

**Appendix 3.2 - Email chain  
between LPA and WSP (9-27  
April 2020)**

**Payne, Hannah**

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**From:** Harrison, Debra <Debra.Harrison@trafford.gov.uk>  
**Sent:** 27 April 2020 16:30  
**To:** Hard, Matt  
**Cc:** 'Guy Pearson-Gregory'; Pearson, David  
**Subject:** RE: Former B&Q site - affordable housing and viability

Matthew,

I have previously explained the Council's approach to the Kellogg's application and do not consider it necessary to enter into further discussion regarding this application with a third party. The Council's position regarding the validation of this application has been made clear and remains the same. As per the requirements of the Validation Checklist, the application does not propose a policy compliant level of affordable housing and in this instance and as with applications of a similar nature, unless the proposed development provides 40% affordable housing, a site specific viability appraisal is required to validate the application. Please note that as outlined within the Validation Checklist, once a Viability Appraisal is submitted, the applicant is required to pay £4,800 excl VAT to cover the Council's cost of assessing the viability appraisal and an invoice will be sent upon validation of the application. Any Viability Appraisal submitted must comply with Appendix 1 of the Validation Checklist.

If you do not consider that a viability appraisal is required to validate the application, I refer you to Part 12 of The Town and Country Planning (Development Management Procedure) (England) Order 2015, which addresses Validation Disputes.

Regards  
Debra

**Debra Harrison**  
**Major Planning Projects Officer**

Planning and Development  
Place Directorate  
Trafford Council – Trafford Town Hall – Talbot Road – Stretford – M32 0TH  
T (Direct Dial): 0161 912 1930 / 07890518398  
T (Planning General Enquiry Line): 0161 912 3149  
F: 0161 912 3128  
E: [Debra.Harrison@trafford.gov.uk](mailto:Debra.Harrison@trafford.gov.uk)

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**From:** Hard, Matt [mailto:matthew.hard@indigoplanning.com]  
**Sent:** 24 April 2020 20:12  
**To:** Harrison, Debra  
**Cc:** Guy Pearson-Gregory (guy.pearson-gregory@accruecap.com)  
**Subject:** RE: Former B&Q site - affordable housing and viability

Debra

Thank you for the swift reply. However, we will require a further explanation, as we still do not follow the LPA's approach.

The following events took place with regards to the Former Kellogg's Site application (applicants: Trafford Bruntwood), according to the Council's online application portal:

- An application was received on 16 January 2020 and validated on 30 January with a viability assessment. The application was given a determination date of 30 April 2020, ie 13 weeks after validation (notwithstanding that the application was accompanied by an EIA).

- The viability assessment was then shortly withdrawn (on or before I checked the application online on 11 February), yet the application remained 'live' (despite there being no viability assessment for the public to review) and the determination date remains the same
- A new viability report was uploaded on 21 April. The original viability appraisal continues to be withdrawn despite common practice being for superseded reports to remain on the portal.

Contrary to your e-mail below this is not consistent with the approach taken with my client's first application on the B&Q site. As you will recall the following steps took place here:

- 16<sup>th</sup> July: An application was submitted but deemed invalid due to missing plans of the existing building
- 20<sup>th</sup> July: The application was validated with a determination date of 16<sup>th</sup> October 2020.
- 6<sup>th</sup> August: The application was invalidated due to insufficient information in AH Statement and Sequential Assessment and missing Viability Assessment
- 11<sup>th</sup> September: The LPA confirmed receipt of AH Statement and Sequential Assessment but advised that the application would not be validated until receipt of Viability Assessment
- 5<sup>th</sup> October: The application was validated following receipt of the Viability Assessment with a determination date of 29 March 2019.

#### **My client' new application:**

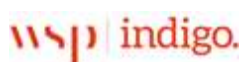
Given that the LPA are looking to take a consistent approach, please can you confirm that my client's application will be validated immediately, with a fixed determination date, if they were to submit a viability appraisal and then withdraw it and replace it in due course? Please can you also confirm that this viability appraisal, like Trafford Bruntwood's appraisal, will not have to remain in the public domain for a significant portion of the application determination period?

Should this not be the case, then once again it would seem that an inconsistent approach is being adopted by the LPA.

Kind regards,

**Matthew Hard BA(Hons) MSc MRTPI**

Associate Director



T +44 (0) 161 8366910

M +44 (0) 7920 336965

8 First Street, Manchester

M15 4RP

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**From:** Harrison, Debra <Debra.Harrison@trafford.gov.uk>

**Sent:** 22 April 2020 11:10

**To:** Hard, Matt <matthew.hard@indigoplanning.com>

**Cc:** Hann, Doug <doug.hann@indigoplanning.com>; 'Guy Pearson-Gregory' <guy.pearson-gregory@accruecap.com>;

Pearson, David <David.Pearson@trafford.gov.uk>; Coley, Rebecca <Rebecca.Coley@trafford.gov.uk>

**Subject:** RE: Former B&Q site - affordable housing and viability

Matthew,

I can confirm that the Kellogg's application wasn't invalidated when the applicant withdrew their VA, however nor has work progressed on it. The approach is similar to that which was taken when the previous application on the former B&Q application was invalidated in 2018, i.e. although no work was progressed on the application, the application remained 'live' on the public access website and the consultation process was left to run.

Regards  
Debra

**Debra Harrison**  
**Major Planning Projects Officer**

Planning and Development  
Place Directorate  
Trafford Council – Trafford Town Hall – Talbot Road – Stretford – M32 0TH  
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**From:** Hard, Matt [<mailto:matthew.hard@indigoplanning.com>]

**Sent:** 21 April 2020 14:25

**To:** Harrison, Debra; Hann, Doug; 'Guy Pearson-Gregory'

**Cc:** Pearson, David; Coley, Rebecca

**Subject:** RE: Former B&Q site - affordable housing and viability

Dear Debra

Whilst we ascertain our next steps, please consider the following.

In regard to the Kellogg's site, you advise that "The applicant then asked for this to be taken down from the website as they wanted to revise their appraisal. We have now received the revised appraisal and this will be uploaded to website as soon as possible."

Whilst I realise you are not the case officer for that application, this is a highly irregular circumstance.

Only once a replacement report is received and made available for inspection / consultation, would an original submission document normally be regarded as 'superseded'; in which case, the original normally remains viewable. Otherwise, interested parties won't be able to see the changes that have been made. For example, the application form for that particular application has been superseded and remains viewable along with the revised form.

Furthermore, please could you confirm if that application has been treated as invalid since the viability report was rescinded? If the stance is that that application remained valid whilst there was no viability appraisal forming part of the application (and which the public could therefore not review), ie between at least 11 February and 21 April, what is the difference to Accrue's application not having a viability appraisal as part of the application upon submission?

Whilst I await instruction from the applicant in respect of viability, please note for the record that we consider 10% affordable housing in this location (in good market conditions) is policy compliant, having regard to the Core Strategy, the Inspector's Report into the Core Strategy, the TEVS and the sites included in the SHLAA at the time of the TEVS.

My client will be taking further advice with regards to these irregularities and will be reviewing the rationale for the changes between the two viability reports.

Kind regards

**Matthew Hard BA(Hons) MSc MRTPI**

Associate Director



T +44 (0) 161 8366910

M +44 (0) 7920 336965

8 First Street, Manchester  
M15 4RP

[www.indigoplanning.com](http://www.indigoplanning.com)

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**From:** Harrison, Debra <[Debra.Harrison@trafford.gov.uk](mailto:Debra.Harrison@trafford.gov.uk)>

**Sent:** 20 April 2020 17:19

**To:** Hard, Matt <[matthew.hard@indigoplanning.com](mailto:matthew.hard@indigoplanning.com)>; Hann, Doug <[doug.hann@indigoplanning.com](mailto:doug.hann@indigoplanning.com)>; 'Guy Pearson-Gregory' <[guy.pearson-gregory@accruicap.com](mailto:guy.pearson-gregory@accruicap.com)>

**Cc:** Pearson, David <[David.Pearson@trafford.gov.uk](mailto:David.Pearson@trafford.gov.uk)>; Coley, Rebecca <[Rebecca.Coley@trafford.gov.uk](mailto:Rebecca.Coley@trafford.gov.uk)>

**Subject:** FW: Former B&Q site - affordable housing and viability

Matthew,

Thank you for your email and I address your points below.

The LPA's position with regard to the requirement for a site specific Viability Appraisal in order to support and fulfil the validation requirements of Trafford Council has not changed since the submission of the previous application on this site 94974/OUT/18, where a site-specific Viability Appraisal was ultimately submitted.

As outlined during the validation process of the previous application, of which this application is the same nature, i.e. high density residential development, it is considered that the fourth bullet point of Core Strategy Policy L2.12 is the applicable point which is relevant to this specific planning application. The element of L2.12 sets out that a site-specific viability appraisal is required to be submitted in support of planning applications where the nature of the proposed development is such that, in viability terms, it will perform differently to the generic development within the specified market location that the site sits within, when the plan was adopted. It should be noted that the planning policy position has not changed since the previous application on this site.

Colleagues in Strategic Planning have confirmed that 'generic development' as referred to within policy L2.12, does refer to the housing stock which existed at the time of the adoption of the Core Strategy and had transactions on the VOA website. In Old Trafford, the viability study tested developments which were small terraced properties, not apartment style developments and that is what determined the OT market area, in which this application site is located.

Trafford Council remain of the view that the proposed development of 333 residential units within an apartment block, in this location will perform differently, in viability terms, to the generic development in the area and a site specific viability appraisal must be submitted as part of the planning application to determine the viable level of affordable housing provision which should be provided on-site.

SPD1: Planning Obligations also sets out at paragraph 4.7 that viability information must be received prior to validation of the planning application, and may not be accepted during the course of considering a planning application and states that the viability information submitted should include the following:

- A financial viability appraisal setting out how the development is not able to meet the full policy requirements.
- This should utilise a recognised form of development viability appraisal and include: a quantity surveyors cost assessment, market evidence of sales rate and site value, development and sales programme, details of any exceptional development costs, and likely CIL charge showing payments required in accordance with the instalments policy.
- A statement outlining the benefits of not meeting the policy requirements.
- Full details of deferred timing or phasing for the delivery of planning obligations.

With regard to the current outline planning application on the nearby former Kellogg's site, a viability appraisal was submitted as part of the application submission, prior to the validation of the application. The applicant then asked for this to be taken down from the website as they wanted to revise their appraisal. We have now received the revised appraisal and this will be uploaded to website as soon as possible. Although the supporting Planning Statement to this application makes reference to the provision of 10% affordable housing being policy compliant, due to the sites location in a 'cold' market location, this does not reflect the assessment which will be made in determining the application by the LPA and the application is nonetheless supported by a site specific viability appraisal, which is the validation requirement.

With regard to the latest information you have sent through, thank you for the plans indicating where the proposed affordable units are proposed to be located, however as indicated above, we cannot accept that 10% is policy compliant unless supported by a site specific Viability Appraisal. Therefore we cannot validate the submitted application until a Viability Appraisal is submitted and the supporting information such as the Affordable Housing Statement and accompanying AH layout plans reflects the outcome of the Viability Appraisal.

I hope I can assure you that the requirement for site specific viability appraisals on applications where it is considered the nature of the proposed development differs to the generic development within a specified market locations is consistently applied across the Borough and all applications are treated equally.

Kind regards

Debra

**Debra Harrison**  
**Major Planning Projects Officer**

Planning and Development  
 Place Directorate  
 Trafford Council – Trafford Town Hall – Talbot Road – Stretford – M32 0TH  
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**From:** Hard, Matt [<mailto:matthew.hard@indigoplanning.com>]  
**Sent:** 09 April 2020 15:22  
**To:** Harrison, Debra  
**Cc:** Hann, Doug; Guy Pearson-Gregory ([guy.pearson-gregory@accruecap.com](mailto:guy.pearson-gregory@accruecap.com))  
**Subject:** Former B&Q site - affordable housing and viability

Hi Debra

Thanks for your time on the phone earlier.

As discussed, we are prepared to amend our application documents to refer to 10% affordable housing, which we believe is policy compliant and does not warrant a viability assessment.

However, before we commit to that, we want to question what constitutes “generic” development that would not require a viability assessment, because we do not accept that our application is “non-generic”. Trafford Bruntwood’s recent application is based on 10% affordable housing being policy compliant and we’d expect our application to be treated similarly.

We outline below why we believe our application is generic.

### **Trafford Bruntwood – Former Kellogg’s site(99795/OUT/20): 750 homes including up to 750 homes and buildings up to 20 storeys in height**

The Planning Statement for the Trafford Bruntwood application (99795/OUT/20) is written by Avison Young. Their Planning Statement quotes the following from the Core Strategy, but does not even reference the non-generic clause:

*“Policy L2 (Meeting Housing Needs) states that all new residential development proposals will be assessed for the contribution that will be made to meeting the housing needs of the Borough. In order to meet the identified affordable housing need within the Borough, the Council will seek a target split of 60:40 market: affordable housing. Policy L2 also sets out that the expected delivery methods of affordable housing would be on site; at least 50% of the affordable housing provision will be required to be accommodation suitable for families; the affordable housing element should reflect the overall mix of unit types on the site and a split of 50: 50 in the affordable housing units to be provided between intermediate and social/affordable rented housing units. In terms of affordable housing Policy L2 states that the Borough is split into three broad market locations: cold, moderate and hot, with further definitions of these market locations being given in the Planning Obligations SPD. In line with the map enclosed within this SPD, Old Trafford is identified as being a “cold” market location meaning that the minimum threshold to provide affordable housing is 5 residential units and a 10% contribution to affordable housing will be sought.”*

### **Policy and the TEVS**

In our conversation, you advised that “generic” relates to the traditional semi-detached pre-war homes in this cold market area (ie Old Trafford) and as such apartments and higher density schemes are treated as non-generic (thus requiring a viability appraisal).

The policy wording in the Core Strategy is:

*“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%.”*

I have highlighted “generic developments” as it is evidently not related to pre-existing housing stock, but developments. i.e. new developments. It also is referenced to “within a specified market location”. As you will be aware the Old Trafford area where the site lies has experienced a substantial number of higher density apartment development over the last 10 years and more. In fact the predominant form of residential development has been high density apartments, many in developments of a high number of units. Indeed, the vast majority of new build apartment development in Trafford has been in the Old Trafford and inner urban area. Therefore, the development proposed at the B&Q site is very much a generic form of development for the specified market location.

The policy also refers to the TEVS (which was published in 2009). The TEVS considered the viability of around 100 sites. It does not list the sites that were assessed, but they tended to be drawn from the SHLAA at the time.

The TEVS itself notes that a “substantial proportion” of sites tested include apartment schemes “which is representative of the development coming forward in Trafford and is representative of site densities recorded in the SHLAA.”

- The TEVS notes that 18% of sites tested had capacity in excess of 50 units.



- The TEVS notes that 21% of sites were between 0.8 and 2.5ha in size.
- The TEVS notes that 13% of the sites were vacant or derelict PDL, 10% were infill or car park sites, 1% were redevelopment of commercial sites and 18% were on occupied PDL land.

Clearly the B&Q site fits within these classifications: it is not an outlier and very much the type of scheme assessed in the TEVS as a generic type of development.

Indeed, one of the sites in the 2008 draft SHLAA – the latest version prior to the TEVS being produced – is LA70 (Old Trafford Cricket Ground). This identified a potential capacity of 1,500 homes on land shown below. Whilst the B&Q site was occupied at the time (as was Kellogg's), 1,500 home across the different parcels within LA70 would definitely have been high-density residential development.



### Summary

Our planning application is not dissimilar to the application by Trafford Bruntwood on the old Kellogg's site: high-density residential development on a brownfield site in Old Trafford / the Civic Quarter. Their consultants (Avison Young – who incidentally now incorporate the consultants who wrote the TEVS) consider the application to be policy compliant at 10% affordable housing.

The Core Strategy does not set out what would be a generic development in Old Trafford, however given the number of units sought and sites identified, can only be construed as high density development. The TEVS clearly included assessment of apartment developments on brownfield land as a generic form of development, and the SHLAA at the time of the TEVS included 1,500 homes around the cricket ground and surrounding area.

Therefore, we dispute that our application would remain non-valid if we agreed to 10% affordable housing and did not provide a viability assessment (and paid the application fee as per the non-valid letter, which will follow shortly).

Kind regards

**Matthew Hard BA(Hons) MSc MRTPI**

Associate Director



T +44 (0) 161 8366910

M +44 (0) 7920 336965

8 First Street, Manchester  
M15 4RP



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