

Development Viability: Recession Buster Tips

Commercial Property values have collapsed from their 2007 peak by approximately 50%, and rents across all sectors have fallen. In the residential sector land values have fallen approximately 32% in England and Wales overall and roughly 34% in the South East. Major schemes have been shelved, speculative development has virtually dried up, and all the major UK developers have seen their shares crash in value with only tentative signs of recovery. House building completions are at a record low, stock is being sold at discount prices to maintain cash flow, and even housing associations are suffering through financial restrictions and lack of cross-subsidy funding. In this context, the delays and costs associated with the planning system must be minimised.

Many readers involved in the commercial or residential sectors will have experienced the cost and pain of the planning process. A recent Office of Fair Trading Report (Homebuilding in the UK, 2008) highlighted that delays and other issues associated with the planning system were a significant contributor to the slow delivery of housing. For example, in the period 99/00 to 07/08, the percentage of residential planning applications refused increased from 23% to 37%. The 'Barker Review' (2006) estimated planning delays cost the overall economy between £700m and £2.7bn.

What can developers do to successfully navigate the planning system in its current form and to secure a viable planning permission?

Proposed Government Changes to the Planning System

Recent moves by the DCLG suggest that the Government is finally recognising the need to unblock the planning system. However, many consider the proposed changes to be too little, too late. It has been proposed that developers may apply to extend the period of a permission from the current 3 years to, say, 5 years (as was the case pre 2004). Even if this change is agreed, it will be several months before any change comes into force.

The Government's response to the Killian Pretty Review of June 2008 also made a number of recommendations to overhaul the planning process: extended permitted development rights for the commercial sector; streamlining of application and S106 requirements; and an easier process for making minor amendments to developments. However, the proposals offer only slight improvements. In this context, what tips can be offered to developers?

Developer Tips

1. Viability - viability is a material consideration in planning terms and expressly relevant to the allocation of housing sites by local planning authorities (LPAs). In addition 'viability tool kits', used to explain the level of affordable housing provided, are increasingly critical to all new housing schemes. Planning and affordable housing consultants can assist with the preparation of such toolkits to negotiate down affordable housing or possible infrastructure contributions.

2. Negotiate longer planning permissions - it is already open to any developer to request that a planning permission lasts longer than the current 'default' 3 year period.

3. 'Flexible' Section 106 Agreements - in recognition of the prevailing economic climate some LPAs have granted planning permissions that fall short of their aspirations in terms of policy, notably affordable housing. For example, it may be possible to agree reduced levels of affordable housing based upon commencement of development within a specified timeframe, subject to review thereafter.

4. Review existing Section 106 trigger dates - the payment of financial contributions will often be based upon a trigger date such as first occupation of development or in many cases upon implementation. These can be reviewed and possibly renegotiated with LPAs.

5. Pre application discussions - the quickest planning permission is likely to be one negotiated at local level with the LPA. Therefore, despite the dubious practice of charging for meetings, especially within London Boroughs, and despite question marks as to the reliability of such advice, it is certainly prudent for any developer to speak to planning officers to iron out key planning issues before their applications are formally submitted.

6. Check validation requirements – most local LPAs now have a Validation Checklist which summarises the requirements for the submission of all types of planning application and the documents/plans to ensure the application is validated first time round. It is advisable to take professional advice in order to navigate this process since it has been liable to misunderstanding or 'overzealous' implementation resulting in unnecessary delays and expense for applicants.

Using these tips can minimise the cost and time of obtaining a planning permission which can be crucial to viability in current times.

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