

1) Please confirm which document this representation relates to.

Schedule of Proposed Main Modifications

2) Please confirm which part of the document this representation relates to? (If your representation relates to multiple sections and/or documents, please add separate comment(s) to the relevant section on this event page)

If Main Modification (please quote number e.g. MM1):

MM215 and MM216

Chapter and (if applicable) subheading:

Policy/ Paragraph number:

3) Do you consider the Main Modification/ document on which you are commenting, makes the Borough Local Plan Submission Version (2020 – 2038):

Yes No

Legally Compliant

*

Sound

*

4) Please give details of why you consider the Main Modification/ document not to be legally compliant or sound. Please be as precise as possible and provide evidence to support this. Or if you wish to support the legal compliance or soundness of a main Modification/ document, please also use this box to set out your comments.

McCarthy Stone (MS) and Churchill Living (CL) are independent housebuilders specialising in specialist housing for older people. Together, they are responsible for delivering approximately 90% of England's specialist owner-occupied retirement housing. Both operators are therefore well placed to provide comment on the policy barriers that may have the potential to restrict supply within the sector.

McCarthy Stone previously submitted a Stage 3 Hearing Statement to the EIP in respect of Matter 8 Issue 3 – 'Housing for Older People and People with Disabilities' and some comments are repeated as appropriate. The following comments focus on Main Modification MM217 - Housing for Older People and People with Disabilities, MM215 and MM216– Affordable Housing and MM218 Policy H6 Housing for Older People and People with disabilities.

The proposed modification introduces a Review Mechanism at various points (MM215 para 6.336 and at MM216) and includes the following wording at MM215:.

*The viability assessment must be provided as part of the application when originally submitted, will be made publicly available, and will be subject to review by independent viability consultants. **Further reviews of viability may also be necessary in order to deliver the most***

public benefit from the scheme. The applicant is expected to meet the costs of this review **these reviews**. Where applications are made on this basis, **and viability may change**, any permission granted **may** be for a maximum of two years.

After paragraph 6.336 add two new paragraphs:

The Council recognises that in exceptional circumstances levels of affordable housing (or other infrastructure) on more complex sites may be subject to more detailed viability work as part of the planning application process, and for those proposals which include a significant scale of development or complex abnormal costs, then re-testing of viability will be expected either preimplementation, or part-way through the development of the site.

At the point of determining the planning application the viability review mechanism and trigger for when viability assessment will be re-run will be agreed between the Local Planning Authority and the developer or applicant.

The following wording is introduced in MM216:

Where full on-site provision of affordable housing cannot be provided and reliance is sought to be placed on criteria a to e above, applicants will be required to demonstrate this by reference to an independently reviewed viability study to be approved by the Council (including a requirement for further assessments at agreed stages of development as may be required by the Council).

In our previous representation to Policy H3 (affordable housing) rep 2044 and supporting document ref no 139, we provided additional evidence with respect to the viability of sheltered and extra-care housing. The conclusion of this evidence was that, contrary to the Council's viability evidence 'Viability Assessment Stage 1', Dixon Searle Partnership, 2019 (document no 3.54) the older persons typologies of extra-care and sheltered housing should be exempt from affordable housing provision and CIL on previously developed sites. As such, we recommended adding the following paragraph to Policy H3:

'Specialist older persons' housing including sheltered and extra care accommodation will not be required to provide an affordable housing contribution.'

This recommendation was made to ensure that proposals for specialist housing for older people can go ahead on brownfield sites without protracted delay or discussions over viability and for the plan to be consistent with national policy, specifically paragraphs Paragraph: 002

Reference ID: 10-002-20190509 and Paragraph 004 Reference ID: 10-004-20190509 of PPG Viability.

We are therefore disappointed that not only has this recommendation not been included in the proposed modifications, but that specialist older persons' housing will now face an additional hurdle of having to go through the delay and uncertainty of a review mechanism if the changes proposed in MM215 and MM216 are introduced.

This will have a detrimental impact on the number of sites coming forward for much needed older persons housing.

We also question the justification of introducing a review mechanism at this stage of the examination process, as in order to do so there must be a clear and specific policy basis in line with PPG Viability para 009 Reference ID: 10-009-20190509.

Housing for older people, being specialist in nature as defined by Paragraph: 010 Reference ID: 63-010-20190626 of the PPG on Housing for Older and Disabled people, is often delivered on small brownfield sites separate to housing allocations or other development sites of around 0.5 hectares. Schemes tend to be high-density flatted developments located near town centres and recently have been around 35 to 40 units for retirement/sheltered housing and 55 units for extra care accommodation. They tend to be delivered as a single phase.

Once planning permission for specialist housing for older people is granted, given the small size and single phase of schemes, the objective is to commence the build and complete all units within one single phase. The build period usually takes around 18 months. Older persons' housing, given its specialist nature and being built in one phase, then has a much longer sales period often up to 36 Months with 50% of the scheme often not being sold until year 2 of sales, despite being completed some years earlier. Given the completion of the whole scheme on the first flat occupation, empty property costs are then charged on properties that have not yet sold, this includes costs such as council tax and service charges.

A significant number of recent Planning Appeals and case law have confirmed that there must be a reasonable justification for imposing a review mechanism. A review mechanism and any detail that will form part of it and sits within a planning obligation needs to be considered fully and assessed through the Local Plan process. This should include the consideration of variables such as trigger points, costs, land values, how surplus is split and other definitions.

For a large or multi-phase development which will be delivered over a long period it makes sense to check whether the scheme's viability has changed with market movements. However, for a small single phased site the Inspectorate have repeatedly noted that review mechanisms

are unnecessary. For example, under Appeal decision reference APP/C4235/W/120/3256972 dated 1st April 2021, the Inspector noted in paragraph 17 that:

‘as the development would almost certainly be completed in a single phase with an estimated build time of 12-18 months, it is not the sort of large multi-phased scheme where stronger arguments for a review/clawback mechanism may otherwise exist’.

In view of the specialised nature of Older Persons’ Housing described above, the Local Plan should **include an exemption from the review mechanism for single phased developments**. This would assist the delivery of much needed older persons housing and other smaller housing sites and SME’s who are generally acknowledged to be struggling with viability of developments.

5) If you do not agree with the proposed Main Modification/ document please set out what modification(s) you consider necessary to make the Local Plan legally compliant or sound, having regard to the Matter you have identified in question 4 (above) where this relates to legal compliance or soundness. Please be as precise as possible.

Recommendation:

We therefore recommend that in order to ensure that the plan is justified, effective and consistent with national policy either the proposed modifications with respect to the review mechanism are not included in the final plan or Paragraph 6.336 (MM215) should be amended further as follows:

*The viability assessment must be provided as part of the application when originally submitted, will be made publicly available, and will be subject to review by independent viability consultants. Further reviews of viability may also be necessary, **for multi phased schemes**, in order to deliver the most public benefit from the scheme. The applicant is expected to meet the costs of this review these reviews. Where applications are made on this basis, and viability may change, any permission granted may be for a maximum of two years...*

*The Council recognises that in exceptional circumstances levels of affordable housing (or other infrastructure) on more complex **multi-phased** sites may be subject to more detailed viability work as part of the planning application process, and for those proposals which include a significant scale of development or complex abnormal costs, then re-testing of viability will be expected either preimplementation, or part-way through the development of the site.*

*At the point of determining the planning application the viability review mechanism and trigger for when viability assessment will be re-run **for multi- phased** sites will be agreed between the Local Planning Authority and the developer or applicant.*

And MM 216 should be amended as follows:

Where full on-site provision of affordable housing cannot be provided and reliance is sought to be placed on criteria a to e above, applicants will be required to demonstrate this by reference to an independently reviewed viability study to be approved by the Council (including a requirement for further assessments at agreed stages of development **for multi-phased schemes**, as may be required by the Council).

7) Please tick this box if you wish to be kept informed about the Inspector's Report and/ or adoption of the Local Plan.

Yes, please keep me informed