

Viabile villages

closing the planning loophole
that undercuts affordable
housing in the countryside

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Campaign to Protect
Rural England
Standing up for your countryside

Shelter

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Executive summary

For decades, England hasn't built enough genuinely affordable homes in rural or urban areas. Following cuts to capital grant and financial restrictions on councils, we now rely on private developers to deliver a large share of new affordable homes through the Section 106 system. But since 2012, national planning rules have blunted this tool by enabling the widespread use and abuse of viability assessments.

Developers can use viability assessments to argue that building affordable homes could reduce their profits below competitive levels, which they define as around 20%. This gives them a legal right to cut their affordable housing quota. That means developers can overpay for land to guarantee they win sites, safe in the knowledge they will be able to recoup the costs later by squeezing out affordable housing. The same is true for land promoters, who often negotiate away affordable housing quotas before selling sites on to developers. This viability loophole is contributing to the country's affordable housing drought, reducing the social diversity and vitality of rural communities.

Last year, Shelter's research showed how much-needed affordable homes are slipping through the viability loophole in cities across the country.¹ New research from Shelter and the Campaign to Protect Rural England (CPRE) shows that the problem is just as bad in the countryside. The consequences for rural communities can be particularly devastating, as house prices are often higher² – and wages lower.³ Losing even a small number of affordable homes can be the difference between post offices and schools staying open or not, and villages thriving or dying as families and young people are priced out.

But this crisis of affordable housing supply in rural settings is poorly understood, and is not discussed with anything like the urgency it deserves. Shelter and CPRE are addressing this gap, using new research across eight rural local authorities to shine a light on the impact of viability assessments on the countryside ahead of the government's review of the National Planning Policy Framework (NPPF).

¹ Grayston, R, *Slipping through the loophole: How viability assessments are reducing affordable housing supply in England*, Shelter, 2017.

² Halifax, *Press release: Country life costs Brits over £44,000*, 2017.

³ Ministry of Housing Communities and Local Government (MHCLG), *Rural earning statistics: Workplace and residence based earnings for rural and urban areas*, 2017.

Key findings

The viability loophole is slashing affordable housing supply in the countryside

In one year alone, in just eight rural councils, sites on which a viability assessment was submitted lost 938 affordable homes.

That's a 48% cut in affordable homes, compared to what council policies said developers should build. These new housing sites achieved just 18% affordable housing, compared to an average council policy of 34%.

Of the councils we studied, rural communities in the south and east of England lost especially large numbers of affordable homes – in the very areas where affordability pressures are most acute. On sites where developers submitted a viability assessment:

- Central Bedfordshire lost 533 affordable homes – a 58% cut compared to local policy
- Cornwall lost 232 affordable homes – a 35% cut compared to local policy
- Horsham lost 67 affordable homes – a 26% cut compared to local policy

Big schemes are more likely to lose out

The average number of homes on sites where viability was used was 166, compared to an average of 71 on schemes with no viability assessment. This has implications for competitiveness and the overall efficiency of the housebuilding sector. It skews opportunities in favour of big developers building big sites, with those building smaller schemes more likely to play by the rules and lose out financially. This is particularly important in rural areas, which often rely on smaller schemes to meet their housing needs.

Viability assessments have become normalised in the planning system

Viability assessments were used to knock down affordable housing on 23% of rural housing developments in our study. Because of the trend for larger sites to lose more affordable homes to viability, these developments account for 41% of the new homes permitted in 2015-16. Far from being a tool to deal with exceptional circumstances, viability assessments have become normalised in the planning system.

Key recommendations

It is crucial that the government closes down the viability loophole – taking the opportunity of the new National Planning Policy Framework to create a system of viability assessments that is **fair, limited and transparent**.

1. Fair: The government should produce new standards on how viability assessments must be completed, ensuring that the price paid for land reflects affordable housing and other policy requirements. The rules should protect landowners' and developers' right to 'a return' – not 'competitive returns'

2. Limited: Viability assessments should not be used to manage normal market risks. The government should produce new rules on the limited, exceptional circumstances in which they can be used.

3. Transparent: Appraisals should be published and open to public scrutiny, with results and supporting documents available online in a standardised, accessible format.

Time for action

The new Ministry of Housing, Communities and Local Government has an opportunity to fix this broken system in its upcoming re-write of the National Planning Policy Framework (NPPF). The benefits of a fair, limited and transparent viability system are clear, and are covered in more detail in Shelter's [Slipping through the loophole](#) report:

- many more rural affordable homes will come through the planning system every year
- new developments will better reflect rural communities' needs, driving up public support for new housebuilding locally
- more diverse housing schemes that meet a wider range of local needs will build out faster, driving up overall housing supply
- a more level playing field for small to medium-sized enterprise (SME) builders will increase overall housebuilding capacity

A stronger planning system providing more certainty and meeting a greater range of housing needs is in everyone's interests. The time for action is now.



Introduction

The call for an increase in the amount of affordable housing being built, and quickly, has become an all too familiar cry. What is less recognised is that this is a crisis in the countryside, too. While the media and political narrative reflects concerns about the affordability of housing in England's towns and cities, in rural areas the crisis, exacerbated by specific rural economic conditions and dynamics, is passing unnoticed in the outside world. The cost of living is often higher, with more expensive housing on average and lower wages.⁴ This means that the average cost of a home is 7.6 times average annual earnings in rural areas, compared with a ratio of 6.5 in urban areas.⁵

Such a dearth of affordable housing is having a significant knock-on effect on the social fabric of rural life. Due to the sheer cost of housing, many young people and families are badly and expensively housed, and many are priced out of rural communities entirely – forced to move away from friends, families and jobs. This impacts on the vibrancy of rural communities and the sustainability of their local services,⁶ leaving many villages as enclaves for often wealthier, older people who own their homes outright or may even be second home owners.

To make matters worse, new development in rural communities is not alleviating this problem. The way land is bought and traded in the UK means that speculative developers building to the top of the market will almost always win sites, while leaving unmet the housing needs of those requiring lower rents or house prices.⁷



Many young people and families are priced out of rural communities entirely

⁴ MHCLG, *Rural earning statistics: Workplace and residence based earnings for rural and urban areas*, 2017.

⁵ Halifax, *Press release: Country life costs Brits over £44,000*, 2017.

⁶ National Housing Federation, *Affordable housing saving rural services*, 2017.

⁷ Jeffreys, P, and Lloyd, T, *New Civic Housebuilding: Rediscovering our tradition of building beautiful and affordable homes*, Shelter, 2017.

There are many factors influencing the delivery of affordable housing in rural areas. The wider housing and land market, government spending decisions, and particularities of the countryside context are all significant factors which are beyond the scope of this report. This study looks specifically at how viability assessments are hindering the delivery of affordable homes, as this is one vital factor that could be addressed through amends in the impending reform to the NPPF.

Back in 2012, the NPPF extended developers' and land promoters' opportunities to use viability assessments, a change that has slowed down affordable housing delivery in both urban and rural areas. The viability system enshrined in government planning policy enables developers to guarantee 'competitive returns' of over 20%, meaning that affordable housing requirements can be undercut after commitments have been made in local plans.

This viability loophole enables developers, more typically volume builders, to erode their affordable housing commitments, putting those developers who don't use viability at a competitive disadvantage. This also puts well-meaning, often smaller developers at a disadvantage as they are out-competed when bidding for land. Meanwhile, the profits of volume house builders are rocketing,⁸ yet affordable housing provision by the same developers is being undercut on the grounds that it is not profitable enough.

Often smaller developers are at a disadvantage as they are out-competed when bidding for land.

Expecting a return is, of course, reasonable on any commercial enterprise. But a government-backed, guaranteed return of 20% profit seems unusually advantageous to developers, especially when it comes at the expense of communities' housing needs. Ultimately, it is up to government to set planning rules and guidance that will ensure communities get what they need from new housing developments, and provide a level playing field for all developers to compete fairly.

This joint research builds on Shelter's [Slipping through the loophole](#) report of 2017, which demonstrated the severe impact of viability assessments on affordable housing provision in nine urban areas. This new research investigates viability in eight rural local authorities, and confirms that the use of viability assessments is uniformly bad for affordable housing provision.

With the housing crisis continuing to rise up the political agenda, a new Ministry of Housing, Communities and Local Government (MHCLG) pledging to boost supply, and a revised NPPF expected imminently, the government has the chance to take bold measures to address the affordability crisis – for both urban and rural areas. Reform of viability is one of many steps required, but it is one that can be taken quickly and with no cost to the public purse. If the government is to fulfil its promise to put communities' housing needs first, closing the viability loophole would be a clear step in the right direction.

⁸ Fraser, I, *Are developers on the verge of building fewer homes?*, The Telegraph, 2017.

Research method

The research, conducted with property market expert EGi, used Estates Gazette's National Planning Database to assess 154 planning permissions collected from eight rural local authorities across England. These were County Durham in the North East, South Lakeland in the North West, Hambleton in Yorkshire and the Humber, Newark and Sherwood in the East Midlands, Shropshire in the West Midlands, Central Bedfordshire in the East of England, Horsham in the South East and Cornwall in the South West.⁹

The study compared the levels of affordable housing included on sites given planning permission with the levels required by the local authorities' affordable housing policies. Where we identified a shortfall of affordable housing on a development, the research used planning portals and follow-up enquiries with local authorities to assess whether a viability assessment was used to negotiate down affordable housing numbers. The use of commuted sums was also noted. These are payments made by developers for the provision of affordable housing in lieu of providing affordable homes on the development site.

The research assesses all full, outline and reserved matters planning permissions approved in the financial year 2015–16,¹⁰ relating to schemes which would normally be required to have affordable housing. In addition, we used case studies from both this and subsequent years to illustrate the key issues. National policy has removed affordable housing requirements from schemes of ten homes or less since November 2014, except for designated rural areas,¹¹ where affordable housing requirements do not apply on schemes of five units or less. Some local authorities have additional exemption policies. Only housing developments above such thresholds are included in the research.

Most of the local authorities in this study tailor their affordable housing policies to housing sub-markets. For example, Cornwall has an affordable housing policy of 25% in areas with lower demand for housing, rising to 50% in its 'hottest' housing sub-markets, in recognition of the varying levels of planning gain available to finance community benefits across the council area. We report the 'average' affordable housing policy for each area; all of the affordable homes which should have been built, according to the relevant policy divided by the total units in the study.

⁹ These local authorities are defined as predominantly rural by the Office for National Statistics (ONS). In addition, we analysed data from Fenland, Wiltshire and Hastings, but as these received fewer planning permissions than other authorities in their respective regions, we have excluded these from this report for clarity. Results for these local authorities are available from Shelter or CPRE on request.

¹⁰ The financial year 2015–16 covers the period during which the Growth and Infrastructure Act 2013 gave additional scope for developers to use viability assessments to argue down affordable housing numbers, including the right to appeal directly to the Secretary of State and the right to appeal an agreed Section 106 contract within the first five years of a planning permission. These provisions expired in April 2016. However, they have been effectively extended by the Housing and Planning Act 2016.

¹¹ As described under section 157(1) of the Housing Act 1985, including National Parks, Areas of Outstanding Natural Beauty and areas designated by the Secretary of State.

Defining affordable housing

In this research, the term 'affordable housing' refers to the current official government definition,¹² – including social rent, Affordable Rent, Shared Ownership and other intermediate tenures. The term 'affordable' in this context does not necessarily mean that these homes are in fact genuinely affordable to local people – a problem that Shelter and CPRE have repeatedly highlighted and continue to campaign on.¹³

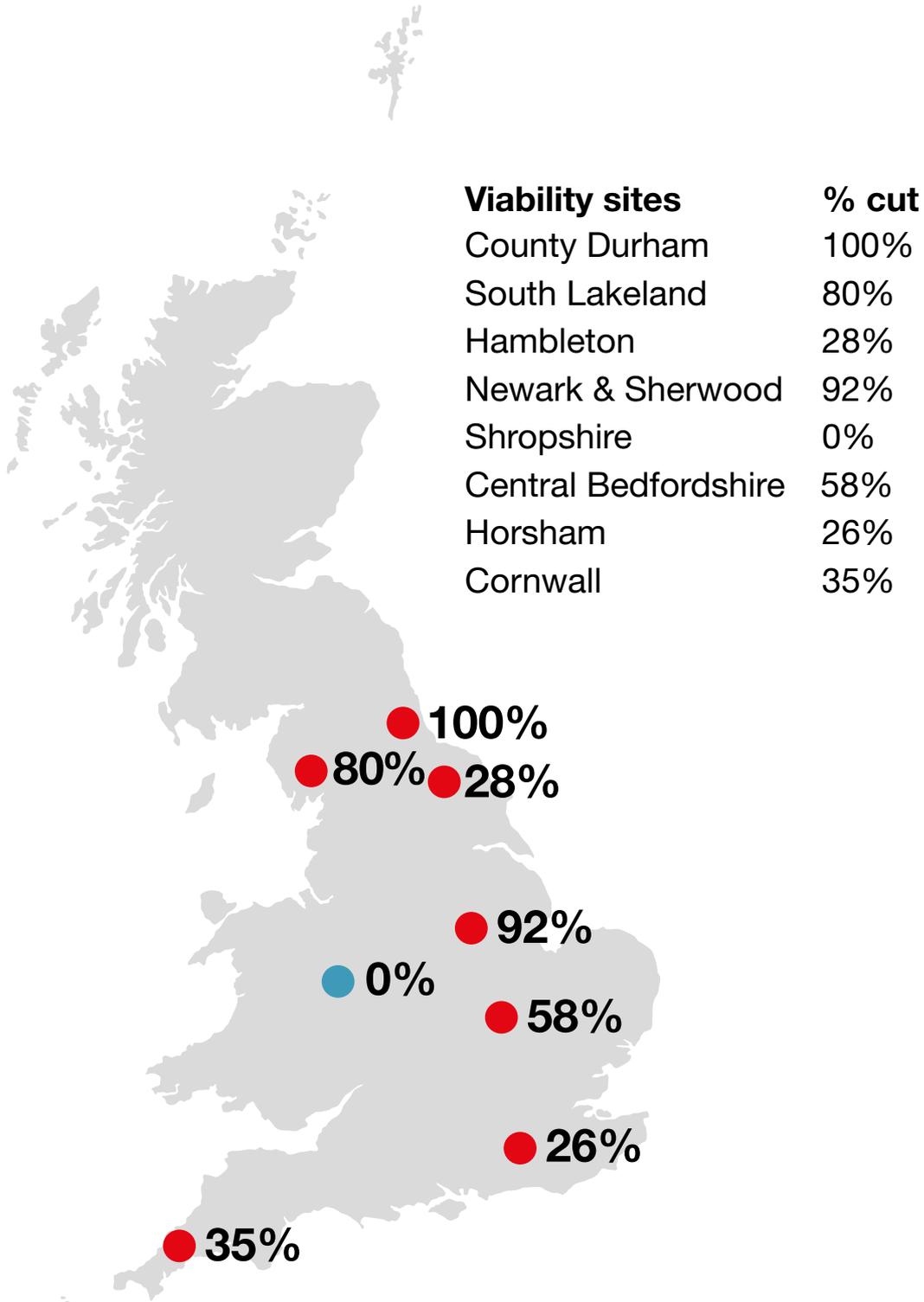
¹² GOV.UK, *Definitions of general housing terms, Social and affordable housing*, 2012.

¹³ Bibby, J, *What is 'affordable housing'?*, Shelter policy blog, 2015; Walker, T, *Needless Demand: How a focus on need can help solve the housing crisis*, CPRE, 2017, p.21.



Findings

Affordable shortfall on viability sites



Overall findings

The research reveals that developers and land promoters used viability assessments to get out of building almost half (48%) of the affordable homes that local policies required.

In one year alone, in just eight rural councils, sites on which a viability assessment was submitted lost 938 affordable homes.

These new housing sites achieved just 18% affordable housing, compared to a policy expectation of 34%. All but one of the rural communities in our study saw affordable housing slip through the viability loophole.

Far from being an urban problem, it is clear that the viability loophole is slashing affordable housing supply in the countryside. Villages, towns and cities across England need a new system if they are to meet growing needs for affordable homes.

Big schemes are more likely to lose out

Developers of larger schemes are far more likely to use viability assessments to cut affordable housing. The average number of homes on sites where viability was used was 166, compared to an average of 71 on schemes with no viability assessment.

This has implications for competitiveness and the overall efficiency of the housebuilding sector. It skews opportunities in favour of big developers building big sites, with those building smaller schemes more likely to play by the rules and lose out financially. This is particularly important in rural areas, which often rely on smaller schemes to meet their housing needs.

Viability assessments have become normalised in the planning system

Viability assessments were used to knock down affordable housing on 23% of rural housing developments in our study. Because of the trend for larger sites to lose more affordable homes to viability, these developments account for 41% of the new homes permitted in 2015-16. Far from being a tool to deal with exceptional circumstances, viability assessments have become normalised in the planning system.

**34%
to 18%**

the cut in affordable homes on sites where viability was used

Full results

Area	Schemes	Homes	Affordable housing achieved %	Affordable housing shortfall
Horsham	Average affordable housing policy of 40%			
Viability used	3	639	29%	67
Viability not used	4	332	39%	2
Cornwall	Average affordable housing policy of 40%			
Viability used	13	1675	26%	232
Viability not used	33	1553	49%	-135
Central Bedfordshire	Average affordable housing policy of 31%			
Viability used	6	2953	13%	533
Viability not used	6	2354	31%	-1
Newark and Sherwood	Average affordable housing policy of 30%			
Viability used	3	196	3%	54
Viability not used	4	177	63%	-58
Shropshire	Average affordable housing policy of 13%			
Viability used	0	0	0%	0
Viability not used	41	2776	17%	-114
Hambleton	Average affordable housing policy of 42%			
Viability used	2	68	31%	8
Viability not used	5	101	35%	7
County Durham	Average affordable housing policy of 15%			
Viability used	6	264	0%	36
Viability not used	16	809	21%	-48
South Lakeland	Average affordable housing policy of 34%			
Viability used	2	31	6%	8
Viability not used	10	350	40%	-18
TOTAL	Average affordable housing policy of 29% (34% on viability sites)			
Viability used	35	5826	18%	938
Viability not used	119	8452	30%	-365

Local results

Horsham, South East

As with most councils in the South East, Horsham is an area of high housing demand, influenced by its commutable distance to London. House prices here increased by 23% between 2015–2018 alone.¹⁴ With private homes for sale at 13 times average earnings,¹⁵ Horsham is the least affordable area featured in our study, and the urgent need for affordable housing in the area is clear.

In order to meet the need for affordable homes, Horsham's local plan sets a policy that 40% of new homes should be affordable. However, in 2015–16, planning applications for 971 homes that should have resulted in 386 affordable homes were subject to viability assessments, with developers and land promoters negotiating reductions in affordable homes. This resulted just 29% of the proposed homes being affordable and the loss of homes for 67 families, couples and individuals. In the proposals that did not submit a viability assessment, 39% affordable homes were achieved.

The largest shortfall of any development, 54 homes, was partially compensated by the developer providing a commuted sum – or a payment towards the provision of affordable homes elsewhere. However, this sum of £200,000 represents just £3,700 per house, and will not support the delivery of an equivalent number of homes.

The impact of viability assessments is illustrated by a more recent case outside the timeframe of this research, in which a full council meeting approved an application by Liberty for 2,750 homes – with just 18% affordable housing, resulting in the loss of 495 affordable homes [based on a new lower local plan target of 35%]. Such a significant loss of affordable homes was a significant blow to local community members, who were angered at the tactics used by the developers.¹⁶

The planning officers conceded that disagreements in the assessment of viability could be the result of viability assessments being an 'inexact science'.¹⁷ The local authority felt that its hands were tied, leaving it unable to request an update to out-of-date information because the developer would then be able to appeal the resulting delay to the Planning Inspectorate, bypassing the council.¹⁸ The 'unpopular but necessary' proposal was therefore approved.¹⁹

13:1

the ratio of house prices to earnings in Horsham

¹⁴ Land Registry, UK House Price Index, January 2015 to January 2018

¹⁵ Office for National Statistics, *Housing affordability in England and Wales: 1997 to 2016, Table 5c: Ratio of median house price to median gross annual (where available) workplace based earnings by local authority district, 2017*

¹⁶ West Sussex Country Times 2017. Full report: "Unpopular but necessary" Horsham scheme approved

¹⁷ Paragraph 6.10 *Planning Committee Report (Application DC/16/1677)*

¹⁸ Horsham District Council Full Council minutes, 22.5.2017

¹⁹ West Sussex Country Times 2017. Full report: "Unpopular but necessary" Horsham scheme approved

Cornwall, South West

The South West is a region of high housing demand and acute affordability pressures, with demand pushed up by second homeownership and a significant retiree market. Market homes sell at over nine times average earnings in both Cornwall and the wider region,²⁰ leaving many locals dependent on sub-market affordable housing – or an insecure and expensive private rented sector – to meet their housing needs.

House prices vary considerably between Cornwall's inland towns and its sought-after coastal locations, and the council operates a nuanced affordable housing policy in recognition of its distinct housing sub-markets, requiring developments to provide higher levels of affordable housing only where justified by market evidence.

This has not stopped developers and land promoters from using viability assessments to argue down affordable housing quotas, especially on larger schemes. Cornwall missed out on 232 affordable homes where viability assessments were submitted, so that these sites will deliver just 26% affordable housing, when they would have delivered 40% if local policy had been followed. In one example, a land promoter succeeded in eliminating affordable homes from a Redruth scheme on the grounds it was not financially viable, reducing the quota from 40% of the development to zero – before going on to advertise the land as an attractive development opportunity with a guide price of £1.3 million.²¹

²⁰ Office for National Statistics, *Housing affordability in England and Wales: 1997 to 2016, Table 5c, 2017.*

²¹ Planning application reference PA14/09582; Vickery Holman, *For Sale: Residential Development Land, South Crofty, Pool, Redruth, Cornwall, TR15 3QT.*



Central Bedfordshire, East of England

Like most councils in the East of England, Central Bedfordshire is an area of high housing demand, spurred on by its proximity to London. House prices here increased by a staggering 34% between 2015–2018 alone.²² At ten times average earnings,²³ private homes for sale are now out of reach for most local people, underlining the vital role of affordable homes for meeting housing need.

But the supply of these desperately needed affordable homes is being undermined by viability assessments. Out of 5,307 homes given planning permission in 2015–16, local policy required 1,642 (31%) to be affordable. Developers and land promoters negotiated away 533 of these homes by citing viability concerns, meaning just 13% affordable housing was achieved on the six schemes where a viability assessment was used. All other new developments were policy compliant.

In common with the other areas covered by the study, larger developments in Central Bedfordshire were more likely to lose out. Schemes where developers submitted a viability assessment were on average 100 homes larger than those with no assessment. Our research points to a worrying trend for big urban extensions – on which much of the East of England’s new supply depends – to be particularly vulnerable to the viability loophole. Central Bedfordshire’s urban extension to the east of Leighton Buzzard will deliver 2,431 homes, but only 270 of these are planned to be affordable following the use of viability assessments.

Developers focus on building to meet demand for expensive homes for sale, and fail to build to meet demand for a broader range of housing at lower prices and rents

Communities in Central Bedfordshire are not benefiting from large new developments as much as they should and could in a rising market. These urban extensions are also likely to be building out more slowly than they could be as developers focus on building to meet demand for expensive homes for sale, and fail to build to meet demand for a broader range of housing at lower prices and rents.

²² Land Registry, UK House Price Index, January 2015 to January 2018

²³ Office for National Statistics, *Housing affordability in England and Wales: 1997 to 2016, Table 5c, 2017.*

Newark and Sherwood, East Midlands

Average house prices in the East Midlands stand at more than six times' average earnings.²⁴ Whilst this is lower than the national average, market homes remain out of reach for many families. The local plan includes a policy of 30% affordable housing on new developments to meet the need for 177 affordable homes a year identified in the council's Strategic Housing Market Assessment.²⁵

This research shows that in 2015–16, on the three sites where viability assessments were used, just 3% of the homes that had been approved were affordable, resulting in a loss of 54 homes. In one of these cases the agent negotiated a contribution to off-site delivery instead of building the 17 homes required by policy on-site; however, just £34,134 was paid, or £2,000 per home.

On another occasion, Newark and Sherwood District Council permitted an application from Retail Venture Limited to reduce the affordable housing provision on a site for 180 homes at Clipstone Drive from 30% (54 homes) to 4% (seven homes), provided not onsite, but through a commuted sum of £238,000. An outline application for the site had been approved in 2013 with the 180 homes development providing 30% affordable homes, secured through a Section 106 agreement. However, in 2015, the developers submitted a viability assessment arguing that they were no longer able to provide this, partly as a result of difficulty in attracting interest from a housing association.²⁶

The officer noted that 'on balance, I consider it reasonable to accept such a shortfall so as not to inhibit the development and to ensure the delivery of a sustainable housing development which contributes towards the Council's five-year housing supply in accordance with the requirements of the NPPF and PPG in this instance.'²⁷

Shropshire, West Midlands

In common with other areas in our study like Cornwall, Shropshire's natural environment has made it a desirable place to live – and to buy holiday homes. The area's popularity with second homeowners and older people looking for a pleasant place to retire has driven a buoyant housing market, but wages for local working-age people remain too low to afford the new homes being built. Market homes cost on average seven times' local earnings,²⁸ underlining the need for affordable sub-market homes to house local people.

²⁴ Office for National Statistics, *Housing affordability in England and Wales: 1997 to 2016*, Table 5c, 2017.

²⁵ Table 57 and Paragraph 7.70 <http://www.newark-sherwooddc.gov.uk/media/newarkandsherwood/imagesandfiles/planningpolicy/pdfs/prefapp/Strategic%20Housing%20Market%20Assessment.pdf>

²⁶ Newark and Sherwood District Council, *Planning Committee, December 2014 AGENDA ITEM NO. 11*, 2014

²⁷ Newark and Sherwood District Council, *Planning Committee, December 2014 AGENDA ITEM NO. 11*, 2014

²⁸ Office for National Statistics, *Housing affordability in England and Wales: 1997 to 2016*, Table 5c, 2017.



Shropshire faces many challenges in meeting local needs for affordable housing, with council officers emphasising the significance of a central government rule exempting sites of 10 or fewer homes from affordable provision in an area where most development takes place on small sites.²⁹ However, viability assessments do not appear to be a barrier to affordable housing provision on larger sites here.

Shropshire is the only area in this study that lost no affordable homes as a result of viability assessments in the study year. The council flexes the level of affordable homes it requires annually based on the latest market data, and operates different policies in housing sub-markets in recognition of varying levels of planning gain available to finance affordable homes. Shropshire sets out clear expectations on when a viability appraisal might be acceptable and how it should be completed, ensuring that benchmark land values reflect policy requirements.³⁰ This approach limits the circumstances under which a viability assessment can be used.

However, Shropshire requires just 13% of developments to be affordable, the lowest policy in this study. This may not be ambitious enough to take full advantage of opportunities to deliver affordable housing in an area with relatively high land value uplift.

Hambleton, Yorkshire

With house prices in Hambleton at eight times local incomes,³¹ there are significant numbers of families that cannot afford a market home. Indeed, the most recent assessment finds over 1,600 householders living in unsuitable accommodation and 148 existing and 191 newly forming households would find themselves in affordable housing need. In order to meet this need, the local plans say at least 40% of homes on new developments should be affordable.

²⁹ Andrews, M, *Housing crisis in the countryside*, Shropshire Star, 2017.

³⁰ For an explanation of benchmark land values and their significance, see Grayston, R, *Slipping through the loophole*, 2017, p. 18-19.

³¹ Office for National Statistics, *Housing affordability in England and Wales: 1997 to 2016, Table 5c*, 2017.

Just two proposals used viability assessments, leading to a loss of eight homes – 28% of the affordable homes that should be delivered on these sites.

However, a further case study shows that viability assessments are having a drastic effect in Hambleton.

In July 2017, (outside the timeframe of cases used in the main analysis) councillors in Hambleton District council approved an application to reduce the number of affordable homes provided by Taylor Wimpey as part of the Sowerby Gateway development. Instead of meeting the 40% target for affordable homes that had previously been agreed for the 641-home proposal, this figure has been reduced to 0% – the loss of 256 affordable homes. Taylor Wimpey argued that the proposal could no longer provide affordable homes due to the rising infrastructure costs, including the provision of a new junction.³²

40%
↓
0%

reduced proportion
of affordable homes

Local councillor Steve Hoyland was angered that a company which makes huge profits, and in 2016 announced their biggest ever profits,³³ was able to ‘get the numbers of affordable homes reduced... at the eleventh hour.’³⁴

Durham, North East

In Durham, lower quartile house prices are just over four times earnings, making it the most affordable in the North East, which is already the least expensive region in England.³⁵ Despite this, the council has identified that 378 affordable homes are needed every year.³⁶ The current local plan says that between 10% and 20% of new developments should be affordable housing to help meet this need.

In our study, the use of viability assessments in Durham led to the complete loss of affordable homes: on the six applications, no affordable housing was approved. This represents a loss of 36 homes compared to what local policy said should be provided. In contrast, where viability assessments were not used, 21% of homes were affordable – actually exceeding targets.

This is likely to reflect the difficulty local councils face when dealing with applications in an area with low land values and limited housing demand, as any proposal can be considered to be ‘better than nothing’.

One of the cases in the study demonstrates the problem well. In June 2015, the County Council approved planning permission for 79 homes on a site that had been ‘earmarked for [development] for some time’. However, the developer, Gleeson Homes, used a viability assessment to argue that the affordable housing should be waived. This meant that instead of providing 10% affordable homes, all eight were lost as a result of viability.

³² Hambleton District Council, *Item 9 - 16.02269.REM - Sowerby Gateway phase 3*, 2017.

³³ Wright, O, *Developers profit on back of housing crisis*, The Independent, 2017.

³⁴ Gleeson, J, *Taylor Wimpey allowed to cut number of affordable homes on landmark Sowerby Gateway site, near Thirsk, from 40 per cent to zero*, The Northern Echo, 2017.

³⁵ Robson, I, *What will happen to North East house prices in 10 and 20 years' time?*, Chronicle Live, 2017.

³⁶ Durham County Council, *Strategic Housing Market Assessment (Part 1)*, 2016.



In the officer's report, the author noted 'on a development of this nature it would be expected that a developer would require a profit in the region of 20% of the development value of the site'. It then goes on to note that because of the amount paid for the site and the development costs, the scheme is expected to yield a profit of around 10%, excluding affordable housing provision, enabling the developer to not meet the affordable housing policy.³⁷ If the original price of the land had taken more account of local policy then the provision of affordable homes may have been possible.

South Lakeland, North West

South Lakeland is a large, mainly rural area containing part of two national parks (the Lake District and the Yorkshire Dales). Compared to the wider North West, the housing affordability picture here is a toxic combination of high house prices – spurred on by second homeownership and a significant retiree market – and low earnings for working-age locals. As a result, market homes in South Lakeland sell at over nine times' average earnings,³⁸ and the area faces a growing challenge to retain young people and families, and meet the housing needs of local older people.

Affordable sub-market housing has an important role to play in remedying this situation. As developers and land promoters plan schemes directed primarily at the lucrative market for holiday homes, planning policy should ensure that at least a portion of new developments are affordable to local people. But the viability loophole is making this harder than it should be. In our study, two Kendal sites providing 18 and 13 new homes will deliver just two affordable homes between them – because the developers used viability assessments. This represents a loss of eight affordable homes. This is a small loss in national terms, but in rural areas even a small number of affordable homes can have a big impact on the sustainability of a community, its services and its skills base.

³⁷ Durham County Council, *Planning Committee, May 2015, Application reference DM/14/01831/FPA*, 2015.

³⁸ Office for National Statistics, *Housing affordability in England and Wales: 1997 to 2016, Table 5c*, 2017.

Recommendations

Affordable housing is essential to the social fabric of the countryside. Yet the affordable housing crisis continues apace across the country, fuelled in part by a viability loophole in the planning system. Developers and land promoters can avoid factoring in councils' policies on affordable housing and other community benefits when they bid for land, knowing that they will be able to use the viability rules to argue away those requirements. And if one developer does not plan to use viability in this way, they risk being outbid for sites by a rival that does. In this way, weak, excessively flexible planning rules have inflated land values at the expense of affordable housing provision, making good development more expensive.

In villages, towns and cities across the country, communities are losing out on desperately-needed affordable homes because of the viability loophole. Tightening the rules on the use of viability could therefore have a significant effect on the delivery of affordable homes in rural areas. But it would also bring broader benefits for the housing market, speeding up build-out rates and driving up overall supply.

The enhanced viability rules were introduced in the original NPPF of 2012. The aim of relaxing planning obligations in this way was to boost sluggish markets for land and housing following the last recession, with the aim of getting more homes built overall. But today, market conditions are very different, and there is simply no need to weaken affordable housing supply to protect profit margins. In fact, as the Chartered Institute of Housing and others have pointed out, the use and abuse of viability assessments is now holding back overall housing supply.³⁹ This system is exacerbating an over-reliance on a small number of developers building homes for market sale to the exclusion of other types of housing.

A fair, limited and transparent system of viability assessments can play an important role in fixing the broken housing market

A fair, limited and transparent system of viability assessments can play an important role in fixing the broken housing market at the heart of the rural affordability crisis – improving efficiency and competition in the housebuilding sector, speeding up the rate at which new homes are built, and boosting public support for new developments.⁴⁰

The government has made clear its intention to improve the current viability system, gathering views on reform as part of last year's 'Planning for the right

³⁹ Chartered Institute for Housing, *CIH submission to the Autumn Statement 2016*, 2017.

⁴⁰ For further explanation, see Grayston R, *Slipping through the loophole*, pp. 27-29.

homes in the right places' consultation. Shelter and CPRE are now calling on the government to use its upcoming re-write of the NPPF to close the viability loophole once and for all, creating a new viability system that is fair, limited and transparent.

1. Fair

Clear standards on how to assess land values

The new NPPF should include a clear statement that developers, land promoters and landowners must account for affordable housing and other planning requirements when designing schemes and setting land prices. The Benchmark Land Values used to assess planning applications must reflect affordable housing policies, so that there is no option to overpay for land and recoup the costs later through viability assessments.

This will have particular benefits in rural areas, because the significant uplift in land value for agricultural land with residential planning permission should mean more planning gain is available to finance affordable homes. In this way, a fairer NPPF can suppress land values to policy-compliant levels, ensuring that developments can deliver the homes rural communities need.

Remove the word 'competitive' from Paragraph 173

Paragraph 173 of the NPPF should be amended to guarantee landowners and developers 'a return', not 'competitive returns' whose level the industry is free to define for itself. By removing the protection for 'competitive returns', the new NPPF would instead allow councils to establish the level of landowner and developer returns needed to incentivise housing development, based on up-to-date market information.

Standardised viability appraisals

Where it is used, viability evidence must reflect reality as closely as possible. Through the NPPF and associated guidance, the government must produce new standards on how viability assessments should be completed, including rules on how inputs such as tax, risk and sales values are to be calculated, and a duty to provide up-to-date information.

2. Limited

Clearly define circumstances where viability assessments can be used

Some housing schemes will be genuinely unviable – for example, where a site turns out to have abnormally high remediation costs that could not possibly have been picked up in earlier surveys. There is a role for site-level viability assessments in such genuinely unforeseeable, exceptional circumstances, where subsidy or alterations to the scheme are needed to avoid sites becoming stalled. However, site-level viability assessments should not be used to manage normal market risks,

such as sales values being lower than a developer bet on when purchasing land.

The government should use its new NPPF to establish the principle of a limited system of viability assessments. Further guidance should clearly define and list the circumstances in which site-level viability assessments can be used as evidence to justify approving housing developments which are not policy compliant. Planning guidance should allow local planning authorities to take the final decision on whether such schemes are in the community's interests.

Beyond the NPPF, these measures could be supported by extending the Housing Infrastructure Fund to plug genuine viability gaps through public subsidy or loans – without sacrificing affordable housing.

3. Transparent

Viability negotiations should be published and open to public scrutiny

It is never in communities' interests for viability negotiations to be cloaked in secrecy. If developers and land promoters want to make the case for why a site cannot meet a minimum affordable housing contribution or provide promised local services, at the very least local people should know why. Transparency alone is not enough to make a tangible difference to affordable housing output, but it would assist communities in understanding local developments and help to raise standards in the use of site-level viability assessments.

The government should use the NPPF to follow through on its proposals to improve transparency in the viability process. All negotiations should be published and open to public scrutiny, with results and supporting documents available online in a standardised, digital, scannable format.

CPRE campaigns for a beautiful and living countryside that is valued and enjoyed by everyone.

Our aims are:

- To promote and enhance the character of the countryside
- To promote a more sustainable approach to land use
- To defend the countryside from damaging development

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Shelter helps millions of people every year struggling with bad housing or homelessness through our advice, support and legal services. And we campaign to make sure that, one day, no one will have to turn to us for help.

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