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Sent: 05 February 2026 10:02
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Cc: Tom Hegan <[REDACTED]>; David Fletcher <[REDACTED]>; Paul Toward
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Subject: Burloes Cottages 24/01013/HYA - Viability Review

Dear Sam, Sarah, Sean,

Further to our meeting on 3 February, we write to clearly set out why a viability review mechanism (VRM) is not justified in policy terms, and to clarify the commercial implications that would make a VRM unworkable for Vistry and risk the delivery of the site.

Planning Considerations

Local Plan Policy HS2

Policy HS2 requires affordable housing subject to viability and explicitly provides that review mechanisms may be used “where appropriate”. Review mechanisms are not mandatory. The supporting text clarifies that VRMs are considered where:

- A scheme is below target level AH *and*
- The Council considers that viability may improve over the lifetime of the scheme, due to:

- Long build-out periods
- Lack of comparable market evidence
- Approvals issued during adverse economic conditions

In this instance:

- Adverse market conditions persist, and there is no evidence of improvement.
- The development is fully costed and the viability position is well understood, not uncertain.
- There is no long-term delivery horizon that would warrant a VRM.

These points should be agreed as common ground.

Developer Contributions SPD (2023)

The SPD provides guidance on how Policy HS2 is applied but is not part of the Development Plan. It states:

- The Council will *consider* VRMs where affordable housing is below policy due to viability.
- VRMs are intended to capture improvements in viability.
- VRMs may be used for multi-phased or long-term developments, or where costs are large-scale, estimated, or bespoke.

The current scheme does not fall into these categories:

a) No improvement in viability

- Viability has not improved; if anything, market and cost conditions have deteriorated since assessment.
- There is no basis for assuming an uplift in the short-medium term.

b) Not a long-term or multi-phase scheme

- Although the hybrid application contains outline elements, the overall scale and programme do not constitute a “long-term” development as envisaged in the SPD.

c) Costs are not uncertain

- Vistry made significant concessions, particularly on build costs, specifically to reach agreement.
- Additional abnormal costs (e.g., retaining walls) have arisen after viability was agreed, worsening the position.

Introducing a VRM at this point fundamentally changes the agreed basis of viability.

Procedural Matters

At no stage during the viability discussions did DSP indicate that a VRM was being considered or required. All viability assumptions, including concessions by Vistry, were made on the basis that no VRM was being sought. Therefore, retrofitting a VRM:

- Undermines the good-faith negotiations that led to the agreed 22% affordable housing position.

- Would effectively require Vistry to give more than the scheme can afford.
- Would necessitate reopening viability negotiations, during which the agreed position would inevitably worsen.
- Would significantly delay housing delivery and create a risk of non-delivery.

In summary, although the scheme delivers below the 40% target, the agreed viability (already negative by c. £7m, excluding additional costs which have arisen post agreement, i.e., retaining walls) actually delivers more affordable housing than the scheme can afford. A VRM is therefore not justified on the basis of cost uncertainty or economic improvement.

Commercial Considerations

Beyond planning policy, there are commercial reasons why a VRM is unworkable and represents a material risk to delivery.

Hybrid Application Structure

DSP's suggested early-stage (25%) and late-stage (75%) triggers are unworkable because:

- The hybrid scheme comprises 106 full permission units (33%) and 219 outline units (67%).
- These will likely be delivered by different partners with overlapping programmes.
- A single trigger linked to overall site progress cannot be applied fairly or coherently across two distinct permissions.

In this particular instance, any VRM tied to percentage build-out would introduce:

- Programme misalignment
- Contractual conflict between partners or delays into our accelerated programme which we require in order deliver units at pace to our partners.
- Delivery delays or potential non-delivery

Suggested Approach – A Conditional VRM Trigger

While Vistry maintains that a VRM is not justified in policy terms nor are there any unquantified costs, we recognise that market conditions could improve in the longer term. To address this, Vistry is prepared to accept a time-based VRM trigger.

A VRM would be required if the development is not commenced or the reserved matters are not submitted within an agreed timeframe, for example:

"If the full permission is not implemented within (a) 6 months of the final pre-commencement condition approval; and (b) if the reserved matters for the outline component are not submitted within 12 months of the date of permission, a Viability Review Mechanism (VRM) will be required. The VRM would be submitted within one month of commencement and would comprise:

- *Development Viability Information (costs, values, programme)*
- *A viability statement confirming whether a surplus exists*
- *An Additional Affordable Housing Scheme (if a surplus is identified)"*

The VRM is similar to that which was agreed at the Baldock Road, Royston site.

This approach:

- Ensures timely delivery of much-needed homes.
- Ensures the Council is protected against long-term market improvement, without penalising short-term delivery.
- Avoids the complexity and commercial risk of mid-development VRMs.
- Aligns with both the Local Plan and SPD.
- Preserves the agreed viability position, which is finely balanced and already incorporates major concessions.

Conclusion

A VRM is not justified or required as per the Development Plan, it is not workable on commercial grounds, and it could jeopardise the delivery of this important housing scheme. Vistry's proposed time-based VRM condition provides a fair, workable, and policy-compliant solution that ensures early delivery of much needed housing.

We trust this clarifies our position. Should you require any further information, please do not hesitate to ask.

Kind regards

Garry Hutchinson MRTPI
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