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Specialist & Independent Advisors to the Property Industry

Development Viability Assessments- Delivering the Government's housing agenda

Context

The viability of a development scheme has always been and is now, more than ever, a prime consideration in deciding whether to undertake that development.

Viability frequently becomes critical when Section 106 planning obligations sought by Local Planning Authorities are considered excessive and unreasonable having regard to the nature of the development proposed. In the current economic climate these planning obligations may simply render the development unviable. This situation can lead to an appeal or, at worst, result in the development not proceeding. Neither option is good for the developer, or the Local Planning Authority, where Government policy remains focussed on the delivery of sustainable development and 3 million homes by 2020 (including 70,000 affordable homes per annum by 2010-2011).

Why are development viability assessments needed?

Development viability assessments will become even more important with the interaction of:-

- Falling land values and demand resulting from the slow down of the UK economy into recession.
- Increasing costs when assembling sites- especially where they are contaminated.
- The increasing use of planning gain tariffs and the introduction of the Community Infrastructure Levy (CIL) as a result of the Planning Act 2008, with the associated charges towards local infrastructure improvements (e.g. libraries, public transport, education);

- Section 106 planning obligation requirements, in addition to the CIL, sought to address 'direct impact mitigation' deemed to stem from the proposed development including, for example, off site highway works or public realm improvements.
- Development plan policy requirements include the need to provide on site affordable housing and where in some situations, for example within London, up to 50% provision (potentially up to 70% social rented tenure) are being sought in Section 106 Agreements.
- Rising construction costs resulting from the need to have to provide on site renewable energy so as to reduce carbon emissions, as sought by Local Planning Authorities and now the required Energy Performance Certificates.

How CgMs and NB Real Estate can help the development industry

CgMs Consulting and NB Real Estate have teamed up to provide the following consultancy service:

1. Review and re-negotiation of Section 106 Planning Obligations

Existing Section 106 Agreements and associated Planning Obligations are, in the current economic climate, preventing existing planning permissions from being implemented or otherwise completed. Such obligations must be reviewed and renegotiated to ensure site deliverability, in the interests of both developer and LPA. This might be by way of Deed of Variation or revised application. The phasing of payments or certain on- or off-site works would be examined in this context.

2. Reviewing landholdings and providing planning appraisals in the light of the existing policy framework

Potential housing sites would be reviewed against existing planning policies and strategies identified for negotiating with the LPA in the context of development viability and economic downturn. Heads of Terms for proposed Section 106 to be negotiated accordingly.

3. Independent, 'Open Book' appraisals

To assist (1) and (2) above, development valuations and assumptions would be reviewed, including assessments of prevailing market conditions, construction costs, land values, interest rates and the phasing of the development. Existing toolkits such as 'Three Dragons' or Housing Corporation Economic Appraisal Toolkit (HCEAT) would be utilised.

4. Development Plan Representations

CgMs and NB Real Estate can advise on proposed housing site allocations or in relation to emerging Development Plan housing policies, in the context of securing site viability and deliverability, specifically through:-

- Formulating submissions on Local Authorities' consultations on various statutory documents including for example; Development Plan Documents (DPDs), Supplementary Planning Documents (SPDs), or Strategic Housing Land Availability Assessments (SHLAAs) and in particular reviewing the viability of proposed sites;
- Representations in respect of proposed Community Infrastructure Levy Charging Schedules in the context of local viability considerations;

5. Expert Witness

Acting as expert witness in appeals addressing reasons for refusal, for example, on grounds of excessive Section 106 contributions or LPA objections to the density of development sought. In some cases, Section 106 Unilateral Undertakings might need to be drafted where agreement cannot be reached with the Local Planning Authority.

Why Cgms Consulting and NB Real Estate Group?

Simply because the two firms are leading independent experts in their respective fields and have worked together for over 15 years:

CgMs Consulting is the third largest planning consultancy in London, with regional offices in Cheltenham, Birmingham, Kettering and Newark, with Directors and other senior planning staff who have worked in local government and for major national housebuilders and commercial developers. CgMs therefore has an excellent understanding of both the public and private sector, particularly with regard to the commerciality of development.

The NB Real Estate Group offers market leading advice and regularly undertakes development appraisals for some of the UK's leading landowners, investors, occupiers and developers, drawing upon

its day to day market knowledge from the firm's occupiers' agency and investment teams, as well as building consultancy, thereby enabling the testing of property market and construction cost assumptions.

The two firms regularly work together producing independent and yet complementary advice, ensuring that the recommended planning obligation solution is both reflective of market conditions but also compliant with national planning policy and ultimately deliverable.

Who do I contact?

For more information about how we can help you in undertaking these development viability assessments as part of the development process please contact

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For more information about the two firms and their track record please visit their respective websites at www.cgms.co.uk and www.nbrealestate.co.uk

