



Telford & Wrekin
Co-operative Council

Protect, care and invest
to create a better borough

Telford and Wrekin Local Plan Review

Submission Version

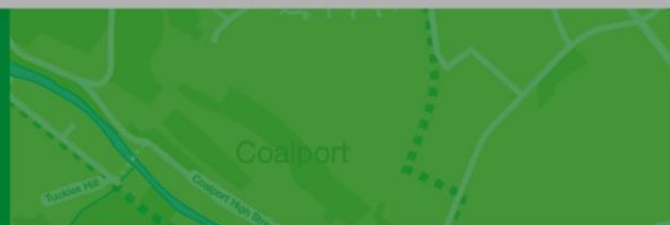
Developer Contributions and
Review Mechanisms Topic Paper



2020 - 2040



September 2025



Contents

1	Introduction	2
2	National Policy	2
3	Local Plan Review	2

Policy S7 Developer contributions and Review mechanisms Topic Paper

1 Introduction

1.1 Part 4 of Policy S7 Developer contributions and infrastructure delivery covers the use of claw back mechanisms where a viability case has been presented at the application stage leading to a reduction in the 'public benefit' items that would be required for a policy compliant development.

1.2 These public benefit items include, in general, contributions towards education, sustainable travel, highways and play, recreation and open space. It also covers the % of affordable housing (on or off site) that a development should deliver. It is often the case that the affordable housing provision is reduced first.

2 National Policy

2.1 The NPPF paragraph 59 states: *"Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning practice guidance, including standardised inputs, and should be made publicly available."*

2.2 The NPPF allows for viability assessments to be submitted where the applicant can demonstrate it is a justifiable approach.

3 Local Plan Review

3.1 The Council as standard practice include a review mechanism in all section 106 agreements for schemes where a viability case has been submitted and approved via the grant of permission.

3.2 In order to formalise this approach and secure the best approach to ensuring schemes are ultimately delivered on a policy compliant basis the Council have introduced part 4 of Policy S7 as part of the review of the Local Plan. Part 4 states; *"Where a viability case has been made the Council at the planning application stage the Council reserve the right to review developments upon completion. In all cases where a schemes gross development value has been exceeded the Council will claw back funding up to the delivery of a policy compliant scheme."*

3.3 The purpose of part 4 is to introduce a simple and effective means of securing the claw back of planning obligations up to the value of a policy compliant scheme. The approach negates the need for potentially lengthy and costly viability appraisals that could be argued are disproportionate where the value of the GDV has marginally exceeded the land cost, build costs, profit and any partial payment of obligations to date. It enables a fair claw back of funding for public benefit items across all schemes and can be done quickly providing certainty to all parties.

3.4 A number of responses were received from developers during the Regulation 19 stage of plan making. The responses, in general, focussed on the potential increase in costs as well as values therefore reducing the potential for 'super profit' over and above the recognised 20% margin.

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3.5 Recognising the need to consider the potential increase in costs as well as profit over time the Council are suggesting the following points are picked up in a 'modified' part 4 and supporting justification of policy S7, these include:

- The need to consider the rise in costs as well as profits by setting a threshold (50 units) for the use of full viability appraisals (below that threshold a review of GDV only would still apply). Where this applies they must be in the same format as the original appraisal to enable easy identification (and assessment) of any changes in costs / profits.
- For strategic level sites of 500 units or more, viability assessments may be undertaken on completion of 60% of the development. At that stage it is reasonable to assume there will be sufficient costs and sales data to support a reappraisal of the site.
- Clarification that the provisions of part 4 apply to major developments only.
- Where schemes fall below the threshold a lighter touch approach will apply – this will enable the Council to challenge any loss of public benefit.
- Clarity that, where a viability case has been presented, where it can be demonstrated that GDV has exceeded cost/profit on review the Council will claw back funding to the full value of a policy compliant scheme. Profit in excess of that will be for the developer.
- Where funds have been clawed back these will, as far as reasonably possible, be spent on those public benefit items that they should have been at the outset of which each matter will be assessed on a case by case basis at that time.

3.6 Suggested modified part 4 and supporting text are set out below:

- ***“4. For major developments (10 homes or more), ~~where~~ where a viability case has been made the Council, at the planning application stage ~~the Council~~ reserve the right to review developments ~~viability~~ upon completion, or in the case of strategic schemes of over 500 units on completion of 60% of housing units. In all cases where a schemes gross development value ~~against updated costs/normal profit~~ has been exceeded the ~~Council~~ will claw back funding up to the delivery of a policy compliant scheme applicant shall pay a financial contribution equivalent to the uplift, capped at the value required to achieve full policy compliance. Any clawback contribution shall be used by the Council for the delivery of affordable housing and/or infrastructure in accordance with the priorities set out in the Local Plan or Infrastructure Delivery Plan.”***

3.7 Supporting text:

- ***“In some cases the National Planning Policy Framework allows for developers to make a case for a reduction in contributions to allow developments to come forward. The council will resist a reduction in contributions and, where this does occur, will exercise its right to review and reassess the viability case on completion of a development and recoup any reduced contributions. ~~Where the Gross Development Value (GDV) plus Consumer Prices Index (CPI) is exceeded at the point of completion the Council will recoup the difference up to meeting a full policy compliant scheme. Review mechanisms will take the form of a full reappraisal for schemes over 50 units and a lighter touch approach for schemes below 50 units, with a review of GDV against original costs plus Construction Prices Index, normal profit and land value. Reviews will be undertaken on a transparent open book approach. Affordable Homes delivered onsite without a section 106 obligation will not offset normal policy requirements.~~”***