

Planning Committee

05 November 2021

Agenda item number 9

Marketing and Viability Guide - for adoption

Report by Planning Policy Officer

Summary

The Marketing and Viability Guide has been consulted on three times, most recently from July to September 2021. This report presents the comments made, the responses to those comments, and the proposed final Guide.

Recommendation

To note the comments, endorse the responses and the final Marketing and Viability Guide, and recommend to the Broads Authority that the Guide be adopted.

1. Introduction

- 1.1. The Marketing and Viability Guide has been consulted on three times, most recently over July to September in 2021. This report presents the comments received on the draft Guide, the responses to those comments and proposed amendments (Appendix 1) and the proposed final Guide (Appendix 2). Please note that the guide in appendix 2 shows the proposed changes as a result of the third consultation.
- 1.2. It should be noted that some changes have been made to the Guide, not as a result of the comments received. These are summarised as follows:
 - 1.2.1. Amended reference to the 2021 NPPF, throughout.
 - 1.2.2. As a result of the Inspector's report on a recent appeal, brief text relating to rent and maintenance, new section 7.5.
 - 1.2.3. As a result of conversations between a Development Management Officer and an applicant, footnote 6 and 12.

2. Conclusion

- 2.1. Members' comments are invited, with a recommendation that the Guide be adopted by the Broads Authority.

Author: Natalie Beal

Date of report: 11 October 2021

Appendix 1 – Marketing and Viability Guide - comments received, responses and amendments

Appendix 2 – Proposed final Marketing and Viability Guide (with track changes)

Ref	Name	Organisation	Comment	BA response	Amendments
#1	Joy Brown	Norwich City Council	Thank you for consulting Norwich City Council on the Broads Authority marketing and viability guide. We have no comments to make.	Noted.	No change
#2	Keri Williams	Norfolk Gardens Trust	Thank you for consulting the Gardens Trust. The trust does not wish to submit comments on this document.	Noted.	No change
#3	Paul Cunningham	Beccles Town Council	Regarding Section 7.5.4. d (specifically lines 274-275), it would be worth defining/claring what is meant by "ongoing business".	As in if a business is still trading.	Add this explanation as a footnote.
#4	Paul Cunningham	Beccles Town Council	Additionally, we are uncertain as to why "If an ongoing business, a summary of the trading history needs to be included" information needs to be provided as marketing particulars.	In discussion with our viability and marketing expert, if it is an existing business that is being marketed for sale or the operation of the business from the premises underpins its value then it reasonable to give interested parties a brief outline of the business opportunity. It may be the a brief outline is provided within any marketing information and that more detailed information is made available separately to genuine interested parties on a confidential basis	Add footnote to say: ' It may be the a brief outline is provided within any marketing information and that more detailed information is made available separately to genuine interested parties on a confidential basis '
#5	Jacqui Salt	Natural England	Natural England does not consider that this Marketing and Viability Guide poses any likely risk or opportunity in relation to our statutory purpose, and so does not wish to comment on this consultation.	Noted.	No change
#6	Penny Turner	Norfolk Police	Thank you for the consultation invite but the DOCO team will not be commenting on this particular Broads Authority guide.	Noted.	No change
#7	Liam Robson	Environment Agency	Just to confirm the Environment Agency have no comments on this consultation.	Noted.	No change
#8	Emily Curtis	Loddon Parish Council	Loddon Parish Council is concerned that the guide is too prescriptive which may deter investment in the Broads area particularly from small scale and first-time tourism ventures. We would not want to see the Broads only occupied by large scale businesses. The document may therefore restrict officers ability to work with applicants to find solutions, which could be of benefit to all. Not every situation can be pre-determined by a guide and there should be flexibility built in. Officers and applicants need to be able to find practical solutions within a framework of what is acceptable.	The guide sets out how a developer can meet the policy requirements. It is designed to be helpful to applicants. One could argue that if the guide is followed, there will be less delay and costs as the marketing or viability assessment will not need to be started again. The Broads works with applicants, as is required by the NPPF and indeed SP1 of the Local Plan.	No change
#9	Emily Curtis	Loddon Parish Council	We are concerned that additional costs and delays could be imposed as a result of adoption of this guide. This document also seems to create a presumption against development, unless an existing use can be proven non-viable to the satisfaction of planners. We do not believe this complies with the principles of the NPPF.	Noted. The requirements are set out in policy. This guide does not set any new requirements; it elaborates on policy to help with applicants adequately meet the policy requirements. One could argue that if the guide is followed, there will be less delay and costs as the marketing or viability assessment will not need to be started again. If a proposal on a site is for something different to what the Local Plan sets out, then the applicant will need to justify that the change is needed and that there is no interest in the current operation and that the current operation is not viable. This is a common and usual approach taken by probably all local planning authorities. So if there is no interest in the site when it is marketed and there is proof that it is not viable and other policy tests are met, then the proposed scheme (that is different to what the Local Plan requires) may well be permitted.	No change
#10	Emily Curtis	Loddon Parish Council	We agree with the need to protect the character and historic nature of The Broads but this should not be at the detriment of the economic realities of the Broads today. If we cannot move with the times and plan for the future, we will be doing an injustice to the residents of the area, the local businesses and the tourists that visit.	Noted. This guide elaborates on policy. It does not set any new requirements. If a proposal on a site is for something different to what the Local Plan sets out, then the applicant will need to justify that the change is needed and that there is no interest in the current operation and that the current operation is not viable. This is a common and usual approach taken by probably all local planning authorities. So if there is no interest in the site when it is marketed and there is proof that it is not viable and other policy tests are met, then the proposed scheme (that is different to what the Local Plan requires) may well be permitted.	No change
#11	Emily Curtis	Loddon Parish Council	As coronavirus has had a significant detrimental effect on businesses, we feel that this guide would be better delayed until the emerging picture of future development and commercial activity is better understood. We would welcome The Broads Authority helping to rebuild the local economy and therefore feel that perhaps this document is badly aimed and timed, as it could do the opposite.	Noted. We delayed this guide for 18 months for that very reason. But the policy which this guide elaborates, has always been in place. The Guide elaborates on already adopted policy and does not change policy or set any additional requirements; it elaborates on how to meet the requirements of the policy.	No change
#12	Emily Curtis	Loddon Parish Council	Our usual concerns on The Broads as a planning authority are not alleviated by this document. We are of the opinion that a wholly elected body, such as a District Council, is better placed to determine planning policy than The BA.	Comments noted. This is not something we are able to change.	No change
#13	Emily Curtis	Loddon Parish Council	We are also mindful that The Broads exists under its own Act of Parliament, and we would not want to see any significant shift or attempt to weaken the principles of that Act, which govern the focus of environment alongside commerciality appropriate to the uniqueness of The Norfolk Broads.	Noted. It is not clear how the guide affects the principle of the two Acts of parliament. The Guide elaborates on adopted Local Plan policy and does not set anything new.	No change
#14	Paul Harris	SNDC and BDC	The Council supports the decision to change the document from a Supplementary Planning Document to a Guide. This change will give the Broads Authority further flexibility to respond to the particular circumstances of any individual application within the framework of the policies of the adopted Development Plan.	Support noted.	No change
#15	Paul Harris	SNDC and BDC	Unless a specific requirement or particular approach is set out in the policies of the adopted Development Plan, the Council would suggest that the authority takes care to express guidance in terms of "the authority would recommend" or "the authority would typically expect". This will help make it clear where a requirement is specifically set out in a policy of a Development Plan and where it is further guidance that is intended help in the implementation of a policy.	Comments noted. We are content with the language used as we feel that by following this Guide, the requirements of the policy will be met and a robust marketing and viability assessment will be completed.	No change

#16	Paul Harris	SNDC and BDC	<p>Accepting that the impact of the recent changes to the Use Classes Order will be much more limited in the Broads Authority area than elsewhere, the Council suggests that the Broads Authority may wish to take the opportunity within the Guide to explain the extent to which any changes impact on the application of the policies of the Development Plan.</p> <p>Follow up:</p> <p>As I read the changes to the Use Classes Order a lot of the extended permitted development rights wouldn't apply within the BA.</p> <p>However, changes within the same Use Class, in particular E, wouldn't be development. Therefore, thinking about DM26, couldn't an employment use falling within E (g)(i) or (g)(ii) change to an indoor sport or recreation use without needing to go through the steps outlined in the policy, by virtue of the fact that these would fall under E(d)?</p> <p>It's worth noting that I am not trying to say that there is definitely an issue here, or that the particular example give above is correct. I specifically didn't give an example for those reasons and I've not thought about it in that level of depth. Rather it is just a polite suggestion that you might want to consider whether all of your policies can still be applied as imagined at adoption or if not whether you'd want to take the opportunity presented by the guide to provide further guidance to applicant's on this point.</p>	<p>This is a useful suggestion and indeed we will raise this in the Guide.</p>	<p>Add this to 6.3: 6.3.2. <u>In terms of its current use, that also will mean that the site needs to be marketed in line with its current land use class. For example, if the site is currently an office or a day nursery, then that is land use class E and there are many other types of use included in class use E . which the site/property could become without the need for planning permission.</u></p>
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A guide on marketing and viability assessment requirements

Adopted November 2021

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1. Introduction

- 1.1. Several policies in the [Local Plan for the Broads](#)¹ will require you, as an applicant or agent, to carry out a robust marketing campaign and/or a viability assessment if your proposed scheme is promoting something different to the adopted policy position. This guide explains what is meant by marketing and viability, and which Local Plan policies have this requirement. It highlights how to carry out these processes and provide information in the way the Broads Authority requires. Following this guide will reduce the chances of a delay in determining your application in relation to these requirements.
- 1.2. The Broads Authority is the Local Planning Authority within the Broads area and this guide applies only to land within the Authority's executive boundary.
- 1.3. The Authority considers that this guide will help applicants consider the issue of marketing and viability in an appropriate way. The guide should be read alongside relevant policies of the Local Plan for the Broads (adopted 2019). The guide is a material consideration in determining planning applications. The advice and guidance herein will not add unnecessary financial burden to development; it is designed to help deliver policy requirements of the adopted Local Plan for the Broads.
- 1.4. In the Local Plan, we refer to 'viability assessment'. This effectively has two meanings. The first is an assessment of the viability of continuing the current land use, when a proposal is submitted to change the use. The second is to determine the level of planning contributions that might be appropriate for a proposed development whilst maintaining its viability and deliverability.
- 1.5. ~~We consulted on the first draft of this document back in September 2019. We then consulted on an amended version in March/April 2020. Comments received as a result of both consultations are here <https://www.broads-authority.gov.uk/about-us/how-we-work/transparency/consultations> (available week commencing 26 July 2021).~~
- 1.6. **It is important to note that the Broads Authority offers a free pre planning application service. We encourage and recommend all applicants take advantage of this. This service will provide initial officer level thoughts on proposals. We aim to provide this advice within 21 days.**

¹ Local Plan for the Broads: <https://www.broads-authority.gov.uk/planning/planning-policies/development>

2. Consultation

- 2.1. [This guide underwent three rounds of consultation, most recently during July to September 2021. The comments received at each round of the consultation can be found here xxx.](#)

Members – when the guide goes on the website, we will include the consultation documents on the same webpage. For now, here are the links to those documents:

Consultation 1: https://www.broads-authority.gov.uk/__data/assets/pdf_file/0031/397624/Marketing-and-viability-guide-consultation-responses-November-2019.pdf

Consultation 2: https://www.broads-authority.gov.uk/__data/assets/pdf_file/0032/397625/Marketing-and-viability-guide-second-consultation-responses-April-2021.pdf

Consultation 3: attached to this item of the planning committee

3. National Planning Policy on viability and marketing

- 3.1. The [National Planning Policy Guidance](#)² (NPPG) states that: ‘Viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return’.
- 3.2. The Local Plan for the Broads was examined under the 2012 National Planning Policy Framework (NPPF). However, all planning applications submitted to the Broads Authority will be considered against the most up-to-date version of the NPPF, published in [2021](#) ~~2019~~.
- 3.3. Regarding viability, the [2021 National Planning Policy Framework](#)³ (para 58) states that: ‘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 guidance, including standardised inputs, and should be made publicly available’
- 3.4. More information from the NPPG relating to viability assessments can be found online: [Standardised inputs to viability assessment](#)⁴.
- 3.5. Whilst not necessarily National Policy, the Royal Institution of Chartered Surveyors have a guidance note⁵ and are intending to update it.
- 3.6. Regarding marketing, the NPPF and NPPG seem to only refer to marketing relating to the use of heritage assets (NPPF paragraph [201](#) ~~195~~).

² NPPG on viability: <https://www.gov.uk/guidance/viability>

³ NPPF: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

⁴ NPPG: <https://www.gov.uk/guidance/viability#standardised-inputs-to-viability-assessment>.

⁵ Financial Viability in Planning, 1st edition <https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/land/financial-viability-in-planning-1st-edition-rics.pdf>. Please note that at the time of this consultation, this document is being reviewed.

4. When do you need to assess marketing and viability?

- 4.1. If you are required to prepare a marketing and viability assessment, this should be completed before a planning application is submitted. Marketing and viability assessments carried out after an application has been submitted to justify a new use or development, will inevitably lead to a delay in determination of the application due to the sustained period required for marketing.
- 4.2. It will be necessary to provide information on how a site has been marketed and to assess the viability of the site in these circumstances:
 - a. When a policy of the Local Plan for the Broads requires appropriate marketing of a site (and evidence of this marketing to be provided) to assist in proving to the Broads Authority that the current use of the site is no longer appropriate.
 - b. When a policy requires the submission of viability evidence to demonstrate that a use of a site is not viable.
 - c. When a policy requires something to be provided as part of a scheme (such as affordable housing and planning obligations) and a promoter assesses the impact of this provision on the viability of the scheme.

5. Relevant policies in the Local Plan

- 5.1. The following policies of the Local Plan for the Broads refer to marketing/rent and viability requirements. If your scheme is promoting something different to the position set out in these policies, you will need to carry out a marketing campaign and/or a viability assessment. The objective is to assess the economic viability of the existing business/use and, if necessary, market it at a reasonable price⁶ to find a new owner/occupier and retain that use.
- 5.2. The following table/matrix sets out which policies require marketing or viability requirements. See [Appendix A](#) for more information.

⁶ [Reasonable and realistic price could be achieved through seeking two independent valuations.](#)

Policy	Requires marketing?	Requires viability information related to a new scheme/as a result of a policy requirement? To check if a policy requirement is not viable.	Requires viability information related to redevelopment or change of use? To check if the existing use is still viable.	Relevant section of guide.
Policy DM4: Water Efficiency		X		7.3
Policy DM12: Re-use of Historic Buildings	X		X	6 and 7.4
Policy SP11: Waterside sites			X	
Policy DM26: Protecting general employment	X		X	6 and 7.4
Policy DM30: Holiday accommodation – new provision and retention	X		X	6 and 7.4
Policy DM34: Affordable housing		X		7.3
Policy DM38: Permanent and temporary dwellings for rural enterprise workers	X		X	6 and 7.4
Policy DM43: Design		X		7.3
Policy DM44: Visitor and community facilities and services	X		X	6 and 7.4
Policy DM48: Conversion of buildings	X		X	6 and 7.4
Policy HOR8: Land on the Corner of Ferry Road, Horning			X	7.4
Policy THU1: Tourism development at Hedera House, Thurne		X		7.3
Policy SSPUBS: Waterside pubs network			X	7.4

6. Marketing your site/property

6.1. Introduction

6.1.1. This section sets out the detailed requirements for marketing a site to show that there is no demand for the existing use and to justify a change of use. Be aware that there are experienced organisations who can help with your marketing campaign; we suggest you seek their assistance.

6.2. Proposals involving the potential loss of tourist accommodation.

6.2.1. We note that the marketing requirement is slightly different for proposals that would result in a loss of tourist accommodation. New tourist accommodation should be operating and available to potential customers for at least 12 months to understand the demand for the accommodation. If there is sufficient evidence to demonstrate limited interest in people staying at the holiday accommodation, the next stage is to market the site for tourist accommodation or an alternative tourist use on the open market for a year. Marketing the unit to another potential operators is considered a sound approach to demonstrating that holiday use is unviable in the long term rather than marketing it for 12 months to sell it on the open market.

6.2.2. If you believe that your tourist accommodation is not successful or not viable enough, then we will need to understand why this is. We need to understand, in order to be successful and take into account the various costs associated with the accommodation, what % occupancy (in days or weeks in a year) is the 'break even' level. When marketing the accommodation for 12 months, we can then see how the occupancy level rates against that 'break even' level in that time.

6.2.3. Tourist accommodation permitted in the first few months of a calendar year may not receive many bookings for the following summer/peak period because people may book their holidays well in advance. Therefore, the 12-month period for marketing is best to start from the following December (1st) to be available for booking when people may book their holidays.

6.2.4. When marketing your accommodation, we would expect the accommodation to be available for rent on at least three well-known holiday accommodation websites. These may include Air BnB and bookings.com for example. You will need to explain and justify the websites you use. If you consider that your site should be available for rent/hire on fewer than three websites, please explain why this is the case. We would expect good quality photos posted on those websites to help the accommodation be attractive to those looking for somewhere to stay.

- 6.2.5. The price charged per night needs to be reasonable and a level that is acceptable and one that someone is likely to pay to stay at your accommodation. This price will require justifying.
- 6.2.6. The property should be able to be let for a variety of time periods (for example 1 night, 2 nights, 7 nights etc), in accordance with any planning conditions attached to the property. Again, these time periods need to be justified.
- 6.2.7. If the property is unavailable for rent during the 12 months, you need to contact the Broads Authority to discuss this. The policy does say that a sustained period of 12 months is required. We may require the time the property is unavailable to be added on to the end of the 12 months.
- 6.2.8. The marketing report presented to the Broads Authority at the end of the 12 month period will need to detail what bookings were made and for how long. The report needs to say how many days or weeks in a year the accommodation was rented for and how that relates to what was expected to be successful year for the accommodation. This could usefully include information from the websites used to advertise the property. Indeed, information of the reviews received for the holiday accommodation will be of interest and relevance. If a negative review raises issues that can be addressed, how have you addressed those issues?
- 6.3. **Land use Class and Permitted Development**
- 6.3.1. Permitted Development rights allow changes of certain uses to other uses, subject to particular criteria. As part of marketing the site, the site will need to be marketed and/or investigated in terms of its potential for other uses permitted by the General Permitted Development Order⁷ as well as for its current use.
- 6.3.2. In terms of its current use, that also will mean that the site needs to be marketed in line with its current land use class. For example, if the site is currently an office or a day nursery, then that is land use class E and there are many other types of use included in class use E⁸. which the site/property could become without the need for planning permission.
- 6.4. **How to market your site**
- 6.4.1. As a minimum, the following initiatives are expected to be used for all premises. The Broads Authority may request other ways of marketing. How you market your site will be proportionate to the site/property that is being marketed/proposed for change of use.

⁷ https://www.planningportal.co.uk/info/200187/your_responsibilities/37/planning_permission/2

⁸ Use classes (as at November 2021) https://www.planningportal.co.uk/info/200130/common_projects/9/change_of_use

6.4.2. Method of marketing and approach to advertisement

This will cover:

- Basis of instruction - sole agent or joint agent, etc. We would need to know the details of the agent appointed and their expertise/qualifications. If no agent was used, we would need to understand why.
- Method of disposal - private treaty or informal/formal bids.
- Advertisement option - sale boards, internet, PR, publications, mailing, etc.

6.4.3. Marketing board

- a. A simple 'for sale' board for small commercial premises, single tourist unit accommodation and community facilities.
- b. For larger commercial units and tourist accommodation sites, larger boards giving details of the property including the guide price are required.
- c. Boards need to be placed so they can be seen from the main public vantage point (which could be a road and/or river in the Broads) but not so they cause obstructions or inconvenience to the public or neighbouring uses. They should also be designed and located in a way to not impact the special qualities of the Broads.
- d. Temporary 'for sale' boards do not generally require consent, subject to certain restrictions, and it is the land owner's responsibility to comply with these⁹.

6.4.4. Marketing particulars

- a. The details of the site need to be advertised.
- b. For a small site, this could be on the website or be a simple handout.
- c. For larger commercial units and tourist accommodation sites, which are more likely to have a regional or national audience, the particulars need to be set out in a bespoke, well-designed brochure. This needs to include layouts of the building and professional photos.
- d. In all cases, the following information is required:
 - Background –why the property is being marketed.
 - Description – including details on floorspace, number of floors, layout, car parking and yard facilities.

⁹ [The Town and Country Planning \(Control of Advertisements\) \(England\) Regulations 2007, Schedule 3, Part 1, Class 3A; 'Miscellaneous temporary advertisements'](#)

- Internal and external photographs
- Location - including information on proximity to regional centres such as Norwich, Ipswich and Lowestoft, links to transport networks and general setting (e.g. Business Park / enterprise zone).
- Description of accommodation
- Terms (leasehold, freehold, long lease, etc.) - these should be flexible and consider prevailing market conditions. The length of leases should not be unduly restrictive.
- Guide price/rent
- Planning information – a summary of the existing planning use and status, history and restrictions.
- Services and utilities
- Energy Performance Certificate
- Rateable value and business rates
- VAT status
- Legal and professional costs
- Viewing arrangements
- Contact information for the agent
- If an ongoing business¹⁰, a summary of the trading history needs to be included¹¹.

6.4.5. Advertisement in press/press release

- a. For small commercial units, community facilities and single unit tourist accommodation, an advert is to be placed and maintained (for a period to be agreed with the Authority) in a local newspaper and estate/property agents (including with specialist trade agents if appropriate).
- b. For larger commercial units and tourist accommodation sites, specialist publications are to be used (again for a period to be agreed with the Authority)

¹⁰ Ongoing business means of the business is still trading in the property.

¹¹ It may be the a brief outline is provided within any marketing information and that more detailed information is made available separately to genuine interested parties on a confidential basis.

and estate/property agents (including with specialist trade agents if appropriate).

- c. Advertisements in both local and national publications should include a colour picture of the premises.
- d. For larger commercial units and tourist accommodation sites, a press release could be given to the local and regional press.

6.4.6. Online advertisement

- a. The site needs to be published on the agent's website
- b. Also, if for a commercial site, one national commercial property search engine.
- c. For very large commercial units and tourist accommodation ~~parks~~ sites, a bespoke website for the property should be created.
- d. The information set out in 8.5.4 needs to be displayed on the website.

6.4.7. Targeted mailing

- a. This would be completed by the agent.
- b. They may mail their contacts and/or purchase a database of contacts and send them the details.

6.5. Length of marketing campaign and re-advertising

6.5.1. As set out in the Local Plan, the marketing of the site must be for a sustained period of 12 months at a realistic price ([Appendix A](#)).

6.5.2. This period may have the added benefit of allowing communities time to develop community led proposals, and will also be relevant if the property has been registered as an asset of community value with Broadland District, Great Yarmouth Borough, North Norfolk, Norwich City, South Norfolk or East Suffolk Council.

6.5.3. If there has not been a willing buyer/occupier in the first three months of marketing, the site/property will need to be re-advertised, at three monthly intervals unless otherwise agreed with the Authority. This advertisement will be for a total of at least 12 months as set out in the Local Plan for the Broads.

6.6. Expenditure on marketing

6.6.1. The budget for the marketing campaign should be proportionate to the anticipated return from the property. The budget for the marketing campaign should be proportionate to the nature of the property and the interest being sold. You will be required to justify the marketing spend as being appropriate.

6.7. Guide price/rent

6.7.1. This needs to be commensurate with the current market price for similar premises (which may reflect if the market is stagnant). To provide impartial evidence regarding viability and marketing of the property, an independent assessment or valuation is likely to be required. It is expected that the value of the property will be derived from a suitably qualified expert or practitioner who may well be a member of RICS (Royal Institution of Chartered Surveyors) or other appropriate professional organisation. The marketing must be at a reasonable and realistic value¹² for the current permitted use class and for other permitted use classes (see 8.3) both for sale and rent.

6.8. Marketing statement

6.8.1. If there has been no success in selling or letting the unit after 12 months of marketing, a marketing statement must be prepared and submitted with any planning application for redevelopment or change of use. The marketing statement should set out the following details:

- a. The duration and dates of the marketing campaign
- b. The value of the property used in the marketing campaign and the justification to support this value
- c. Evidence how the marketing campaign was delivered – to include photos of the marketing boards, copies of particulars, screenshots of online advertisements, copies of press articles and adverts
- d. A full record of enquiries received throughout the course of the marketing campaign. This needs to record the date of the enquiry, details of the company/individual, nature of the enquiry, if the property was inspected, details of any follow-up and reasons why the prospective occupier deemed the premises unsuitable. If any offers were rejected, the grounds on which the offers were rejected must be provided. This will be subject to GDPR requirements.
- e. If the record of enquiries indicates a lack of interest during the marketing campaign, the report needs to detail the measure undertaken to alter the campaign and to increase interest.

6.8.2. The statement will need to be independently reviewed. This review will be entirely at the applicant's expense.

¹² Reasonable and realistic price could be achieved through seeking two independent valuations.

7. Preparing a Viability Assessment

7.1. Introduction

7.1.1. This guide gives general information about requirements for viability assessments.

7.1.2. There are two types of viability assessments covered in the Local Plan and in this guide. The first is related to whether a scheme can meet policy requirements like water efficiency and affordable housing. The second relates to proving if a current use is not viable when an applicant is seeking a change of use or redevelopment.

7.2. Community Infrastructure Levy (CIL)

7.2.1. At the time of writing, the Broads Authority does not have a CIL in place.

7.3. Viability Assessment – policy requirements like design, water efficiency and affordable housing.

General information

7.3.1. It is not intended that this guide goes into detail about completing viability assessments; instead it discusses viability assessments more generally. For more detailed information, visit the NPPG: <https://www.gov.uk/guidance/viability>.

7.3.2. It is important to note that the Local Plan and its policies underwent a viability appraisal¹³ as part of the production and examination. The viability appraisal and its assumptions should be an important consideration when producing a site-specific viability assessment¹⁴.

7.3.3. Viability assessments must now not be based on information specific to the developer, and therefore need not be treated as commercially sensitive. If commercially sensitive information is included, then it should be aggregated in published viability assessments and executive summaries.

7.3.4. If no viability assessment is submitted then it will be assumed that the application is policy compliant and full policy ask is being delivered / not contended

Requirements of viability assessments

7.3.5. A suitably qualified expert or practitioner who may well be a member of RICS (Royal Institution of Chartered Surveyors) or other appropriate professional organisation, must complete the viability assessment.

¹³ https://www.broads-authority.gov.uk/_data/assets/pdf_file/0020/256115/EP28-Updated-Viability-Appraisal-for-the-Broads-Local-Plan-Nov-2018.pdf

¹⁴ By way of background, the Local Plan for the Broads was examined using the 2012 NPPF. It is noted that the NPPG and the new NPPF have specific requirements relating to viability appraisals and these are noted. When determining the specifics of a site-specific viability appraisal, the current NPPF and NPPG will be referred to, noting that the Local Plan was examined under the 2012 NPPF.

- 7.3.6. The level of detail and type of evidence and analysis presented should be proportionate to the scale and nature of the site and/or property in question.
- 7.3.7. The assessment must be clear and transparent, setting out robust evidence behind the assumptions and inputs that go into the development appraisal. There must be no hidden calculations or assumptions in any model or appraisal.
- 7.3.8. Viability Assessments need to include details of the proposed scheme including site area, unit numbers, number of habitable rooms (if residential), unit size, density and the split between the proposed tenures/uses. Floorspace figures need to be provided for residential uses (gross internal area) by tenure, and non-residential uses in gross internal area (GIA) and net internal area (NIA). Information needs to be provided relating to the target market of the development and proposed specification, and be consistent with assumed costs and values.
- 7.3.9. Details of the assumed development programme and the timing of cost and income inputs need to be provided.
- 7.3.10. Any assessments submitted needs to include an executive summary along with the detailed viability assessment which clearly shows the inputs applied and the outcome and should include a detailed cashflow. The information provided must be able to be reviewed and interrogated without the need for additional information being provided . There are several specialist appraisal models that can be used to undertake the a viability apparaisal and provide the information in a suitable format including the use of Microsoft Excel.

Land values

- 7.3.11. Site promoters and developers need to ensure that the price paid for land does not negatively affect the delivery of this Local Plan's objectives. The NPPG says:
 - 'The price paid for land is not a relevant justification for failing to accord with relevant policies in the plan. Landowners and site purchasers should consider this when agreeing land transactions'
 - 'It is important for developers and other parties buying (or interested in buying) land to have regard to the total cumulative cost of all relevant policies when agreeing a price for the land. Under no circumstances will the price paid for land be a relevant justification for failing to accord with relevant policies in the plan'
- 7.3.12. Where land with planning permission is subsequently sold, the price paid for land should not be inflated to such an extent that it compromises the existing permission. Such land transactions should remain at a price that ensures that the development remains policy compliant.

Affordable housing

7.3.13. Policy DM34: Affordable housing reasoned justification says that effectively, the district's percentage will be a starting point for assessment. If viability is an issue, the assessment can assess lower percentages. In assessing lower percentages, the assessment should demonstrate at what percentage the scheme becomes unviable. Any assessment should use different tenures as they have different transfer values. For example, shared equity may be 50% market value; Low Cost Home Ownership may be 80 % market value. Where a developer is suggesting a scheme is unviable and seeking to reduce affordable housing they should model the highest transfer values in order to maximise the choice. Conversely, for any market housing, the assessment will work up from zero.

Confidentiality

7.3.14. Planning practice guidance is now clear that viability assessment should be prepared on the basis that it will be made publicly available other than in exceptional circumstances. In general, viability assessments are published online (as part of the supporting documents for planning applications on the Broads Authority's website) and are kept in the planning application file with the other studies, plans and information contained within the planning application. Members of the public may ask to see these files.

7.3.15. In exceptional circumstances, where the publication of information would harm the competitiveness of a business due to the necessity to include commercial information unique to that business, the Authority will consider keeping some of the viability assessment confidential. In such cases, the applicant will need to provide full justification as to why the harm caused would outweigh the public interest in publishing the information.

7.3.16. Even when there are exceptional circumstances (i.e. the Authority is satisfied that the information is commercially sensitive) the executive summary should be made public. In such publications, the commercially sensitive information should be aggregated into costs in the executive summary. This does not mean that the information is not split out in the appraisal; just that it is not published in agreement with the Authority. Also note the reference to confidentiality in section 9.4.11. Please see detail in NPPG Paragraph: 021 Reference ID: 10-021-20190509 Revision date: 09 05 2019¹⁵ entitled 'should a viability assessment be publicly available?'

Circumstances

7.3.17. Any Issues relating to the personal circumstances of the applicant or to the price paid for the building cannot be taken into consideration.

¹⁵ NPPG: <https://www.gov.uk/guidance/viability>

7.4. Viability Assessment – change of use/conversion/redevelopment

General Information

7.4.1. This section relates to schemes that seek a change of use/conversion/redevelopment contrary to what is permitted in the local plan.

Requirements of viability assessments

7.4.2. A suitably qualified expert or practitioner who may well be a member of RICS (Royal Institution of Chartered Surveyors) or other appropriate professional organisation

7.4.3. The level of detail and type of evidence and analysis presented should be proportionate to the scale and nature of the site and/or property in question.

7.4.4. The assessment must be clear and transparent, setting out robust evidence behind the assumptions.

7.4.5. The viability assessment needs to assess the current and likely future market demand for the site or property. For the existing and future demand in terms of bookings, this could be by using recent and future bookings. For future demand in terms of someone taking on the property/site, expert opinion would be useful, as well as interest in buying the property/site when it is marketed.

Assisting a business to be run in a viable manner - grant funding/financial support

7.4.6. As part of the assessment, the applicant will need to demonstrate that they have explored all possible options to improve the viability and sustainability of the service/business. It is up to the applicant to investigate and demonstrate the steps they have taken, but it could include the following. Details of the grants or support investigated, whether the application was successful (and if not, why not), and the impact of this funding or support on viability must be provided as part of the viability assessment, but this part of the viability assessment, in discussion with the applicant, may be confidential.

- a. **Business rate relief:** The district council may provide business rate relief. Owners or operators of the site in question should approach the district council to discuss the potential for this, and evidence of any such discussions with the district council will need to be provided with any planning application.
- b. **Interventions to improve the commercial attractiveness:** The owner or operator of the site will need to provide evidence showing how they have considered reasonable interventions to improve the attractiveness of the site, and evidence if these interventions are not feasible (if that is the case).
- c. **Grant funding and financial support:** Information showing that all available opportunities of grant funding and financial support to help retain the current

use(s) have been fully explored and that none are viable (if that is the conclusion).

Proposals relating to Public Houses

- 7.4.7. Owners wishing to pursue other uses of a public house will need to make a planning application and submit a report undertaken by a suitably qualified expert or practitioner who may well be a member of RICS (Royal Institution of Chartered Surveyors) or other appropriate professional organisation, that meets the tests as set out in the CAMRA Public House Viability Test¹⁶. The Authority will need to verify the content of the report and may need to employ external expertise to do so. The applicant will need to meet this expense.
- 7.4.8. The Public House Viability Test does not seek to protect the continued existence of every pub -circumstances can change and some pubs find themselves struggling to continue. It does, however, help all those concerned in such cases – local authorities, public house owners, public house users and Planning Inspectors – by providing a fact-based method to rigorously scrutinise and test the future viability of a pub against a set of well-accepted measures.
- 7.4.9. The fundamental basis of this viability test is to assess the continued viability of a pub business. The question to address is what the business could achieve if it were run efficiently by management committed to maximising its success.
- 7.4.10. It is also important to note that some public houses may be listed as Assets of Community Value¹⁷. These are allocated as such by the District Council, in liaison with the Broads Authority. There are certain requirements relating to these Assets which can be found here: <https://mycommunity.org.uk/help-centre/resources/land-and-building-assets/assets-community-value-acv/>

Confidentiality

- 7.4.11. There may be some instances where parts of the assessments are deemed confidential.

Circumstances

- 7.4.12. Any Issues relating to the price paid for the building cannot be taken into consideration.

7.5. Rent and Maintenance

- 7.5.1. Rent and maintenance are important considerations when assessing viability. There is further guidance in this guide: <https://www.rics.org/globalassets/rics->

¹⁶ CAMRA Public House Viability Test: https://camra.org.uk/campaign_resources/public-house-viability-test/

¹⁷ It should be noted that other properties/venues/sites can be allocated as Assets of Community Value. Again, see websites of our [Councils](#).

[website/media/upholding-professional-standards/sector-standards/land/assessing-financial-viability_final.pdf](https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/land/assessing-financial-viability_final.pdf).

7.6. Independent Review – both types of viability assessments.

7.6.1. The Authority will need to verify the content of a viability assessment and may need to employ external expertise to do so. The applicant will need to meet this expense.

7.6.2. The independent review will assess and scrutinise the assumptions and inputs applied in undertaking the assessment and give a view on whether the assessment is robust. If the assessment is not considered robust, this will be discussed with the applicant who may be asked to amend the assessment. Depending on circumstances, the independent review may include a revised viability assessment in accordance with this guide and again the applicant will need to meet this expense.

7.6 Relevant links

7.6.1 The following links may contain useful information:

- Financial viability in planning: conduct and reporting (rics.org):
<https://www.rics.org/uk/upholding-professional-standards/sector-standards/building-control/financial-viability-in-planning-conduct-and-reporting/>
- RICS guidance note on the National Planning Policy Framework (note that some references may be out of date as a result of the new NPPF):
https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/land/assessing-financial-viability_final.pdf

8. Summary

- 8.1. If you intend to submit a planning application to the Broads Authority, please check at an early stage whether your proposal will require marketing of the site and/or a viability assessment. If it does, you must submit the assessment with your application as the Authority cannot validate your application until the assessment is received.
- 8.2. Please note that the assessment will be treated as public information in support of the application, along with all the other required documents and plans. As discussed in this Guide, there could be some instances where parts of the assessments are deemed confidential.
- 8.3. During the determination of the application, the Authority will assess the information you have provided against the marketing and viability requirements set out in this guide. It will verify the content of any viability assessments and may need to employ external independent expertise to do so. As the applicant, you will need to meet this expense. The Authority will consider the expert advice and let you know whether: (a) the assessment adequately demonstrates the argument you have put forward; (b) further information is required; or (c) the assessment does not demonstrate the case. The application will then be determined accordingly.

Appendix A: Additional requirements relating to specific proposals/policies

Introduction

Some schemes are specific and trigger slightly different approaches to marketing and viability. In these instances, as set out above, the approach to marketing needs to be agreed with the Authority and viability and marketing assessments will be reviewed by external expertise with the cost met in full by the applicant. The specific differences are highlighted in bold.

Economy section of Local Plan.

The reasoned justification to policy DM26: Protecting general employment says that any assessment needs to consider employment, tourism, recreational and community uses of the site.

‘To prevent the loss of established employment sites and properties, proposals to redevelop them to uses related to community facilities or to sustainable tourism and recreation uses will only be permitted if it can be demonstrated that employment uses (uses within Classes B1, B2 or B8 of the Town and Country Planning (Use Classes) (Amendment) (England) Order 2010) are unviable. **Only then will alternative uses be permitted, again subject to demonstrating that employment, tourism, recreational or community uses would be unviable**’.

Heritage section of the Local Plan

The reasoned justification to policy DM12: Re-use of Historic Buildings says that assessments need to consider and detail conversion costs and market for economic, leisure and tourism uses of the site.

‘Applications to convert a historic building to residential use will be expected to be accompanied by a report, undertaken by an independent Chartered Surveyor, **which demonstrates why economic, leisure and tourism uses would not be suitable or viable as a result of inherent issues with the building**. Issues relating to the personal circumstances of the applicant or as a result of a price paid for the building will not be taken into consideration. **Details should be provided of conversion costs and the estimated yield of the commercial uses, and evidence provided on the efforts that have been made to secure economic, leisure and tourism re-use** for a continuous 12-month period’.

Tourist accommodation section of the Local Plan

Policy DM30: Holiday accommodation – new provision and retention says that the emphasis is on demonstrating no demand for tourist accommodation in the area as well as assessing the impact of a net loss of accommodation that is necessary.

‘Existing tourism accommodation will be protected. Change of use to a second home or permanent residence will only be considered in exceptional circumstances **where it can be fully and satisfactorily demonstrated that there is no demand for tourist accommodation**’.

‘To make sure new holiday accommodation is used for tourism purposes that benefit the economy of the Broads, occupancy conditions will be sought to prevent the accommodation from being used as a second home or sold on the open market. To ensure an adequate supply of holiday accommodation is retained, the removal of such a condition will only be permitted where the proposal is accompanied by a statement, completed by an independent chartered surveyor, which demonstrates that it is financially unviable or **that any net loss of accommodation is necessary to allow appropriate relocation or redevelopment**’.

Affordable Housing policy

Policy DM34: Affordable housing reasoned justification says that effectively, the district’s percentage will be a starting point for assessment.

‘The independent review process will require the applicant to submit a site-specific viability appraisal (to include a prediction of all development costs and revenues for mixed use schemes) to the Authority’s appointed assessor. **They will review the submitted viability appraisal and assess the viable amount of affordable housing or the minimum number of market homes needed to cross subsidise the delivery of affordable housing on a rural exceptions site.** This review shall be carried out entirely at the applicant’s expense. Where little or no affordable housing would be considered viable through the appraisal exercise, the Authority will balance the findings from this against the need for new developments to provide for affordable housing. In negotiating a site-specific provision with the applicant, the Authority will have regard to whether or not the development would be considered sustainable in social terms’.

Converting buildings

Policy DM48: Conversion of buildings reasoned justification says that assessments need to consider and detail conversion costs and commercial yield and consider proposals for economic, commercial, leisure and tourism uses.

‘Residential conversions may be appropriate for some types of buildings and in certain locations, providing that it has been demonstrated that a **commercial or community use of the building is unviable** and that the building is of sufficient quality to merit retention by conversion. Applications to convert a building outside of a development boundary to residential use should be accompanied by a report undertaken, by an independent Chartered Surveyor, which **demonstrates why employment, recreation, tourism and community uses would not be viable due to inherent issues with the building.** This should include **details of conversion costs, the estimated yield of the commercial uses, and**

evidence of the efforts that have been made to secure employment, recreation, tourism and community re-use for a sustained period of 12 months’.

Rural enterprise workers dwellings

Policy DM38: Permanent and temporary dwellings for rural enterprise workers addresses what to do if the condition relating to a rural enterprise dwelling is proposed to change to make it market residential.

‘Should a new dwelling be permitted under this policy, the Authority will impose a condition restricting its occupation to a person (and their immediate family) solely or mainly employed in agriculture, forestry or a Broads related rural enterprise, as appropriate.

The **removal of an occupancy condition** will only be permitted in exceptional circumstances where it can be demonstrated that:

- a) There is no longer a long-term need for the dwelling on the particular enterprise on which the dwelling is located; and
- b) Unsuccessful attempts have been made to sell or rent the dwelling at a price that takes account of the occupancy condition**

Applications for the removal of occupancy conditions will also need to **be accompanied by robust information to demonstrate that unsuccessful attempts have been made, for a continuous period of at least 12 months, to sell or rent the dwelling at a reasonable price. This should take account of the occupancy condition, including offering it to a minimum of three local Registered Social Landlords operating locally on terms which would prioritise its occupation by a rural worker as an affordable dwelling, and that option has been refused. With regards to criterion j), unless there are special circumstances to justify restricting the dwelling to the particular enterprise where the dwelling is located, an occupancy condition is likely to allow occupation by other workers in the locality. In this case it should be considered whether there is other demand locally, not just whether the demand for this particular enterprise has ceased’.**