

# NEWSLETTER: OCTOBER 2019

## Financial Viability in Planning: Conduct & Reporting



#### CONTACT

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The RICS released the first 'Professional Statement for Affordable Housing Viability' in May 2019, which has been in effect since 01 September 2019. The 'RICS First Edition of the Financial Viability in Planning: Conduct and Reporting' is mandatory for all RICS members and sets out what must be included within all Financial Viability Assessments (FVA) and how the viability process must be conducted. The key changes that must now be incorporated when carrying out the viability process are relevant not just to viability practitioners, but also to developers and consultants that contribute to FVA submissions as part of the planning application process.

The statement was compiled against the background of the High Court decision in *Parkhurst Road Ltd v Secretary of State for Communities and Local Government & Anor* [2018] EWHC 991, which emphasised the need for clarity in relation to problems regularly occurring within the practice.

It has also been previously reported from various stakeholders in the sector that FVAs were of a varied standard. Namely, they don't all include the required information to provide proper regard to all material facts and circumstances both area wide and scheme specific.

Whilst the statement focuses on the reporting and processes involved, more specific details on development viability in planning will be dealt with in the forthcoming second edition of the RICS guidance note 'Financial Viability in Planning'. A few new and amended processes are detailed here.

Increasing the transparency of reported information has been a hot topic in viability over recent times and this statement increases the need to make FVAs public material during the planning application process. It states that FVAs must be prepared on the basis it will be made publically available. This should provide more clarity to the general public and should increase the trust that the viability process is being carried out in an appropriate manner. In addition, it is now mandatory that viability appraisals should be based on market information rather than client specific information.

Previously it was up to the developers' consultants to provide the information to prove an appraisal input is justified when there was a disagreement. Whereas it now ensures that if a reviewer does not agree with an assumption they must provide a detailed summary of the differences, including the supporting or reasonable justification as to why there is a disagreement. This is of benefit to the developer as it should reduce the time

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spent negotiating disagreements as both sides will start with fully justified information rather than just a disagreement with no evidence.

To further ensure that all information is consistent, impartial and without interference, it is now a mandatory requirement that all contributors to reports utilised within the FVA process, both acting for developers or public authorities, must comply with the mandatory requirements within this document. It is the responsibility of the RICS member or firm carrying out the FVA to ensure that is carried out. This should help to improve the trust that all inputs of the FVA process are reasonable, justified and provided by a competent and capable individual or firm. By ensuring that all inputs are reasonable and provided by a competent practitioner the negotiating time of the FVA will be reduced.

As a partnership we have been adopting best practice guidance for many years but the production of this Professional Statement formalises the process that needs be followed

in the preparation of FVA reports.

We carry out a large number of FVAs for our developer and landowner clients on sites of varying scale and quantum nationally and would be happy to assist with all matters in relation to both FVA report submissions and affordable housing matters.

In addition to this professional statement the RICS is producing a second edition of the guidance note Financial Viability in Planning (published in 2012), to reflect on the changes in the revised National Planning Policy Framework 2018 (updated February 2019) and the Planning Practice Guidance 2018 (updated May 2019). There is no date set for the publishing of this document but we continue to monitor the matter to ensure we adopt the most up-to-date and relevant guidance.

For any further guidance do not hesitate to get in touch with **Jamie Miller** or **Nick Fell**.

