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23955/A3/DM
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Dear Tony,

**EDEN LOCAL PLAN EXAMINATION
RESPONSE TO THE VIABILITY EVIDENCE (EB033) BY STORY HOMES**

We write further to the recent Eden Local Plan Examination Hearing Sessions. During the session it was agreed with the Council and Inspector that we would provide our response to Document EB033 (also referenced as Document EL1.006 a-f) by the 27 May 2016. This document is the NPS Group December 2015 'Refresh' of economic viability. At the Hearing Sessions, we expressed our Client's concern that this document was only made publicly available on the 27 April 2016, despite the evidence being known to the Council for some months. It is also unclear how it has informed Local Plan policy formulation, the report being a refresh rather than a whole plan viability assessment.

This letter sets out our Client's comments in respect of this document and its role as the underpinning evidence base to Policies HS1, HS2, DEV4 and the Council's definition of supporting infrastructure as contained in paragraphs 4.5.4 of the Local Plan. In formulating this reply, we have also had regard to the Infrastructure Delivery Plan ("IDP") (Document SD010).

Our Client wishes to make a number of comments in respect of the robustness of EB033 before commenting on the document findings.

1) Stakeholder engagement

As noted in the Hearing Sessions, there has been no involvement of the housebuilding industry in discussing housing viability and delivery issues in Eden since 2009 and the Council does not appear to have undertaken any meetings or workshops with developers / housebuilders during the intervening period.

Despite Story Homes being the prominent housebuilder in this district, it has never been contacted by the NPS Group in respect of viability methodology.

This approach by the Council is contrary to the *Harman* guide "*Viability Testing in Local Plans*" (2012) which states that it is essential to agree the appraisal assumptions and methodology. It notes:



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“To secure buy-in to the outputs of a Local Plan viability assessment, it is vital to discuss with stakeholders the basis on which a viability assessment is to be carried out and the assumptions that will feed into it.

Agreeing approaches and assumptions to use may not be straightforward. However, establishing a ‘workshop mentality’ in developing the viability assessment and associated assumptions should help to avoid creating entrenched positions or at least provide an opportunity to identify where there may be areas of disagreement.

This collaborative approach allows landowners to demonstrate that their land is available for development at a competitive return and for the local authority’s assumptions to be tested against the development sector’s understanding of current market conditions and development economics.”

This is particularly important in Eden which is a large rural area. For the reasons set out below, Story Homes considers that a developer insight into the viability assessment would have helped inform a better understanding of the assumptions to be used.

We further note that Cumbria County Council has designed its own *Planning Obligations Policy* (September 2013) which sets out the County Council’s sought developer contributions, which are in addition to those sought by the District Council. This has led to competing demands on the ‘pot’ of funding available. Stakeholder consultation would have helped all parties involved to understand the competing pressures and development costs overall. We note this point in relation to the viability testing of various Section 106 levies in Appendix 2 of the NPS Group report.

2) Assumptions

Story Homes is concerned with some of the assumptions used in the NPS Group report. We wish to note the below comments which will have a bearing on overall viability.

Development density - Overall, the densities used in the report appear to be unreflective of Eden as a district. Eden is a district of rural areas and market towns. Development for housing is typically of 2 – 2.5 storey, with very few flat schemes.

As an example, Story Homes’ site at Penrith (Fairhill) is based on a density of 26 units per net developable hectare. There is limited evidence of densities of 40 dph in Penrith being achieved. We would contend that typical densities in Eden for modern housing estates range between 25-35 dph depending on the individual site characteristics.

Developer Profit – At paragraph 3.12, NPS Group cite an appeal decision in Kendal where they provided evidence as expert witness and in which it was concluded that a profit of 18-20% of GVA was the accepted level. Our client would generally support this as most banks would not lend money at the proposed rate of less than 18%. The viability approach should recognise that 18% is a *minimum* figure and typically 20-25% return represents what is usually sought by developers. . It is unclear whether the NPS Group have tested viability at both 18% and 20-25% to reflect the range.

Preliminaries and site overhead costs – It is not clear if and how these have been accounted for and if so, where has the NPS Group accounted for these costs. These are normally expressed as a cost per month and are typically around £25,000-30,000 per month.

Abnormal costs – Paragraph 3.11 states that in the general approach, no account has been taken for abnormal costs. Abnormal costs can exist for both greenfield and brownfield sites. These costs can be significant. As the Council has not undertaken any site specific viability sampling, it cannot

be concluded that housing schemes across Eden are generally viable. We would normally expect to see some form of assessment of abnormal costs, particularly on the larger sites around Penrith.

Story Homes is currently in discussions with the Council regarding the viability of a greenfield site in Penrith which has significant abnormal costs associated with drainage.

Sales costs – The industry standard is 3% of GDV and many large house builders operate at 4%. The original DTZ report cited 3% (para 3.69). The NPS Group have amended this and used 2.5%. It is unclear why.

Affordable Housing – The original DTZ study undertook an assessment based upon a 50:50 split between rented and intermediate and also a 30:70 split, with the latter based upon findings of the 2006 housing needs survey. The evidence in Eden points towards a 70:30 split which is normally their starting point for discussion, as experienced by Story Homes. NPS Group have only tested a 50:50 split and note at paragraph 3.63 that the 'Refresh' does not include any sensitivity analysis.

The NPS Group have also assumed that rented units will deliver 50% of open market value. Story Homes' experience is closer to 40-45%.

Section 106 - Paragraphs 3.66 and 3.67 of the NPS report identify the uncertainty of the sought level of Section 106 contributions. This concludes that given the uncertainty, a range of costs per unit ranging from £1000 to £10,000 per unit should be assumed.

The report appears to expressly doubt the position of Cumbria County Council noting that in respect of its *Developer Obligations Policy*, that elements such as education and highways contributions remain 'under discussion'. This Policy was adopted by Cumbrian County Council in 2013. It runs to 52 pages and sets out an extremely detailed set of sought contributions. Whilst it is not clear whether the County Council itself has ever tested the viability of its sought contributions, there must be some evidence of its operation over the last 3 years and average costs per new dwelling, over and above the District Council's requirements.

It is therefore unclear and has not been justified whether the range of £1,000 to £10,000 per dwelling is realistic in the case of development in Eden, particularly when factoring in the County Council sought contributions. An overall costs per dwelling needs to be tested.

Additionally, we would cross reference to Policy DEV4 of the Draft Local Plan. This suggests that there is a whole range of other contributions that might be sought. Again, we would expect to have clear evidence of the likely costs per dwelling on each category, if of course there is a proven need for such contributions stemming from new housing developments

We would note that the Government places strict controls on planning obligations at paragraph 204 of NPPF and in the CIL regulations. We refer:

204. Planning obligations should only be sought where they meet all of the following tests:

- **necessary to make the development acceptable in planning terms;**
- **directly related to the development; and**
- **fairly and reasonably related in scale and kind to the development.**

Land Values (Competitive returns) - Para 3.18 - 3.36 deal with land values and identify typical minimum returns that landowners seek if they are to sell their land for housing in Eden.

Paragraph 3.30 includes an extract from an appeal decision in Kendal which states £400k per acre is the accepted level in that appeal. The NPS Group cite this as evidence in this general area as a recent position on land value returns.

Of the examples given in the table on pages 15 and 16 of the report for the Eden and South Lakeland area, the average return across the 11 sites identified is £381,877 per acre.

Given these findings, it is unclear why NPS Group sets a benchmark of only £325,000 per acre at paragraph 3.31 of the report. This does not logically follow the consultants own findings. Further, it is unclear, given this evidence, as to why they have then chosen a 90% of the land value to represent a 'willing land owner'. Clearly NPS Group's own evidence demonstrates that actual sought return and site sales in Eden are typically around an average of £400,000 per acre.

3) Sample testing

Having regard to the above comments, we would question the robustness of the Viability Assessment overall. Appendix 2 suggests that land values can be achieved generally in Eden, but we do not consider that the consultant has fully factored in the costs and sought contributions that are typical of sites in Eden.

In the absence of any site specific sampling, including that of some of the larger Penrith sites where the Council is advancing a masterplan and infrastructure based approach, it is impossible to conclude that housing sites in Eden are generally viable. Equally, we would contend that given the flawed assumptions as above, the 30% affordable housing target is not based upon robust evidence.

We note that during the discussion at the Examination, the Inspector suggested that he found the Council's overall approach to viability as unsound on the basis that the Council had not tested any specific sites, particularly the larger sites around Penrith. We concur with that finding.

4) Infrastructure Delivery Plan (SD010)

During the Examination sessions, we accepted that we had not undertaken full review of the IDP. We have now reviewed that document.

The document itself provides a useful insight into the level of infrastructure needed in Eden, included some specific requirements related to certain sites. We do not dispute those headline findings.

However, we note that the IDP does not contain all of the categories that Policy DEV4 (paragraph 4.5.4) refers to as potentially necessary contributions. It is unclear why some categories have not been considered.

We would wish to note that in the majority of cases the IDP identifies the source of funding of infrastructure as either developer contributions or public grant (sometimes both). Given that the Council does not understand the likely costs per dwellings for all these requirements, and, there has not been any individual site testing, we are concerned that the Council has underestimated the true picture on viability in Eden. Additionally, it is not clear whether the public grants referred are likely to be available.

Summary

Story Homes has serious reservations about the Council's approach to understanding and testing viability in connection with its plan-making process. This stems from both our Client's review of the recently tabled NPS Group viability 'refresh' and practical experience of working within this District.

The Council should undertake a full review of viability rather than a refresh, given that some 6+ years has passed since the original work. We would also be keen to establish a housing market partnership group with the Council so that the assumptions can be discussed in greater detail.

Our Client would particularly welcome further clarity on the Cumbria County Council's *Planning Obligations Policy* and how these costs have been factored into the overall assessment.

The NPS Group report does not provide a full or realistic assessment of viability in Eden. A number of the assumptions are plainly wrong. This is a significant concern given that this evidence is being used by the Council to underpin the affordable housing target at Policy HS1 and the contributions sought by Policy DEV4 of the Draft Local Plan.

Yours sincerely,



DAN MITCHELL
Partner