would be acceptable in principle. It should also be acknowledged that a developer who has purchased a site may have different drivers than a landowner who is simply holding land as an investment.	The SPD has been updated to clarify the information required to justify the use of an AUV.
116	Viability Reviews - The document states that review mechanisms will be used to obtain additional planning gain based on future market improvements. The document should seek to avoid the use of reviews on shorter term projects, unless exceptional circumstances exist, as reviews on smaller projects decrease the prospects of funding opportunities and ultimately, deliverability. Moreover, there should be some flexibility on the application of reviews. For example, if a developer offers a certain level of affordable housing that is currently unviable which is dependent on growth in values, then they are in effect anticipating the growth that a review mechanism would identify.	<p>The SPDs approach to Viability Reviews is consistent with the Mayor of London's Affordable Housing and Viability SPG. The Council will work with applicants/developers in respect of review mechanisms drafted in specific S106 agreements but consider it important to set out a framework in the SPD for the basis of the formation of these parts of the agreements.</p> <p>A recent appeal decision (APP/V5570/W/16/3151698) found that it is acceptable to apply to single phased, shorter term projects.</p>
117	The document doesn't recognise that the site value forms part of the viability review and clearly should a review take place a number of years from the date of signing the Section 106 agreement there will need to be an up to date assessment of the site value to make sure that it is still providing a competitive return to the landowner. This is not consistent with the NPPF's reference to a reasonable return to a landowner.	<p>The Council does not agree that it is appropriate to account for site value in review mechanisms.</p> <p>The Council's approach to viability reviews is consistent with the Mayor of London's Affordable Housing and Viability SPG</p>
118	The period of 24 months for the pre-implementation review should not be fixed and should be considered on a site by site basis. Clearly for larger sites a longer period is required to reach substantial implementation than	To address the issue of certain schemes finding it more challenging to reach substantial implementation, the SPD has been amended to provide greater clarity in terms of 'substantial implementation' being a matter that

	<p>for a smaller, less complex site. This should form part of the Section 106 negotiations.</p> <p>Any contributions required as a result of review mechanisms should be capped at a level which is equivalent to the Council's policy requirement. Payments should not be open-ended and a payment cap established at the point planning permission is granted.</p>	<p>can be agreed between the Council, the applicant and where appropriate the Greater London Authority.</p>
119	<p>The document notes that where a viability review demonstrates an improvement in a scheme's viability, 60% of the surplus must be paid to the Council or put towards the provision of additional affordable housing units. This is not supported by our client as review mechanisms should allow developers to achieve a normal level of profit before additional contributions are triggered. Failure to do so could result in schemes becoming difficult to fund or deliver. Surpluses should only arise after the development concerned has generated a full developer's profit at agreed target levels.</p>	<p>The review mechanism formula in the SPD allows for a normal of level of profit for a developer.</p>
120	<p>Affordable Housing Payments - Our client supports the inclusion of payment in lieu of affordable housing; however, further clarity is required when such a payment would be acceptable and whether this will need to be evidenced by way of a FVA.</p>	<p>The acceptability of a payment in lieu for affordable housing and the evidence required to justify such a payment, falls under the remit of the Council's existing (and proposed) Local Plan, not the SPD.</p>
121	<p>DVSPD13 – Natural England (no substantive comments made)</p>	
122	<p>DVSPD14 – Aberfeldy New Village on behalf of Prime Place and Poplar HARCA</p>	
123	<p>Threshold Approach to Viability - Firstly, while the SPD notes that developers bringing forward schemes that are policy compliant and without subsidy will not be required to submit a viability appraisal, the Draft SPD qualifies this by making the point that developers will still be expected to justify their position on assumed benchmark land value and local tenure mix policies. Our concern is that this could result in the Council expecting a certain amount of appraisal work, and justification, simply to confirm that a viability appraisal is not necessary. This, in itself, will introduce uncertainty, expense and delay into the pre-application process.</p>	<p>The SPD has been updated to reflect the Council's latest position in respect of the Threshold Approach to Viability and accords to guidance published by the Mayor of London.</p>

124	<p>Developer's Profit - Paragraph 6.26 notes that where schemes are unviable, then the level of profit allowed for should be adjusted. The point should be made that it is accepted by LBTH that many developments do not have the flexibility to adjust their profit levels as they must achieve a certain profitability set by joint venture agreements and/or bank lending agreements. In such cases, if profit levels are required to be reduced, delivery of the scheme would stall.</p>	<p>The requirement of the SPD to express any deficit against a benchmark land value in terms of an impact against the scheme's profit is to better inform the Council of the position of applicants where schemes demonstrate a deficit. This requirement is not intending to replace the need for the adjustment of planning obligations as described by the NPPF.</p> <p>The SPD does emphasise that growth projections can be included in an FVA to account for any deficit.</p>
125	<p><i>Existing Use Value Plus (EUV Plus)</i> - Existing Use Value Plus is not an appropriate means for assessing land value. By prescribing EUV Plus the Council is advocating an approach that will result in a number of difficulties. Adopting EUV Plus as the benchmark may conflict with:</p> <ul style="list-style-type: none"> a) the expectations of landowners who on the basis of similar transactions may expect an alternative use value or market value; b) land deals already agreed on the basis of market value; c) the assumptions that underpin existing local plan viability assessments; and, d) the assumptions that have informed current negotiations or underpin existing decisions. <p>This approach is also at odds with that set out in the NPPF and reinforced by PPG. Paragraph 173 of the NPPF states:</p> <p><i>"To ensure viability, the costs of any requirements likely to be applied to the development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking into 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"</i></p> <p>PPG (10-023-20140306) states <i>'the most appropriate way to assess land or site value will vary from case to case'</i>. It also conflicts with para 4.1.4/5/6 of the recently adopted London Plan Housing SPG (2016) page</p>	<p>The Council does not consider that the SPD as drafted is contrary to the NPPF or NPPG nor is it absolutely prescriptive in terms of an EUV+ approach. The Council considers the EUV+ approach is generally the most appropriate approach as this is consistent with guidance produced by the Mayor of London. This approach has also been found to be acceptable in appeal decisions.</p>

	<p>11 of the GLA's Development Appraisal Toolkit Guidance Notes (Jan 2014), pp.28-29 of the LHDG's Viability Testing Local Plans (June 2012) and p12 of the RICS Financial Viability in Planning Guidance Note (2012) – all of which advocate several approaches to land value. None solely rely on Existing Use Value (EUV).</p> <p>Whilst it is recognised that it is the Council's intention for land values to adjust to enable affordable housing delivery, the EUV Plus approach fails to recognise the existence of competing commercial land uses.</p>	
<p>126</p>	<p>Viability Reviews - The necessity of viability reviews, if any, must be considered on a scheme by scheme basis in order to determine whether such a mechanism is appropriate having regard to the NPPF, PPG and London Plan. There will be many cases where schemes are not of a sufficient size or construction duration to necessitate a viability review and, if applied could have a detrimental effect on their delivery.</p> <p>Larger schemes may have been appraised using growth models in order to determine the maximum reasonable level of affordable housing and other planning obligations where again it would be inappropriate to require the addition of a review mechanism, assuming the scheme proceeds in a timely manner having regard to the particular circumstances.</p> <p>Reviews should only be undertaken prior to implementation of the scheme or particular phase in order to be in accordance with the PPG, London Plan and RICS GN.</p>	<p>The Council will work with applicants/developers in respect of review mechanisms drafted in specific S106 agreements but consider it important to set out a framework in the SPD for the basis of the formation of these parts of the agreements.</p> <p>The Council firmly considers that the application of review mechanisms generally is appropriate and consistent with the Development Plan and associated guidance.</p>
<p>127</p>	<p>The Planning Inspectorate has been clear in appeal cases that where a scheme is single phased a post-implementation review is inappropriate and not in accordance with the NPPF or the PPG, including where such a review is prescribed in a Council's SPD or SPG.</p> <p>Two appeal decisions are particularly relevant. In the Langley Road Appeal Decision (ref. APP/Q1255/S/15/3005876, paras 11 to 15), the</p>	<p>The Council disagrees with the assertion that the Planning Inspectorate "has been clear in appeal cases that where a scheme is single phased a post-implementation review is inappropriate".</p> <p>The Council would note that the Langley Road appeal was outside London and not subject to the same regional plan as London.</p>

<p>Inspector concluded an overage clause (i.e. post implementation review mechanism) would unreasonably affect the viability of the scheme. In accordance with the Appeal Scheme, the Langley Road scheme was to be constructed in a single phase. The Inspector concluded that whilst the Borough of Poole's Affordable Housing Supplementary Planning Document (the SPD) says an overage clause can be imposed, this is contrary to DCLG Guidance (Section 106 Affordable Housing Requirements: Review and Appeal):</p> <p><i>"Paragraph 10 in the Guidance repeatedly emphasises the need for viability evidence to be based on current costs and market values. However, in contrast the overage clause suggested by the Council is introducing a further assessment of viability based on costs and sales returns at a future date. Therefore, in this regard the clause is contrary to the Guidance, and this was accepted by the Council at the Hearing. Moreover, I share the Appellant's view that the clause brings a significant element of uncertainty into the future value of the land and the returns it would provide....the uncertainty this would create means the clause could well discourage investors and make funding for the scheme harder or more expensive to secure."</i> (Paragraphs 11 and 12).</p> <p>The Inspector came to the same conclusion in the Wellington Road Appeal Decision (ref. APP/E5330/S/16/3143743, paras 22 to 28). The Inspector stated there is clear guidance that post-development appraisals are not considered appropriate as it increases uncertainty and risk:</p> <p><i>"Quite apart from the clear guidance which seeks to avoid post development reappraisals... I acknowledge that any such exercise here could result in a lower return than that agreed as appropriate. I accept that such an outcome would be a significant disincentive to development and would be likely to hinder the development process"</i> (paragraph 26).</p> <p>The Inspector resolved that it would not be reasonable for the Section 106 to include a review mechanism incorporating a post-development (i.e.</p>	<p>In addition, the Council would highlight the recent appeal decision referenced APP/V5570/W/16/3151698. This decision clearly accepted a pre-implementation review for a scheme that is likely to be single phased. It also accepted the concept of an advanced stage review and did not accept "that such a review mechanism should present any commercial difficulties in terms of lending or certainty as the mechanism would only require the provision of additional affordable housing (in the form of a financial contribution) where surplus profit became available above the target level agreed".</p>
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	<p>post-implementation) development appraisal.</p> <p>The NPPF sets out at para 204 that:</p> <p><i>“planning obligations should only be sought where they meet all of the following tests:</i></p> <ul style="list-style-type: none"> • <i>necessary to make the development acceptable in planning terms;</i> • <i>directly related to the development; and</i> • <i>fairly and reasonably related in scale and kind to the development.”</i> <p>Where a Section 106 Agreement has a post-implementation review mechanism, it is the norm for lenders/funders to look at the downside risk of a full payment having to be made. In other words, lenders usually ascribe to unknown factors, a worst-case position. This will, all other things being equal, affect finance and funding costs and impact negatively on viability and deliverability.</p> <p>If used incorrectly, or on a blanket basis across all types of development sites, there is likely to be a commensurate increase in development risk and uncertainty. This could lead to a reduction in sites coming forward for redevelopment and a climate where it is increasingly difficult to obtain bank finance. We would welcome the opportunity to discuss the banking implications of review mechanisms with Tower Hamlets in detail if Officers wish.</p>	
<p>128</p>	<p>We consider the Advanced Stage Review set out in the SPD at paragraph 7.20 – 7.22 fails to deal with the fact that the timing for delivery/occupation of the market housing will be dependent upon the market. We consider that a more appropriate trigger would be a period of time rather than a percentage of occupation.</p> <p>The viability review mechanism set out in the SPD is effectively a form of overage provision.</p> <p>As set out in the RICS GN this is: <i>“... not appropriate as development risk at the time of implementation cannot be accounted in respect of the inevitable uncertainty of</i></p>	<p>The Council does not consider that applying a review mechanism based on a period of time would be a more appropriate option.</p>

	<i>undertaking a development or individual phase. It also undermines the basis of a competitive return as envisaged by the NPPF by introducing uncertainty post the implementation of the development. This may make funding the scheme difficult or unlikely in many cases.”</i>	
129	Notwithstanding our concerns regarding the principle of overage-style review mechanisms that can serve to increase development risk on sites should they be enforced, the proposed 40%/60% surplus split in favour of the Council is considered overly punitive for developers. Such a mechanism could act as a disincentive to develop in the Borough and is likely to comprise a barrier to obtaining finance.	The approach of the SPD to review mechanisms is consistent with the approach set out in the Mayor of London’s Affordable Housing and Viability SPG.
130	<p>A formulaic approach to pre-implementation reviews may only be appropriate in limited situations and so the type of review mechanism should be carefully considered on a case by case basis. Post-implementation reviews are in most cases inappropriate, as set out in the RICS GN. The point should be made that the overly frequent occurrence to producing these appraisals and checking them, both of which has to be paid for by the Applicant is particularly expensive. Also, there needs to be more consideration given to the planning process that will have to be followed should the levels of affordable units need to be adjusted on site, both up and down.</p> <p>Finally, an overarching principle of review mechanisms is that they should be fair and equitable for all parties without increasing development risk unduly (and therefore threatening delivery). As such, we question whether the approach to reviews set out in the SPD adheres to these principles and requests that this part of the SPD is given further consideration.</p>	The Council firmly considers that the application of review mechanisms generally is appropriate and consistent with the Development Plan and associated guidance.
131	Build to Rent Schemes (PRS) - The SPD provides a cursory mention of the build to rent sector (BtR). At paragraph 6.33, the Council is correct to note that the approach to assessing viability of BtR schemes may vary from ‘build for sales’. In this respect, reference to the Mayor’s Draft Affordable Housing Viability SPG (November 2016) is welcomed. The document aims to encourage institutional investment in the private rented sector thereby diversifying the housing market and acknowledges that	<p>Noted.</p> <p>The Council is conscious that the White Paper does not say anything substantive with regard to the approach to viability for Build to Rent development so does not see the value in making a reference to this document in this context.</p>

<p>Build to Rent developments can make a particular contribution to increasing housing supply, and can:</p> <ul style="list-style-type: none"> • Attract investment into London’s housing market that otherwise would not be there; • Accelerate delivery on individual sites as they are less prone to ‘absorption constraints’ on build-out rates; • More easily deliver across the housing market cycle as they are less impacted by house price downturns; • Provide a more consistent and at scale demand for off-site manufacture; • Offer longer term tenancies / more certainty over long term availability; • Ensure a commitment to, and investment in, place making through single ownership; <p>and,</p> <ul style="list-style-type: none"> • Provide better management standards and higher quality homes than much of the mainstream private rented sector. <p>In order to increase the number and quality of Build to Rent homes the Mayor’s SPG introduces the following measures:</p> <ul style="list-style-type: none"> • Definition – a clear definition of Build to Rent with guidance on how and when a covenant through planning should apply; • Affordable Housing tenure – recognition that all Build to Rent homes need to stay under single management and as such the Mayor will encourage affordable homes in such developments to be delivered as discounted market rent (preferably at London Living Rent levels), managed by the Build to Rent provider (or possibly via another designated manager); 	<p>The Council is monitoring both national and regional approaches to the treatment of Build to Rent development and will form its approach accordingly in due course.</p>
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- Design – how the flexibility set out in Policy 3.5d of the London Plan could be applied to Build to Rent;
- Viability – the ‘threshold approach’ for affordable housing (as proposed by the SPG) would not be applied to Build to Rent developments. Instead viability information would be required and assessed under a specific Build to Rent viability approach, recognising the distinct economics of the sector; and
- Management standards – Build to Rent developments should showcase the best management practice in the rented sector.

The Housing White Paper contains proposals to:

- Change the National Planning Policy Framework so authorities know they should plan proactively for Build to Rent where there is a need, and to make it easier for Build to Rent developers to offer affordable private rental homes instead of other types of affordable housing;
- Ensure that family-friendly tenancies of three or more years are available for those tenants that want them on schemes that benefit from our changes. We are working with the British Property Federation and National Housing Federation to consolidate this approach across the sector; and
- Introduce a definition of affordable private rented housing, which is a particularly suitable form of affordable housing for Build to Rent schemes. The Department for Communities and Local Government (DCLG) have just finished consulting on Planning and Affordable Housing for Build to Rent.
- Proposes that a minimum of 20 per cent of the homes within the scheme would be offered at Affordable Private Rent, and (to the extent practicable) the homes offered at a discount should be broadly representative of the overall development, in terms of numbers of

	<p>bedrooms.</p> <ul style="list-style-type: none"> • Consistent with the tenure-blind ethos of Affordable Private Rent, the specific homes within the development that would be provided at a discount could be flexed over time. Of the affordable units, the average discount to be offered across any development would be at least 20 per cent relative to local market rent levels (i.e. the comparator would not be the market rent homes within the scheme itself). • The discount would be calculated when a discounted home is rented out (or the tenancy renewed), and the rent on the discounted home would then increase at no more than inflation during the period of the tenancy. Where the level of discount is to be flexed across the scheme (e.g. some units discounted by more than 20 per cent, others at less, so as to preserve an average of 20 per cent), then this would be agreed with the local authority. 	
132	<p>Buy to Rent Viability - Future viability assessments on BtR developments, other than a pre-implementation review, are not appropriate or workable for BtR developments and should be specifically excluded. This is because BtR deals are usually forward funded by a future asset owner or are sold during the development period. Under both of these scenarios the asset owner/investor is looking for certainty of return and is taking market risk. They will be providing a fixed level of capital based on a long-term view of how the asset will perform. It is, therefore, not appropriate for a review to be undertaken after a short period of time and for any uplift to be shared as there may be issues affecting the performance of the asset over its lifetime on which the asset owner will have taken a view. In addition, the investor/asset holder will not have allocated additional capital to cover such an eventuality and the develop will have sold the asset and no longer have any involvement in the development.</p> <p>The distinct economics affecting Buy to Rent developments is clearly set out in Paragraph 4.5.1 of the Mayor's Housing SPG (March 2016), whereby boroughs are encouraged to take account of the distinct</p>	<p>The Council will be considering approaches to viability reviews on build to rent development as both national and regional approaches develop.</p>

	economics of private rent when assessing affordable housing contributions from covenanted private rented schemes.	
133	DVSPD15 – Transport for London	
134	From the TfL perspective my main concern is in respect of the approach to CIL and planning obligations. The wording of para 6.20, together with the glossary definitions for CIL and section 106 (s106), both indicate that s106 contributions should be non-infrastructure related. I would wish to reiterate the concerns expressed in that letter and that serious concerns remain that the approach outlined is a misinterpretation of the CIL regulations and is unworkable in respect to transport mitigation.	This point is noted, minor amendments have been made to the SPD.
135	DVSPD16 – London Borough of Islington	
136	Islington fully supports the approach taken in the draft SPD in regards to increased transparency of viability information in the planning process, and shares the view that greater accountability and public participation to enhance both public engagement and confidence in the planning system. In addition, Islington notes that the draft SPD takes into account the London Borough Viability Group Protocol and this is welcomed. In particular, the recognition that in most cases Existing Use Value Plus (EUV+) is the most appropriate approach in determining Benchmark Land Value, and that Market Value transactions and the price paid for land should only be used where it can be robustly demonstrated that they fully reflect Development Plan policies as required by PPG, is supported by Islington.	Noted.
137	DVSPD17 – Greater London Authority	
138	As noted in our previous response we welcome the borough's intention to adopt the threshold approach to viability in line with the Mayor's Draft Affordable Housing and Viability Supplementary Planning Guidance. Given that both the documents are at the draft stage it is recommended that the borough continues to work with the GLA to ensure consistency in approach.	Noted.
139	DVSPD18 – Alpha Grove Freeholders Association (AGFA)	

140	<p>AGFA welcomes Tower Hamlets Draft Development Viability guidance for its intention to provide the public with information necessary to scrutinise developers' Viability Assessments, which detail assumptions about costs and revenues when submitting planning applications. We support the aims, of maximising affordable housing provision, and enabling public debate about how revenues from developments are divided between different interests and public benefits.</p>	Noted.
141	<p>But we are very concerned that the draft policy as it stands does not require social landlords and their developer partners to publish similarly detailed information about all possible options for the 'regeneration' of social housing estates - at the crucial 'option appraisal' stage, ie, long before a decision is made on which option to submit a planning application for.</p> <p>Currently the policy also omits to calculate the "like for like" option when considering or has a possibility of a "Compulsory Purchase Order (CPO)" the viability option should consider and calculate like for like figures and incorporate that within the viability options. Surely the council does not want to see the home owners being worse off by any regeneration, acquire or demolition. The absence of a "Like for like" viability option will seem a cleansing of a certain group of home owners who cannot afford to remain within the same area</p> <p>Currently in such situations where home owners (i.e. Leaseholders, Share of Freehold and Freeholders) are to lose their homes and offered the governments bare minimum of buying them out; there is no credible option such home owners to remain in the area with a like for like option. As the council's ambition is to be much more inclusive of all and open; we believe this is the right time for this council adapt the proposed policy as outlined below. This will also give this council (LB Tower Hamlets) to be the first in pioneering this policy</p> <p>You would agree that, these are terrible omissions, because it means that residents facing life changing situations and the possible demolition of</p>	<p>The 'Options Appraisal' stage of Estate Regeneration is not formally part of the planning process so requiring the publication of financial information relating to this stage would be challenging for the Council to enforce.</p> <p>The Council does however want to make sure residents are as informed as possible in such situations. The Council has amended the SPD to encourage the provision of such information, where possible.</p>

their homes are unlikely to be given the detailed information necessary to scrutinise and judge all possible options for the future of their estates, or to suggest changes or alternatives. As a result, landlords could dismiss options, (or policies such as fully delivering a 'right to return' or "like for like") as 'not viable,' without publishing the assumptions and financial details to support such a conclusion

Therefore, we strongly urge the council to add the following policy to its Viability Guidance:

“Any loss of homes by demolition by any developers, especially by Social landlords considering the redevelopment of estates where demolition of homes may be proposed will be required to publish full viability information at the option appraisal stage on all possible options inclusive of “like for Like” option for the future of estates.

Published information should include all the assumptions and financial details that a social landlord inevitably has to prepare to evaluate option(s) itself, including: costs of planned maintenance and repairs, possible refurbishments and replacement for a like for like properties. In the event of redevelopments; costs of demolitions and compensation for tenants and owners; strategy for facilitating the right to return for tenants and like for like for owners, and the financial implications; sales values and rental yields of private units; affordable housing quantities and tenures, including housing costs for intermediate tenures and social/affordable rent levels; payments made by social landlords for affordable housing units; CIL & S106 contributions; developers' profits and social landlord surpluses; construction costs; professional fees; cost for like for like and all other related costs

Elements that can be legitimately considered commercially confidential (such as individual salaries and fees) should be designated as such in accordance with the principles of this viability guidance. This policy is necessary to enable residents affected and the wider public to objectively evaluate all possible options' viability, costs and benefits, and to ensure

	<p>that all residents of all tenure and landlords make fully informed decisions.”</p> <p>We are aware of the Blackwall Reach and Robinhood Garden Regeneration Scheme where a “like for like” option was included by the council; which only supports that this can be included and achieved if the council wish to implement it. A “Viability Option Policy” on “like for Like” will only firmly ensure that the local people who are asked to sacrifice for regenerations are then able to remain in their local area</p> <p>We hope that you will consider the above and implement the recommended policy mentioned above into the councils new “Viability Option Policy”</p>	
142	DVSPD19 – Canary Wharf Community Organisation	
143	<p>CWCO welcomes Tower Hamlets Draft development Viability guidance for its intention to provide the public with information necessary to scrutinise developer’s viability assessments and options, which details assumptions about costs and revenues when submitting planning applications. We support the aims, of maximising affordable housing provision (although we would like to see more social housing than affordable) and enabling public debate about how revenues from developments are divided between different interests and public benefits. As elders and pensioners, you may not be surprised that as an elders group we are interested in how you will define the value the “real cost of lives and care”.</p>	Noted.
144	<p>However, we are very concerned that the draft policy as it stands does not require social, private landlords and their developer partners to publish any detailed information about all possible options for the 'affected individual lives' especially those elders that live in private rented or own properties - at the crucial 'option appraisal' stage.</p>	<p>The 'Options Appraisal' stage of Estate Regeneration is not formally part of the planning process so requiring the publication of financial information relating to this stage would be challenging for the Council to enforce.</p> <p>The Council does however want to make sure residents are as informed as possible in such situations. The Council has amended the SPD to encourage the provision of such information, where possible.</p>
145	<p>Currently, the policy also omits to calculate the "real cost of lives and</p>	<p>The concerns in this regard are noted. The issues identified fall outside the</p>

	<p>care" especially those vulnerable adults who are in or entering into care. The option when considering life changing situation or has a possibility of a "Compulsory Purchase Order (CPO)" of their only lifetime asset; the viability option should consider and calculate "Real cost of lives and care" figures and incorporate that within the viability options. Surely the council does not want to see any owner occupier being worse off in this life changing situation by any regeneration, acquire or demolition. The absence of a "real cost of lives and care" in the viability option will seem a deprivation among a certain group of older home owners who cannot afford to remain within the same area, ambience and surroundings as they have for many years. Currently home owners (i.e. Leaseholders, Share of Freehold and Freeholders) are entitled to "Free Care if they are living in their own property but if they have some sort of savings then they are expected to pay for their care. If the person is to move under CPO the elderly person/pensioner maybe lumbered with a hefty bill to receive care. As the council's ambition is to be much more inclusive of all options and believes that "No one should be Worse off"; especially venerable elderly residents; we believe this is the right time for this council to adapt the proposed policy as outlined below. This will also give this council (LB Tower Hamlets) to be the first in pioneering such policy.</p>	<p>scope of a supplementary planning document which cannot set out new policy but rather just requirements relating to existing policies.</p> <p>The Council is in the process of renewing its Local Plan which is a policy document that is better placed to address issues such as this.</p> <p>Your comments will be passed onto our Local Plan Team. In addition, I recommend you keep an eye out for a version of the Council's Local Plan which will be published later on this year (likely from early October time).</p>
<p>146</p>	<p>You would agree that, it will be terrible omissions, because it means that residents facing life changing situations and the possible demolition of their homes are unlikely to be given the detailed information necessary to scrutinise and judge all possible options for the future of their homes, finance and care at a stage when they really do need it, at time crucial time of dramatic changes or alternatives. As a result, developers could dismiss options, (or policies such as fully delivering a 'real cost of lives and care' as 'not viable,' without publishing the assumptions and financial details to support such a conclusion) Therefore, we strongly urge the council to add the following policy to its Viability Guidance:</p> <p>Any loss of homes by demolition by any developers, any landlords or developers considering the redevelopment of their properties or estates where demolition of homes may be proposed will be required to publish full viability information at the option appraisal stage on all possible</p>	<p>Please refer to comments above.</p>

	options inclusive of "real cost of lives and care"	
147	<p>As you are aware currently if you are living in an area for 20 years (or a certain period as per guidance) and you are disturbed by a nearby development; the developer has to calculate the deprivation of sun and day light and also other various compensations from dust to noise. But currently there are no options to compensate for the time spent in the local area which one has to withdraw from or leave due to the development. And mostly it is the elders, pensioners and vulnerable adults that pay the price the most. They have to move away to an unknown area up-rooting themselves to make way for the new development. This crucial element of deprivation should have a value and should be calculated, shared and published in the future viability option(s).</p> <p>Published information should also include all the assumptions and financial details that the landlord inevitably has to prepare to evaluate option(s) itself, including: costs of future care of any vulnerable persons currently living in those said or marked properties with a "real cost of lives and care" options. The housing costs for such persons to stay in a suitable accommodation including residential care should be considered within the viability option(s) and awarded to the vulnerable adult who may be entitled to. As you know the policy on social and health care is to pay your way if you have any amount more than £16,000 in your account. A CPO of any property in Tower Hamlets will exceed this amount and thus, the individual will have to pay for their care should he/ she would consider entering into a care home with this move. Therefore this should be borne by the developers for those who may qualify (at least for a limited period)</p> <p>Elements that can be legitimately considered commercially confidential (such as individual, salaries and fees) should be designated as such in accordance with the principles of this viability guidance, but should be considered by the council officers to ensure that they are genuinely "Commercially Viable" and not labelled to hide from publication. This policy is necessary to enable residents affected and the wider public to</p>	Please refer to comments above.

	objectively evaluate all possible options' viability, costs and benefits, and to ensure that all leaseholder and freeholders make fully informed decisions.	
148	<p>In summary, the council should consider including the following two policies within the new 'Viability Option Policy':</p> <p>1) To evaluate and compensate the time of the residency of an elder, pensioner or vulnerable adult; streamlining to that of the sun and daylight policy</p> <p>2) To evaluate and compensate those who are considering to move into a care home (or to receive any other form of care) due to this development which may have an adverse impact on their finance</p>	Please refer to comments above.

PUBLIC CONSULTATION: DEVELOPMENT VIABILITY SUPPLEMENTARY PLANNING DOCUMENT

The Council is consulting on a draft Development Viability Supplementary Planning Document (SPD) from 5pm 31st January 2017 to 5pm 14th March 2017.

The SPD provides clear guidance on the information requirements for financial viability assessments and the basis on which these will be assessed and made public. The SPD will ensure that all planning applications are dealt with efficiently, consistently and with transparency.

Once adopted, the Development Viability SPD will be a material consideration in the determination of planning applications in Tower Hamlets.

The documents can be viewed on the Council's website: www.towerhamlets.gov.uk/viability and at the locations listed below (right):

A consultation event for the public will be held in respect of the consultation. Please refer to the web page listed above or contact the Infrastructure Planning Team for more information on this event.

How to make Comments

Comments should be made electronically or in writing in the following ways:

Email:

Joseph.Ward@towerhamlets.gov.uk

Post:

Development viability SPD Consultation
Infrastructure Planning Team
London Borough of Tower Hamlets
2nd Floor Mulberry Place
PO Box 55739
5 Clove Crescent
London E14 1BY

More Information

For more information please refer to the Council's website, www.towerhamlets.gov.uk/viability, or contact the Council's Infrastructure Planning team on 020 7364 5009 or by email to Joseph.Ward@towerhamlets.gov.uk. Please note, the consultation closes at 5pm 14th March 2017 and the Council is not able to consider any late responses.

Documents can be inspected at:

Tower Hamlets Town Hall, Mulberry Place,
5 Clove Crescent, London E14 2BG

Idea Store Bow, 1 Gladstone Place,
Roman Road, Bow, London E3 5ES

Idea Store Canary Wharf,
Churchill Place, London E14 5RB

Idea Store Chrisp Street,
1 Vesey Path East India Dock Road,
London E14 6BT

Idea Store Whitechapel,
321 Whitechapel Road, London E1 1BU

Idea Store Watney Market,
260 Commercial Road, London E1 2FB

Bethnal Green Library,
Cambridge Heath Road, London E2 0HL

Cubitt Town Library,
Strattondale Street, London E14 3HG

