PROOF OF EVIDENCE – VIABILITY IN PLANNING

APPELLANT – McCarthy and Stone Retirement Lifestyles Ltd

35 Oakfield
SALE
M33 6NB

PLANNING INSPECTORATE REFERENCE: APP/Q4245/W/23/3325034

LOCAL PLANNING AUTHORITY: TRAFFORD COUNCIL

PLANNING REFERENCE: 109745/FUL/22

R JAMES MACKAY BSc (HONS) MRICS (RICS REGISTERED VALUER)

ALDER KING LLP

CONTENTS

APPENDICES

1.0 QUALIFICATIONS AND EXPERIENCE

1.1 This Proof of Evidence has been prepared by R James Mackay BSc MRICS. I am a Partner at Alder King LLP. I am the head of Valuation and Development Viability services for Alder King LLP.

1.2 I have a degree in Real Estate from the University of the West of England, graduating in 1999, and have been a member of the Royal Institution of Chartered Surveyors (RICS) since 2002 and a RICS Registered Valuer since the inception of the scheme in 2010.

1.3 I predominately provide development valuation advice to private developers in connection with financial viability in planning but I have also provided valuation advice to local authorities, banks, and charities on a range of residential development issues including strategic land assembly, development valuation, s.106 and affordable housing valuation and secured lending.

1.4 I have specialist knowledge of the retirement sub-market having acted for the two leading retirement developers, McCarthy Stone and Churchill Retirement over the last decade in preparing viability assessments across the Country. I have acted in over 200+ viability cases in this time period.

1.5 I have provided expert valuation evidence at planning inquiries, examinations in public and informal hearings.

1.6 I confirm that I have made clear which facts and matters referred to in this Proof of Evidence are within my own knowledge and which are not. Those that are within my own knowledge I confirm are true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

1.7 I confirm that my Proof of Evidence has drawn attention to all material facts which are relevant and have affected my professional opinion.

1.8 I confirm that I understand and have complied with my duty as an Expert Witness which overrides any duty to those instructing or paying me, that I have given my evidence impartially and objectively, and that I will continue to comply with that duty as required.

1.9 I confirm that I am not instructed under any conditional or other success-based fee arrangement. I confirm that I have no conflicts of interest.

1.10 I confirm that my Proof of Evidence complies with the requirements of the RICS – Royal Institution of Chartered Surveyors, as set down in the RICS Practice Statement Surveyors Acting as Expert Witnesses.

2 BACKGROUND AND SCOPE OF EVIDENCE

2.1 I am instructed by the Appellant to provide a Proof of Evidence in respect of the viability of the proposed scheme in connection with the refusal of planning permission by the local planning authority (Trafford Council) under reference 109745/FUL/22 that proposed:

Demolition of existing buildings and erection of a part 3 storey part 4 storey building comprising 25no. retirement flats, closure of both existing vehicular accesses and formation of new vehicular access onto Oakfield with associated landscaping and carparking.

2.2 My evidence relates to reason for refusal 6, as set out in the LPA's Statement of Case:

The proposal would fail to provide the required affordable housing, and the submitted financial viability appraisal has not adequately demonstrated that the affordable housing contributions sought would make the scheme undeliverable on viability grounds. The development would not, therefore, contribute to affordable housing needs and would not support the creation of mixed and balanced communities. The proposal would therefore be significantly contrary to policies L2 and L8 of the Trafford Core Strategy (2012), the National Planning Policy Framework (2021), National Planning Practice Guidance and SPD1: Planning Obligations (2014).

2.3 This Proof of Evidence has been prepared having regard to:

- The National Planning Policy Framework ("NPPF") 2023
- Planning Practice Guidance on Viability ("PPG")
- RICS Professional Statement Financial viability in planning: conduct and reporting ("RICS PS") May 2019
- The RICS Professional Standard ("RICS PS") Assessing viability in planning under the National Planning Policy Framework 2019 for England – 1st Edition March 2021.

2.4 The NPPF and PPG for Viability advocate the use of 'standardised inputs' to viability assessments which include the Gross Development Value (GDV), build costs, abnormal costs, professional fees, developers profit and Benchmark Land Value (BLV).

2.5 My evidence relates to the disputed items, as set out in the Viability Statement of Common Ground and relates to the following areas:

- Benchmark Land Value
- Sales & Marketing Costs
- Empty Property Costs/Development Timescale
- Appropriate Development Profit

2.6 There is a matter of dispute as to whether on-site affordable housing should be provided in block. Mr Butt's Proof of Evidence, which relates to all matters regarding planning, addresses this point. My evidence is solely focused on the disputed inputs into the viability assessment rather than planning policy matters.

3 SUMMARY OF VIABILITY POSITION

3.1 I outline below a summary of my assessment as to both the Residual Land Value (RLV) of the Appeal scheme and the Benchmark Land Value of the site, as at the date of this evidence:

Table 1.1 – Summary Position (Proposed Scheme)

INPUT	Appeal Scheme (RLV)
GDV **100% Market Scheme**	1 Bed RL Apartment: £350,000 2 Bed RL Apartment: £480,000 **Total GDV: £10,180,000**
Core Build Cost	£3,889,913
Abnormal Costs	Demolition - £98,670 Part L Costs: £62,500
External Costs	8% of Core Build Cost
Contingency	3% of Core Build Cost
Professional Fees	8% of Cost
Marketing/Disposal Costs	5% of GDV (Marketing & Sales) £650 per unit (Legal)
Empty Property Costs	£59,119
Finance	7% Debit (100% finance) 1% Credit
Timings	Pre-Construction: 4 Months Construction: 12 Months Sale Period: 18 Months (1.38 per month)
Profit	20% of GDV
RLV (after Costs)	£2,008,186
BLV:	**£1,800,000**
Surplus for Sec.106	**£208,186**

4.0 DESCRIPTION OF APPEAL SITE AND PROPOSED DEVELOPMENT

4.1 The property is situated in the town of Sale within the Metropolitan Borough of Trafford in Greater Manchester.

4.2 The property currently comprises a three-storey plus basement, detached building with a separate two-storey annex. The property provides a total of 12 flats broken down into six studios, seven one-bedroom flats and a two bedroom flat. The main building provides two one-bedroom flats and a studio on the ground and first floors and a large one bedroom flat on the second floor. The annex provides three studio flats on the ground floor and a studio and two bedroom flat on the first floor.

4.3 The property benefits from an extant planning permission (H/58317), approved March 2004. The planning permission description states: *'demolition of existing outbuildings and the erection of a two storey rear extension to form 10 serviced apartments. Erection of a detached building with first floor bridge link to form maintenance and stores on the ground floor with office over. Provision of 10 additional car parking spaces'*.

4.4 The planning proposal is to demolish the existing building and replace with a three storey retirement apartment scheme comprising 25 retirement apartments. The floor area breakdown of the proposed scheme is detailed in the table below:

Table 1

Type	Av. Size (Sq M)	No. of Units
Retirement Living Apartments (1 bed)	52.87	14
Retirement Living Apartments (2 bed)	74.50	11
TOTAL NIA	**1,559.69**	**25**
TOTAL GIA	**2,327.90**	
NET/GROSS	**66.99%**	

5.0 VIABILITY APPROCH

5.1 The planning merits of the case are being addressed by Mr Chris Butt in his Proof of Evidence. My report considers the ability of the proposed scheme to meet the planning policy obligations required, subject to viability.

5.2 The proposed scheme is a retirement apartment development. The appellant proposes a 100% market scheme. Mr Butt addresses the principle of off-site provision (by way of commuted sum) and the engagement with Registered Providers. The basis of the viability assessment is to consider what level of off-site contribution is viable. This approach is consistently agreed with local planning authorities on similar negotiations throughout the country in recognition of the practical issues of providing in-block affordable housing on retirement developments.

5.3 Trafford Council's Affordable Housing Policy L2 confirms that when it is determined that market conditions are 'good' an additional 5% affordable housing contribution is required. The scheme is located within a 'moderate' location and therefore the current Policy requirement is 25% affordable housing on-site. The determination that the market is 'good' stems from a state of the market report authored by Continuum in 2018. We would have expected an update to this assessment as the methodology is now over 5 years old. In this period the UK has exited the European Union, impacted by COVID, significant inflation and a market downturn that has seen interest rates rise significantly. The impact of these significant events has not been considered.

5.4 Policy L2.12 confirms: *"In those parts of Trafford Park identified for residential development, or in areas where the nature of the development is such that, in viability terms, it will perform differently to generic developments within a specified market location the affordable housing contribution will be determined via a site-specific viability study and will not normally exceed 40%".*

5.5 The LPA and Continuum argue that the proposed development (retirement) is seen as non-generic and therefore subject to up to 40% affordable housing. I agree that retirement development is not the same as flatted development and that the inputs to the appraisal are different to standard flatted schemes. I note that whilst Continuum argue that up to 40% affordable housing should apply due to these different characteristics, their assessment of the retirement scheme benchmarks against standard apartments with no apparent adjustment over generic developments.

5.6 Trafford adopted an SPD – Planning Obligations in July 2014. The SPD set out the calculation for a commuted off-site sum. The basis of this calculation is to ensure there is no difference in the proportionate level of contribution between on-site and off-site options. The difference between what an RP would pay for the on-site affordable and the market value of the units is considered to be the commuted policy sum.

5.7 Based on 40% Affordable Housing and the LPA's assessment of affordable housing values, as documented by Continuum, the Policy commuted sum in this case would be:

AH Value:	£2,490,000
Market Value:	£4,020,000
Commuted Payment:	**£1,530.000**

5.9 The basis for determining the viability of a development proposal is set out in the Planning Practice Guidance relating to viability (the PPG).

5.9 The RICS have published two Professional Standards to assist Chartered Surveyors in viability matters. A Professional Standard is focused on good practice with elements that are mandatory and others recommended best practice. The two documents are 'Financial Viability in Planning: Conduct and Reporting' (RICS PS/CR) **[CD-F11]** and 'Assessing viability in planning under the National Planning Policy Framework 2019 for England' (RICS PS/AVNPPF) **[CD-F12]**.

5.10 The RICS PS/CR sets out the reporting structure and minimum reporting requirements, including a mandatory requirement to act objectively, impartially and reasonable in all dealings.

5.11 The RICS PS/AVNPPF sets out good practice for RICS members and for firms regulated by the RICS. The 2021 Guidance Note confirms at paragraph 2.2.1 that '*FVAs are not valuations as such, but there is a significant valuation content within an FVA. For that reason, these valuation aspects are within the jurisdiction of the Red Book and other RICS mandatory statements and professional guidance*'. The 2021 Guidance Note advises at paragraph 2.2.3 that '*FVAs for planning purposes are carried out under the NPPF/PPG; this is regarded as the authoritative requirements in the Red Book. This means that the UK government's technical requirements on the assessment of viability take precedence, but Red Book professional standards still apply. RICS members undertaking this work must adhere to the following:*

- *Statutory and other authoritative requirement.*
- *The Financial viability in planning: conduct and reporting RICS Professional Statement.*
- *PS1 and PS2 of the Red Book.*

5.12 Importantly, at paragraph 2.2.4 the 2021 Guidance Note confirms that 'this (the 2021 Guidance Note) and other RICS guidance notes are *intended to assist practitioners in applying the government's required approach and should be referenced as appropriate, including:*

- *Valuation of development property, RICS guidance note (the 2019 Guidance Note)*
- *Comparable evidence in real estate valuation, RICS guidance note*
- *Valuation of land for affordable housing, RICS guidance note…'*

5.13 The definition and scope of RICS guidance notes is as follows: *'RICS Guidance Notes set out good practice for RICS members and for firms that are regulated by RICS. An RICS guidance note is a professional or personal standard for the RICS Rules of Conduct.*

Guidance notes constitute areas of professional, behavioural competence and/or good practice. RICS recognises that there may be exceptional circumstances in which it is appropriate foe a member to depart from these provisions - in such situations RICS may require the member to justify their decisions and actions'.

5.14 Further information is provided by the Professional Statement. The Professional Statement *'…sets out mandatory requirements that inform the practitioner on what must be included within reports and how the process must be conducted'.*

5.15 The definition and scope of RICS Professional Statements is as follows*: 'RICS professional statements set out the requirements of practice for RICS members and or firms that are regulated by RICS. A professional statement is a professional or personal standard for the RICS Rules of Conduct.*

Mandatory vs good practice provisions

Sections within professional statements that use the word 'must' set mandatory professional, behavioural, competence and/or technical requirements, from which members must not depart.

Sections within professional statements that use the word 'should' constitute areas of good practice. RICS recognises that there may be exceptional circumstances in which it is appropriate foe a member to depart from these provisions -in such situations RICS may require the member to justify their decisions and actions'.

5.16 The RICS PS/AVNPPF confirms (Section 3.9) that the date upon which the LPA or the Secretary of State resolves to grant or refuse a planning application is the date upon which all information is considered. My evidence has been adjusted to address the changes in the market since the original application was considered and to confirm with the requirement at Section 3.9.

5.17 A development proposal can be considered viable to provide contributions for planning obligations (including affordable housing) if the Residual Land Value (RLV) for the development proposal exceeds the Benchmark Land Value (BLV).

6.0 DISPUTED INPUT - BENCHMARK LAND VALUE

6.1 The BLV is the threshold that, if exceeded by the RLV of the development, the development can be considered viable and below which, a scheme will be unviable. Paragraph 014 of the PPG confirms that: *'Benchmark Land Value should:*

- *Be based upon the existing use value*
- *Allow for a premium to landowners*
- *Reflect the implications of abnormal costs, site specific infrastructure costs and; professional site fees'.*

6.2 The accepted methodology is Existing Use Value plus a Premium (EUV+). In this instance there is a dispute between the parties as to the Existing Use Value of the property and whether a premium should apply.

6.3 EUV for the purposes of viability is the value in the existing use, ignoring any prospect of future changes to that use. The EUV is agreed between the parties as the value of the property in its current use. The EUV was independently assessed for the Applicant by Mathews & Goodman (M&G) within a Valuation Report dated 1 July 2022. The EUV was assessed at £2,000,000.

6.4 Continuum, acting on behalf of the Council, disputed this outcome and argued the EUV was £1,332,925.

6.5 The difference between the parties related to the individual values of the apartments, the removal of two apartments by Continuum due to their condition and a reduction of 7.5% for bulk purchase.

6.6 The existing property was purchased in 2020 for £1.8M by the vendor New Living Developments UK Ltd.

6.7 The building has been re-assessed by Fisher German (following a merger with Matthews Goodman) as at October 2023[1] in order to comply with the requirement to assess values as at the date of the appeal. The previous valuation was dated 1 July 2022 and is now 15 months out of date.

6.8 The updated valuation revised the methodology of valuing this freehold block of apartments and adopted the investment approach, allowing for the current rental income and a market facing yield. In assessing the EUV the valuer has included 12 apartments and excluded one apartment that is not in a habitable condition. The current passing rent for the property is £94,740 per annum. A breakdown of the rental income received is detailed on page 13 of the valuation report. The EUV is reported at £1,500,000 allowing for a gross yield of 6.3% and a capital value of £237 per sq ft. In my professional judgement this represents the EUV under the definition of PPG and RICS guidance.

6.9 The EUV is the first element of BLV to be considered. The second element is the appropriate premium to apply to incentive the landowner to sell. PPG states:

> *Paragraph 16 – "The premium (or the 'plus' in EUV+) is the second component of benchmark land value. It is the amount above existing use value (EUV) that goes to the landowner. The premium should provide a reasonable incentive for a land owner to bring forward land for development while allowing a sufficient contribution to fully comply with policy requirements.*
>
> *Plan makers should establish a reasonable premium to the landowner for the purpose of assessing the viability of their plan. This will be an iterative process informed by professional judgement and must be based upon the best available evidence informed by cross sector collaboration. Market evidence can include benchmark land values from other viability assessments. Land transactions can be used but only as a cross check to the other evidence. Any data used should reasonably identify any adjustments necessary to reflect the cost of policy compliance (including for affordable housing), or differences in the quality of land, site scale, market performance of different building use types and reasonable expectations of local landowners. Policy compliance means that the development complies fully with up to date plan policies including any policy requirements for contributions towards affordable housing requirements at the relevant levels set out in the plan. A decision maker can give appropriate weight to emerging policies. Local authorities can request data on the price paid for land (or the price expected to be paid through an option or promotion agreement).*

[1] Appendix 1 - Fisher German Updated Valuation

6.10 RICS PS/AVNPPF states:

> 5.*3.2 The landowner's premium is the second component of the BLV. The premium should provide a reasonable incentive for a landowner to bring forward land for development, while allowing a sufficient contribution to fully comply with policy requirements. It is the minimum return that would persuade a reasonable landowner to release the land for development, rather than exercise the option to wait or any other options available to the landowner.*

6.11 The premium, as both PPG and RICS Guidance states, provides the landowner with a reasonable incentive to bring forward land for development whilst meeting policy requirements.

6.12 Appendix D of the RICS PS/AVNPPF confirms:

> *D.2.6 Where the EUV part of the benchmark is a substantial element of the overall assessed value, the premium is usually stated as a percentage increase of the EUV. This is typical in urban and brownfield sites.*

6.13 The premium is therefore a judgement by the assessor. The RICS Guidance and PPG Guidance do not state what an appropriate premium should be in absolute terms. In this case the site has an investment value at £1.5M (Existing Use Value) and an extant consent in place for development of a further 10 apartments. In my view, a landowner would not dispose of the site for development at just EUV but would also seek an uplift to reflect the development potential of the site. The EUV provides a stable income for the landowner and therefore they would require an incentive above EUV to bring forward the site for development.

6.14 A premium to incentivise a landowner is established in both viability guidance and Appeal Decisions. At an Appeal in Cheam[2] (APP/P5870/W/16/3159137) the Inspector considered the premium (paragraphs 23-34). Cheam comprised a hotel and dwelling house. The parties agreed that 20% premium should apply to the hotel but disputed that it should apply to the dwelling. The inspector confirmed that there has to be a premium above EUV to provide a competitive return to incentivise the landowner to become a willing participate in the release of the site. The relevant paragraphs are detailed below:

[2] Appendix 2 - Cheam Appeal - 3159137

33. In terms of the amount, the Draft SPG provides a general support for the use of EUV plus and highlights that the premium could be 20% to 30%, but this will reflect site specific circumstances and may be considerably lower. The definition of EUV plus a premium in the RICS guidance note refers to 10% to 40% as an incentive for the landowner to sell. Therefore, in the circumstances of this case, a 20% premium to the landowner of No 133 represents a reasonable and justified point on this spectrum. The Inspector for the above referenced appeal at Crystal Palace Road also arrives at the same conclusion regarding this level of premium, which moreover is that agreed for the hotel.

34. I do not therefore agree that the Coombehurst Close appeal decision supports the Council's position in the particular circumstances of this case. In my view there has to be a premium above the EUV to provide a competitive return to incentivise the landowner of No 133 to become a willing participant in the release of the site. Accordingly, I find no reason to disagree with the appellant's benchmark land value figure of £2,220,000, for both sites, which can be used in an assessment on viability in this case.

6.15 The Appeal at Warburton Lane, Trafford[3] (APP/Q4245/W/19/3243720) considered the premium applicable to a greenfield site. The Inspector noted:

115. The Planning Practice Guidance makes clear that the premium should provide a reasonable incentive for a landowner to bring forward land for development whilst allowing a sufficient contribution to fully comply with policy requirements. However, it also indicates that this should reflect a minimum return to a reasonable landowner. The price paid for the land is not relevant justification for failing to meet policy commitments. Previously BLV was guided by market comparables but these were driven by historic land values inflated by non policy compliant developments. The Planning Practice Guidance extolls an approach whereby policy commitments are central to establishing a reasonable price.

118. The Planning Practice Guidance gives no indication as to what the uplift should be and the reason for that is because it will vary according to site specific and policy circumstances. There is no evidence that I have seen that says the premium should be any particular value. The important point is that it should be sufficient to incentivise the landowner to sell the land and should also be the minimum incentive for such a sale to take place.

[3] Appendix 3 - Warburton Lane, Trafford Appeal - 3243720

6.16 In this case the Inspector reported that a premium equivalent to 10x agricultural land value was appropriate. RICS guidance states that on greenfield land a multiple of land value is more appropriate than a percentage uplift.

6.17 In my professional opinion a premium at 20% of the EUV is appropriate to incentivise the landowner to dispose of the property. This is the mid-point of the accepted range for premiums of between 10%-30%, as accepted in Appeal reference 3279610 **[CD-F23]**. This range is supported by numerous CIL examinations, Local Plan Viability Assessments and the GLA Homes for London SPD (2017) that states that between 10-30% is a suitable range to provide sufficient incentive. I have therefore adopted £1,500,000 (EUV) plus 20% (£300,000), to arrive at an EUV+ Benchmark Land Value at £1,800,000 to test the viability of the proposed development.

6.18 Continuum (acting for the LPA) argue that no premium should apply as there is no change of use. This is taken from their own viability assessment of the Trafford Quarter Area Action Plan. Continuum argued that only when a change of use is considered should a premium apply on the basis that if there is no change of use the value of the site will already incorporate hope value. This does not follow PPG Guidance or RICS Guidance. The Existing Use Value in this case excludes any hope value for development, therefore a premium applies. I also note that the subject site is not covered by the Trafford Quarter and therefore was not considered in this viability assessment. Continuum adopt a different methodology in the area wide Trafford Quarter viability assessment to arrive at Benchmark Land Value due to the difficulties in assessing the BLV on an EUV+ basis. This is not the case for the Appeal property which represents a known income generating asset. In my opinion, there is no relevance to the Trafford Quarte viability assessment in this case.

7.0 DISPUTED INPUT – SALES & MARKETING COSTS

7.1 The dispute relates to a difference in the percentage allowance for marketing and sales costs. I have applied a total percentage of 5% to allow for agents fees and marketing expenditure, compared with Continuum who argue that the total percentage should be 3%. The monetary difference (assuming a 100% market scheme) is £200,973.

7.2 Continuum argue that the market demand for retirement apartments is significantly high in Greater Manchester and in the UK as a whole. They reference a document prepared by Knight Frank titled 'Senior Housing Development Update (2022) to endorse their opinion[4]. This document is a wide-ranging look at the total retirement market including retirement housing, integrated retirement communities and Care Homes. It does not detail any view or provide any evidence on marketing costs.

7.3 Continuum make two further arguments. Firstly, they argue that there is a potential for a double count in what they describe as the gross profit margin. They argue that some marketing activities would be viewed as overheads and thus included within the profit margin. Marketing costs and sales costs are separate costs to developer margin/profit. I deal with profit in Section 9. Gross margin relates to the adjusted risk return from a development. It does not include operating expenses such as sales and marketing. This is a commonly accepted view not just in development appraisals but general business accounts. Secondly, Continuum reference two appeals to endorse their opinion that 2.5% is the accepted level for apartment schemes in Trafford. Appeal reference APP/Q4245/W/20/3258552[5] refers to the former B&Q, Great Stone Road, Old Trafford and Appeal reference APP/Q4245/W/21/3287401[6] refers to the Former MKM House, Warwick Road, Stretford, Manchester. We comment on each case below.

7.4 APP/Q4245/W/20/3258552 – proposed redevelopment to provide a mix of uses including 332 apartments (class C3), flexible space for use classes A1, A3, D1 and/or D2. The scheme is in no way comparable with a retirement scheme in Sale. There is no debate or information on the marketing costs of the development within this Appeal Statement. I have viewed the Cushman & Wakefield report dated June 2020. Marketing costs were not disputed, this is not the same as making a blanket assumption that 2.5% is the default marketing costs for retirement flatted development.

7.5 APP/Q4245/W/21/3287401 – Residential scheme located within the Civic Quarter Area Action Plan. The proposed scheme is a 13-storey building comprising 88 flats (market). There is no commentary in the Appeal Decision relating to any of the viability inputs. Again, I have managed to review the viability assessment submitted by Avison Young. The report dated September 2020 confirmed combined marketing and sales costs at 2.5% of GDV. The matter was agreed. This is not a retirement scheme. The Appeal was dismissed.

[4] Appendix 4 - Knight Frank – Senior Housing Development Update 2022
[5] Appendix 5 - B&Q Appeal Decision (APP/Q4245/W/20/3258552)
[6] Appendix 6 - Stretford Appeal (APP/Q4245/W/21/3287401)

7.6 The purchase of a retirement apartment is different to a general market scheme. Whilst we have an ageing population this does not mean that everyone over-65 will want to move into a retirement community. Generally, the decisions are made in consultation with family members and is triggered by needs based requirement. The decision is a lifestyle change and takes a considerable time, including multiple viewings and frequently including the ability to stay overnight to assist in the decision-making process. It also involves the sale of a family home to fund the purchase that requires very careful consideration and an active housing market. Sales occur following completion of the scheme as purchasers like to experience the building prior to completing their purchase.

7.7 Marketing involves targeting and direct contact of potential purchasers from the moment a scheme starts construction to the last sale of the scheme. Only the smallest developments can rely solely upon an estate agent to sell the units at an acceptable rate. Most schemes will require a significant degree of marketing including a manned sales office and show home. The increased sales period faced by age restricted developments means that the sales office has to be manned for longer which increases its cost relative to general needs housing. Similarly marketing material and advertising costs run for an extended period. Furthermore, to secure the support of family members, additional time will need to be spent with each family which also increases staffing and admin costs. Additionally, less mobile purchasers will be met at their home further increasing the time and expense required to sell each unit relative to general needs housing developments. On average a typical market housing scheme might cost circa 2-3% of the developed value to sell compared to up to 5% for an age restricted development.

7.8 The combined allowance of 3% marketing and 2% sales is not considered unreasonable and is consistent with the wider retirement market. I highlight two recent appeals for retirement development. All schemes adopted 5% for marketing costs and were accepted by the LPA's assessor and not disputed at Appeal.

7.9 APP/J1915/W/23/3318094[7] – 41 Railway Street, Hertford. Churchill Retirement Scheme for 34 retirement apartments. None of the viability appraisal inputs were disputed including 5% disposal fees agreed and 20% profit on GDV. We enclose the appeal decision and Statement of Common Ground.

7.10 APP/H2265/W/3294498[8] – 78/80 High Street, Tonbridge. McCarthy Stone Retirement Scheme for 36 retirement apartments. 5% marketing and disposal costs agreed and 20% profit on GDV. We enclose the appeal decision and Statement of Common Ground.

[7] Appendix 7 - Hertford Appeal and Statement of Common Ground
[8] Appendix 8 - Tonbridge Appeal and Statement of Common Ground.

7.11 Continuum argue that many apartment schemes in Manchester (not retirement) are pre-sold to overseas investors with consultants required to travel abroad to market these schemes. No actual evidence has been provided to support this view. Irrespective of this, retirement apartments are not sold to overseas investors, they are sold to occupiers in the local market. The sales effort is significantly more intensive than a one-off sales pitch to an overseas investor. I see no relevance of sales to overseas investors and marketing costs to the sales of a retirement apartment to a local occupier.

7.12 Continuum argue that sales offices and show homes are a common theme for residential development. This is not disputed. However, the sales process is considerably more intensive for retirement accommodation and takes a significantly longer period. A 5% sales and marketing budget is not considered unreasonable and has been accepted widely in retirement developments, including at Appeal (APP/Q1925/W/17/3166677)[9]. At this appeal the Inspector considered fully marketing costs (paragraphs 21-26). The Planning Authority and their consultants argued that sales and marketing costs should be 2.85%, whilst the Appellant argued for 5.35%. The Inspector confirmed that in this case 5.25% was acceptable. This Appeal Decision referenced two further cases where marketing costs were challenged for retirement development at Clacton-on-Sea[10] (APP/P1560/A/11/2161214) and Hunstanton[11] (APP/V2635/A/2217840). In both cases a higher marketing cost of 6% was agreed.

8.0 DISPUTED INPUT – EMPTY PROPERTY COSTS/SALES RATE

8.1 **Empty Property Costs:**

8.2 Empty Property Costs (EPCs) are an industry accepted cost of retirement apartment developments and are widely accepted by third party reviewers as being a valid cost to be included within the appraisal. EPCs reflect the costs that have to be borne by the developer until the scheme is fully sold out. Retirement apartment developments are built in a single phase and the building is fully energised on practical completion.

8.3 The EPCs cover the provision of background heating to the empty apartments, the maintenance and up-keep of the communal facilities and the employment of the Estate Manager, who has to be onsite from first occupation. The costs are covered by the service charge once all apartments are sold.

[9] Appendix 9 - Appeal - 3166677
[10] Appendix 10 - Appeal - 2161214
[11] Appendix 11 - Appeal - 2217840

8.4 However, until such time that the scheme is fully sold, the shortfall in service charge income must be met by the developer as the costs must be met irrespective of the number of occupiers in the building and are payable from the scheme's first occupation. In addition, council tax payments will need to be met on the empty units until they are sold.

8.5 EPC are a cost to development and have been accepted by numerous third party assessors and at Appeal (see Appendix 6). I see no reason why a scheme in Trafford would act any differently to other retirement schemes in the country.

8.6 **Sales Rate/Curve:**

8.7 The Continuum cashflow is impacted by the inclusion of on-site affordable housing. In the model provided to us they have assumed that the on-site affordable will be sold on a 'golden-brick' basis with 30% (£726,251) paid 3 months into the project (commencement of construction), 45% (£1,141,249) spread over the construction period (11 months at £103,748 per month) and a final payment of 25% (£622,500) paid at practical completion. The 15 remaining market units assume that 40% of the income is paid at practical completion and the remaining 60% in the following 3 months. The sale profile for the market units is therefore 4 months at 3.75 units per month.

8.8 My assessment assumes a 100% market scheme. I have applied an overall sales rate of 1.38 sales per month over an 18-month period. This is a more typical sales profile for a retirement scheme.

8.9 The following sales rates are taken from retirement schemes over the last 5 years in the region:

Table 2

Development	Total Units	Sales Period	Sales Curve
Hampson Court Hazel Grove	40	September 2020 – May 2022 (20 Months)	2 per month
Butterworth Grange, Rochdale	30	July 2019 – Sept 2022 (38 Months)	0.78 per month
Mortimer Lodge Bridgnorth	50	February 2022 – still selling	1.3 per month
Eliot Lodge Ashborne	38	June 2019 – June 2022 (36 Months)	1.05 per month

8.10 The consistent profile of retirement schemes across the country is slower than typical apartment developments due to the nature of the product. A sales rate overall of 1.38 per month is considered both appropriate and realistic in the current market.

9.0 DISPUTED INPUT – DEVELOPMENT PROFIT

9.1 The parties dispute the required risk adjusted return for the proposed development. My position is that the risk adjusted return should be 20% on GDV, whereas Continuum argue the risk adjusted return should be 18.5% of GDV for the market units and 6% of GDV for the affordable with a blended overall profit of 14.85% of GDV.

9.2 NPPG is clear that potential risk is accounted for in the assumed return for development assumed at between 15-20% of gross development value for plan making purposes but alternative figures may be appropriate for different development types. Paragraph 018 states:

Potential risk is accounted for in the assumed return for developers at the plan making stage. It is the role of developers, not plan makers or decision makers, to mitigate these risks. The cost of fully complying with policy requirements should be accounted for in benchmark land value. Under no circumstances will the price paid for land be relevant justification for failing to accord with relevant policies in the plan.

For the purpose of plan making an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies. Plan makers may choose to apply alternative figures where there is evidence to support this according to the type, scale and risk profile of planned development. A lower figure may be more appropriate in consideration of delivery of affordable housing in circumstances where this guarantees an end sale at a known value and reduces risk. Alternative figures may also be appropriate for different development types.

9.3 Continuum dispute the approach of considering retirement development across England rather than specific to Greater Manchester. However, no retirement schemes have been put forward by Continuum to counter the position that retirement development is inherently more riskier than general flatted schemes.

9.4 Over the last decade I have been involved in a number of retirement schemes in the Greater Manchester area. The most recent schemes include:

- **Bramhall in Stockport (2019)**: Proposed development of 40 retirement apartments. The parties to the dispute (DVS acting for the LPA) agreed 20% on GDV.

- **Land at Jessiefield, Spath Road, Didsbury (2022)**: The scheme proposed 34 retirement apartments. The parties to the dispute (Cushman & Wakefield acted from the LPA) agreed 20% on GDV. Matter went to appeal but viability was not disputed.

9.5 In addition to these two recent examples in Greater Manchester we enclose a schedule of schemes dating back to 2018 where viability has been assessed by the LPA against submissions for retirement development[12]. In all cases 20% profit on GDV has been accepted as appropriate for retirement development.

9.6 This is consistent with the Inspector conclusions for the McCarthy Stone proposal at Redditch (Appeal Ref: 3166677) and the Churchill Retirement Living proposals at Cheam (Appendix 2 - Appeal Ref: 3159137) and West Bridgford[13] (Appeal Ref: 3229412).

9.7 The West Bridgford decision is the most recent decision dating from December 2019. This was a pre Covid -19 consideration of market risk for the typology proposed here. There is nothing to suggest that the level of a suitable profit level on this site should be anything less than 20% profit. As part of the evidence presented at the West Bridgford appeal, the appellant produced a schedule of retirement living sites brought forward by McCarthy and Stone and the Appellant There are a number of inherent sector specific risks with this form of development which materially differ to that of general needs housing including an ability to phase and allow for risk reappraisal.

9.8 The consistent finding in each of the appeal decisions were:

- There are a number of inherent sector specific risks with this form of development which materially differ to that of general needs housing including an ability to phase and allow for risk reappraisal.
- Retirement living housing must be fully completed and operationally ready before sales commences as older people are less likely to buy ‘off plan’ without seeing for example the benefit of the communal facilities.

[12] Appendix 12 - Profit Levels FVA – Retirement Development
[13] Appendix 13 – Appeal Ref:3229413 West Bridgford

- A restricted occupancy also limits the marketability of such housing in comparison to general needs development.

9.9 Developer profit is the amount by which the price realised on sale of a developer's interest exceeds the total outlay. Investors have an expectation as to the level of return they require to compensate them for the risks at which they are placing their capital. If investors believe they are not being adequately compensated for these risks, they will invest their capital elsewhere.

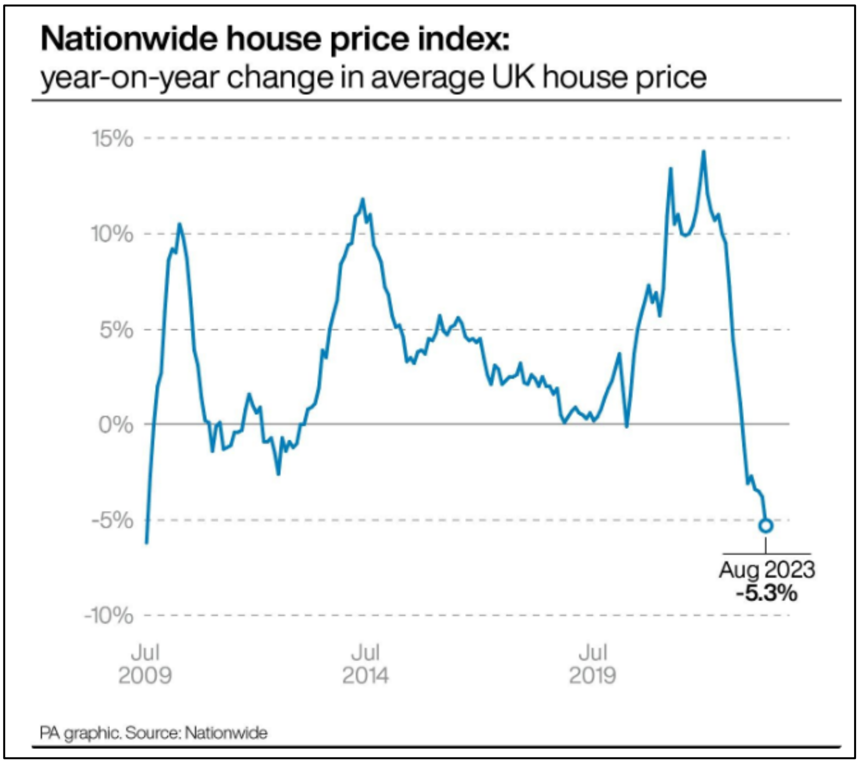
9.10 Valuation and Viability is not a precise science and there will be debates between surveyors as to the appropriate inputs into appraisals. The profit level a scheme needs to achieve is a significant input into the viability appraisal and is often debated. PPG provides a useful guide to the level of profit for development appraisals and is consistent with wider valuation advice on this point. Profit, measured against the Gross Development Value, between 15%-20% is not disputed between the parties at this Appeal. The debate is at what level between these parameters should a retirement scheme be assessed.

9.11 I have provided a significant body of evidence that suggests that retirement flatted development is more riskier than standard housing developments and flatted schemes. Taking into account the specific risk factors for retirement development and the precedents set in both application stage and Planning Appeal Decisions I believe a profit margin at 20% on GDV is appropriate for this form of development.

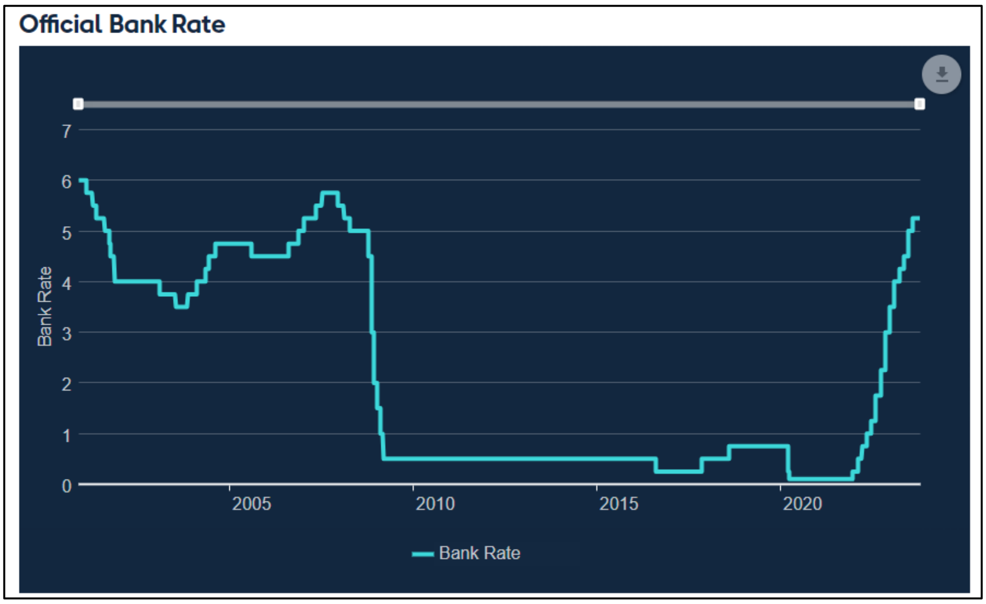
9.12 Continuum argue that the standard profit margin in Trafford for flatted schemes is 17.5% on GDV. This appears to relate to two schemes in Trafford that went to Appeal and were dismissed. In both cases the Appeal did not consider profit as it was agreed between the parties. I note that these decisions were prior to the current residential market downturn and significant increase in finance rates.

9.13 Since the peak of the housing market/post-COVID boom house prices have fallen month-on-month for the last 12 months. The latest RICS UK Residential Market Survey (September 2023)[14] confirmed that all demand indicators remain in negative territory with the outlook still downbeat. Nationwide confirmed that house prices have fallen significantly since the peak of the market after the COVID pandemic. The table below details the fall in prices since July 2009 to August 2023 (Source: Nationwide)

[14] Appendix 14 - RICS UK Residential Market Survey – September 2023



9.14 Interest rates have risen consistently from January 2022 (when interest rates were at 0.25%) to August 2023, with interest rates now at 5.25%. At the time of the application stage assessment (December 2022), interest rates were at 3.5%. The chart below documents the increase in intertest rates: (Source: Bank of England). This has seen the cost of borrowing increase significantly and mortgage finance cost impacting on consumer demand.



9.15 Continuum accept there is a level of risk associated with retirement development and argue this risk amounts to an increase of 1% on GDV to the baseline. Continuum have provided no evidence for retirement schemes returns and no updated profit levels during 2022-2023 when the market has significantly altered. I believe the margin Continuum argue, at 18.5% on GDV, does not reflect the current development market expectations and is significantly below the margin required by retirement developers to reasonably reflect risk. This is reinforced by the recent Planning Appeal's in Effingham[15].

9.16 In the Effingham Appeal (November 2022) the inspector in this case stated:

68. Although it refers expressly to plan making, I also see no good reason why the profit range of 15-20% identified in the Government's planning practice guidance (PPG) should not reasonably be applied to a scheme of this type in order to assess viability, particularly when read in the context of para 58 of the Framework. Given the fairly difficult and comparatively uncertain economic circumstances for the construction sector at present and regardless of what profit margin the appellant has worked to in the past, it is reasonable to assume developer risk is greater now than at other more economically stable times. Consequently, notwithstanding the evidence regarding house prices and demand for housing in the area, and in respect to programming and sales revenue, a profit target to the higher end of the range, up to 20% of gross development value, is reasonable.

9.17 In assessing profit at 18.5% of GDV for the market units, Continuum have not considered the characteristics of the retirement marker or the changing economic circumstances that is being faced by developers. The baseline profit figure of 17.5% on GDV for flatted development is based on market apartments agreed in 2020/2021 in a different economic period and not reflective of the current development market. A weaker housing market due to inflation and higher interest rates continue to impact on buyer demand and confidence. The retirement sector is not immune form these market pressures. The majority of purchasers use the equity in their own homes to fund a retirement apartment. If the general housing market is declining this reduces the sale prospects of the retirement market as homeowners opt to stay put rather than downsize.

9.18 Continuum's profit assumption, when coupled with the on-site affordable profit at 6% of GDV arrives at a blended profit level of 14.85% of GDV which is below the PPG guidance and confirms that their assessment of profit is below the market expectation.

[15] Appendix 15 - Appeal Reference: 3298341

9.19 Overall, it is my professional opinion that the minimum level of profit/return for a retirement developer in the current market is no less than 20% of GDV. This level has been tested at Appeal and agreed by numerous third party assessors, including in neighbouring boroughs of Cheshire and Stockport. These decisions were before we have seen a market downturn. It has not been explained by Continuum why they believe Trafford would act differently to other markets within England.

10.0 UPDATED ASSESSMENT

10.1 I have updated the financial viability assessment appraisal[16]. The appellants position at this appeal is set out in the table below. Allowing for the changes detailed in my evidence I confirm that the viable commuted payment available for affordable housing is £208,000.

INPUT	Appeal Scheme (RLV)
GDV **100% Market Scheme**	1 Bed RL Apartment: £350,000 2 Bed RL Apartment: £480,000 **Total GDV: £10,180,000**
Core Build Cost	£3,889,913
Abnormal Costs	Demolition - £98,670 Part L Costs: £62,500
External Costs	8% of Core Build Cost: £311,193
Contingency	3% of Core Build Cost: £127,908
Professional Fees	8% of Cost: £348,982
Marketing/Disposal Costs	5% of GDV (Marketing & Sales): £509,000 £650 per unit (Legal): £16,250
Empty Property Costs	£59,119
Finance	7% Debit (100% finance)
Timings	Pre-Construction: 4 Months Construction: 12 Months Sale Period: 18 Months (1.38 per month)
Profit	20% of GDV
RLV (after Costs)	£2,008,186
BLV:	**£1,800,000**
Surplus for Sec.106	**£208,186**

[16] Appendix 16 – Appellants Updated ARGUS Summary Appraisal

11.0 CONCLUSION

11.1 I have reviewed the viability assessment prepared by Continuum in line with viability guidance and my experience in dealing with retirement development.

11.2 Where there are differences between the parties I have sought to evidence the position reached and believe I have fully justified the inputs adopted.

11.3 In producing this updated assessment, I have taken account of changes in market conditions. Having considered the evidence put before I conclude that the viable surplus is £208,186.

11.4 I confirm that I have made clear which facts and matters referred to in this proof are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

[redacted]

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