JERICHO CANAL SIDE: A REVIEW OF THE EVOLUTION FINANCIAL VIABILITY ASSESSMENT

'The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case…..' National Planning Policy Framework Para 58. The Council does not have to accept Evolution's flawed financial viability assessment and should set this aside.

The Council officer's report and recommendations for approval of this scheme are unsound. They rely on the Evolution PDR Independent Assessment of Financial Viability Appraisal (dated May 2021), together with the firm's subsequent valuation advice, which are fundamentally flawed in its valuation analysis, process and recommendations, as well as ignoring the advice of the independent cost consultant. This has resulted in the scheme being undervalued by c£5.6 million (20%) and led to recommendations to remove of all of the much-needed affordable housing from the scheme, the loss of public space, and other necessary planning obligations.

This review focuses on central aspects of Evolution's financial viability appraisal, although wider inaccuracies in the Evolution advice have also been identified. The flaws in the Evolution advice on which the Council officers rely may be summarised under five broad headings:

- **Quod Viability Assessment:** this assessment on behalf the developer suggested a value of £25.3 million; an opening bid to negotiate to reduce its planning obligations. At this point the scheme included six affordable homes. The developer's planning application acknowledged this valuation was pessimistic. It was known that significantly higher sales values would be achieved. Market evidence of Jericho values suggests the value of the market housing is now £28.5 million. Evolution advised the Council the market housing was only worth £22.9 million- undercutting the developer's valuation by £2.4 million and the market by £5.6 million. In accepting the Evolution lower value and agreeing this with the developer the Council officers negotiated against themselves and the Council's planning policies. This is highly unusual, if not unprecedented, yet Council officers failed to question the Evolution valuation or seek any independent review. The developer, of course, accepted the lower valuation and removed all the affordable housing on the grounds of reduced viability.

Market Housing Values	**Flats (per sq ft)**	**Terraced Houses (per sq ft)**	**Total (£m)**
Jericho Market Evidence	1000	850-900	£28.465
Quod Valuation (Developer)	830	821	£25.298
Evolution Valuation (Council)	750	710	£22.877

- **Evolution Valuation**: Evolution states that it is familiar with the Oxford local housing market. There is no evidence to support this, and its approach suggests otherwise. It is a sole valuer based in Stourbridge. Nor is there evidence of any internal quality assurance or external checks on its advice. Its last involvement with the Canal Side site was for the Council in 2014 when its report was heavily criticised for ignoring values in Jericho. The latest Evolution report says that there is no suitable evidence of Jericho residential values, which is demonstrably wrong, as evidenced in this review. It also even failed to consider adjoining areas. This happened because the valuer focused only on evidence from current, modern, large scale housing developments to the exclusion of all other valuation determinants: in particular, location. Instead, the valuer chose evidence from new schemes in Barton, Headington and Wolvercote- two or three miles away, saying that the residential values in these areas and Jericho were all the same, and ignoring its own evidence, which actually shows otherwise. Residential values change within two or three streets; Jericho is one of the most expensive areas in the city and there is clear evidence that the price of a house in areas two or three miles away is not the same. Nor did the valuer consider the unique location of the site itself: the canal frontage, Conservation Area and Grade 1 church setting all command a premium and would easily add over £1 million to the scheme value. Despite these obvious failings the Council officers have not raised any concerns but prefer to rely on Evolution's assurance that its assessment is 'robust'.

- **RICS Valuation Guidance:** Evolution states that its appraisal complies with RICS guidance, but this cannot be the case as important guidance requirements have been ignored. The guidance warns that values may alter significantly over short distances in established urban areas. Where evidence is genuinely limited or unavailable the guidance requires that the valuer should identify this as a 'material concern'. The valuer must take and show evidence from multiple data sources and clearly set out a framework for assessing, triangulating and cross-referencing evidence to derive a robust valuation in this situation. None of this happened; just a shortcut to three developments in unrelated locations. The Evolution assessment would fail in an examination at appeal or legal proceedings, both on process and substance; and failure to comply with RICS guidance is a disciplinary offence. The Council planning officers simply relied on Evolution's assurances of compliance.

- **Cost Consultancy Advice:** Evolution states that the costs are 'broadly agreed' with the developer. This clearly conflicts with the statements from the independent cost consultants for the Council, WH Stephens, that there was a material risk that these development costs were overstated, leading to a loss of community benefit, as well as potential double counting in cost allowances: '*To freeze a construction cost now to the detriment of the community stakeholders would be unfair and short sighted.'* Evolution's own cost assessment has also varied significantly-having reversed its previous advice that the developer's costs should be reduced by £2.3 million. Council officers continue to assert that all the analysis is 'robust', despite clear advice to the contrary.

- **Super-Profit Share Proposal:** the developer's application said no profit sharing was possible. After accepting the low Evolution valuation the developer now proposes a super-profit sharing arrangement ('overage'), in response to the apparent weaknesses in the appraisal process. This arrangement further advantages the developer who keeps both the normal commercial profit first, plus 40% of any super-profits-leaving the Council with a residual sum and Jericho without any affordable homes or the other planning requirements under the Council's policies. The developer borrowed the formula from GLA (Greater London Council) guidance, but this guidance has a pre-condition of a rigorous financial viability assessment in the first instance before applying this formula. This formula is designed to increase planning contributions *'if viability improves over time'*. It is not mitigation or a substitute for basic flaws and failings in the financial viability assessment.

The Evolution assessment fails because it took a simplistic approach and ignored RICS guidance: selecting evidence which is not comparable but convenient and immediately accessible, rather than assessing its suitability and triangulating its analysis. Evolution has set aside the cost consultant's warnings and recommended the offer of a super-profit share despite the obvious advantages to the developer. At the outset and at every stage the Council officers had substantial grounds for questioning the Evolution advice, seeking a review, or getting further support. The Evolution assessment which underpins their report and recommendations is neither robust nor reliable in any sense. The failings in the Evolution financial viability assessment compromise every aspect of the current scheme: the absence of affordable housing, the lack of an appropriate public square, the use of commuted sums instead of design and delivery of a bridge into the scheme, and limiting the ability of the community to raise funding for the community facilities.

In conclusion, under National Planning Policy Guidance the planning authority is under no obligation to accept viability advice in taking planning decisions. Given the fundamental concerns noted here, the planning authority would be advised to set aside the Evolution advice as flawed and unreliable and reject the planning application.

Further detail is given in the following pages.

The Quod Assessment: March 2020

The Evolution appraisal undercut the pessimistic Quod market housing valuation by £2.42m; the developer agreed the lower valuation immediately, removing the affordable housing on the grounds of viability. The Council officers negotiated against themselves and planning policies. The Quod assessment is the developer's opening negotiating position citing viability to reduce planning obligations. Quod conceded at the time (now 2 years ago) that its values were low and pessimistic due to Covid and other factors; values in Oxford have continued to rise significantly.

- **The Quod assessment supporting the planning application is the developer's opening negotiating position** to seek to reduce its obligations required by the Council's planning policies.

- **It is not the role of the planning authority to advise the developer on financial viability**, but to uphold planning policies and requirements, and ensure that the community benefits required under adopted planning policies are delivered. If the Council was really convinced of Evolution's advice it should have accepted Quod's values, and not negotiated to reduce these.

- **The Quod assessment set out the developer's market assessment and valuation which met his commercial criteria.** The assessment was not specific as to conformity with RICS guidance and was a negotiating/advocacy document. Nevertheless, it is evidence which indicates a potential 'floor' or lower bound of residential values.

- **There is a shortage of directly comparable evidence for Jericho, but it is not entirely absent and other evidence was available.** The Quod assessment referenced the second-hand market but drew heavily on new built homes values. Their evidence was from a wide local market area covering lower values which suited the narrative. Quod applied an adjustment to reflect higher values in Jericho-the calculation was opaque. Evolution described the values as 'aspirational' and criticised this approach, but it also relied on evidence from outside Jericho and an even more limited evidence base.

- **The Quod assessment acknowledged that its assessment of residential market values was low.** Various justifications were given:

    - Covid had locked down the market and it was too early to tell how this affected values
    - It cited flat sales and the nervousness of buyers in the market
    - It said that *'value growth into the delivery stage is likely to be challenging to achieve'*
    - Whilst it conceded a premium might exist for the proposed scheme, the price point could not be divorced from the local market.

  The reality is that the drivers for the Oxford housing market had not changed, with continuing strong growth in values reflecting sustained demand and limited supply. HM Land Registry indices based on actual sales showed Oxford house values increased by over 16% overall in the following 12 months and new homes values in Oxford increased by 18% over the same period.

- **In summary, Quod provided a low valuation as an opening negotiating position. It is almost certainly unprecedented for a planning authority to argue to reduce the developer's offer in negotiating planning obligations**. The Evolution assessment undercut the Quod value of the market housing, which the developer accepted and removed the affordable housing from the scheme as it was now deemed unviable.

Evolution PDA Financial Viability Assessment May 2021 and Update

Evolution's appraisal focused exclusively on limited evidence from current large housing developments-to the exclusion of other key determinants, in particular location. Its appraisal adopted for convenience the simplifying assumption that values in Barton, Headington and Wolvercote were directly comparable with Jericho even though the areas are distinct markets with different values. There is evidence in Jericho and nearby which gives a clear picture of significantly higher values. Evolution gave no consideration to the Jericho local market, which has become the premium rental location and the epicentre of Buy to Let market. Similarly, Evolution ignored the premium which is attached to this canal side location. The estimated undervaluation of the scheme's market housing is c£5.6 million, which shows the scheme is viable with affordable homes. In subsequent advice Evolution failed to acknowledge that Oxford new build sale prices have been rising significantly since their valuation last year: by between 9-19% pa

- **Evolution state that the valuer (sole director at Evolution) has knowledge of the local market conditions**, but the only evidence offered is an appraisal of the canal side site in 2014 for the Council. The latest appraisal was undertaken at 19th March, 2021 and is some 12 months old.

- **Evolution note that Jericho has seen gentrification and is now one of the highest value areas in Oxford**-but the comparable evidence it selected for its assessment is not drawn from or referenced to the Jericho area.

- **Evolution dismisses the Quod values as aspirational because none of their evidence gave examples of similarly priced properties**-but that was because Quod selected comparable evidence from outside the Jericho area, and then tried to make a notional adjustment for Jericho as a higher value location. Evolution observed: *'The rationale for the increase over the evidenced values is not explained, other than for locational advantage.'* This is ironic as 'locational advantage' in all its aspects is one of the principal factors which drives residential values and explains why Jericho is one of the highest value areas in the city. Yet this is completely ignored in the Evolution assessment.

- **Evolution adopted the same process as Quod: selecting evidence from outside the Jericho area**- it simplified its approach to focus on new large scale residential developments at Wolvercote, Barton and Headington. Evolution's focus on new build residential development to the exclusion of all other factors, such as location, is a central failing in its valuation analysis and process.

- **Evolution added a further simplification by assuming that values were similar across these locations and with Jericho-but this was never evidenced or discussed in the assessment**. Yet earlier Evolution noted that Jericho was one of the highest value areas. The Evolution evidence showed there are in fact significant differences in values between Barton, Wolvercote and Headington. Rather than acknowledge location as the significant factor, Evolution ascribed the differences in Barton values as a discount for larger unit sizes and ignored the significant differences between Wolvercote and Headington values for similar sized properties.

- **Evolution applied Barton/Headington/Wolvercote values to Jericho canal side development and concluded that this scheme was over-valued**. The valuer concluded: '*Details of current new build offers are shown in Table 4* [Barton, Headington, Wolvercote], *and this clearly indicates that new build sales values are advertised as significantly lower than the applicants assert* [Jericho]'

- **It is obvious that Jericho canal side has different attributes to the residential locations of Barton, Wolvercote and Headington**- which have a major influence on values. Evolution did not give this any consideration in its evidence or analysis- not even to the canal side location. Examples of the distinctive factors which raise residential values on the canal side site are given below.

  Economic: within an expensive Oxford housing market there are particular factors which increase Jericho prices:

  - Jericho is a very small and tightly defined residential market with a narrow range of properties-and few opportunities for new build homes. Oxford colleges and student residences define its southern boundary. There is immediate access to employment and research areas.
  - Jericho is an attractive location for the prime investment/rental market: overseas and UK investors include property companies (Lucy and North Oxford Properties centred here), wealthy student families and individuals. Air bnb, short term and longer-term rentals are widely advertised to an international market-with agents pointing to 20% increases in rentals. Investors focus on new-build properties for ease of management, repairs and regulatory compliance.
  - Much of the new build homes stock in the area is already held by investors. Sales in this market are relatively infrequent because of tax and transaction costs which further reduces supply.

  Social: Jericho's location provides immediate access to a wider range of local and city centre facilities which is recognised as distinctive, and features in national/international property reviews:

  - The range of shopping, restaurants, bars and the local cinema draw visitors from a city-wide catchment.
  - There is access to good state schools in the area and a wide range in the independent sector.
  - There is ready access to the city centre and university cultural and leisure offerings
  - Access to the bus and railway stations is a few minutes' walk or cycle ride-without the need for a car.

  Environmental: the site has attributes which are distinct from Barton, Wolvercote and Headington:

  - This is a very small ('exclusive') development of town houses compared with the multi-phase estate developments (up to 500 homes) by volume housebuilders at Barton, Wolvercote and Headington.
  - Canalside property attracts a premium- over £50,000 for otherwise identical properties in the same street in North Oxford-equating to over an additional £1 million to values on the canal side site alone. Evolution ignored this and other obvious distinctive factors in its analysis and comparisons.

- The Jericho development lies within a Conservation Area and is in the setting of a Grade 1 Listed Church. These factors drive value and are not replicated in the comparisons used by Evolution.

Directly comparable evidence for the Jericho canal side scheme is relatively limited because of the shortage of modern property in the area. This is a material consideration which RICS guidance requires to be declared. Evolution should have researched the limited local evidence available and triangulated this with evidence of nearby areas rather than adopting convenient but erroneous simplified assumptions.

Taking into account the unique location, limited supply, a premium for new 'first buyer' property and the demand for modern property from investors, sales values will readily exceed £1,000 per ft^2 for flats and £850-900 per ft^2 for terraced homes on the canal side site. Set out below are some examples of values from adjoining/close locations which clearly challenge Evolution's conclusions and confirm continuing rising values in the Jericho market. Land Registry indices also suggest that sales values have climbed rapidly since earlier valuations during the Covid pandemic.

Modern Flats: these flats are in modern developments between six and sixteen years old and will not attract a higher First Buyer premium associated with new-build homes.

Grantham House, Cranham Street: a modern flatted development (2015-16) located within 50 metres of the canal side site. There is no canal view or parking. The scheme is popular with Buy-to-Let and family investors. The flat is let but the vacant possession is available from July this year. Flat Recep/Study/2 beds £850,000/823ft^2/£1,032psf. Available

Grantham House, Cranham Street: a modern flatted development (2015-16) located within 50 metres of the canal side site. There is no canal view or parking. The scheme is popular with Buy-to-Let and family investors. Flat Recep/1 bed £460,000/392ft^2/£1,174psf. Sold February 2021

Grantham House, Cranham Street: a modern flatted development (2015-16) located within 50 metres of the canal side site. There is no canal view or parking. The scheme is popular with Buy-to-Let and family investors. Flat Recep/1 bed £575,000/730ft^2/£788psf. Sold Aug 2020

Furnace House, Walton Well Road: a modern flatted development (2008) overlooking the canal and within 500m of the canal side site. 2 parking spaces
Flat Recep/1 bed/£885,000/917ft^2/£965psf. Available

Furnace House, Walton Well Road: a modern flatted development (2008) overlooking the canal and within 500m of the canal side site. 2 parking spaces
Flat Recep/2 beds/£660,000/846ft^2/£780psf. Sold Dec 2021

Furnace House, Walton Well Road: a modern flatted development (2008) overlooking the canal and within 500m of the canal side site. 1 parking space.
Flat Recep/2 beds/£595,000/881 ft^2/£675psf. Sold 2019

Terraced Town Houses: Jericho town houses are period properties. The nearest comparable modern housing is in the Waterside development which is now over 20 years old. However, this is consistent with the pattern of values of flats and period properties in Jericho.

Cranham Street: period terraced cottage, no canal view or parking
Recep/2 beds/£650,000/820 ft^2/£792psf. For sale

Cranham Street: period terraced cottage, no canal view or parking
2 Recep/2 beds/£575,000/730ft^2/£788psf. Sold June 2020

Canal Street: period terraced cottage, no canal view or parking
2 Recep/3 beds/£655,000/1021ft^2/£641psf. Sold February 2021

Rutherway: modern housing estate developed in 1990's 500m from Jericho in a less attractive location/setting. Popular with Buy-to-Let investors. Terraced house with parking
Recep/3 beds/conservatory £750,000/949ft2 incl cons/£790psf Sold June 2021

Rutherway: modern housing estate developed in 1990's 500m from Jericho in a less attractive location/setting. Popular with Buy-to-Let investors. Terraced house with parking
Recep/4 beds/£900,000/1259ft2/£714psf. Sold June 2021

Evolution failed to consider the impact of sharply rising values on the viability assessment and development appraisal. It focused on construction cost inflation, projecting costs using BCIS indices, and ignored the concerns of WH Stephens, the cost consultants. By convention an assumption in basic residual development appraisals used here is that the discount rate on future sales may offset the increases in values over the development period, so current values are adopted whilst construction costs may be projected. However, in periods of very low interest rates and high growth in values, as evidenced by HM Land Registry, this assumption undervalues the development and advantages the developer.

Evolution provided a supplementary report in December 2021 and subsequently commented that values have not changed since their March 2021 report. The latest Land Registry sale price data shows Oxford new build house values increasing between 9-19% per annum over this period. The supplementary report focused on the outcome of negotiations on cost and was silent on values, despite the context of Covid recovery and rising values. When challenged on values Evolution responded that there had been no change in the market. The Evolution appraisal was dated March 2021 using historic valuation data and the effective date for a Financial Viability Assessment is March 2022, a year later and where values have increased well ahead of general price inflation.

RICS Guidance

Evolution states that it complies with RICS guidance-but it fails on the following counts:

- Reliance on limited comparable evidence from outside the local market area
- Failure to acknowledge differences in local residential markets and locations
- Absence of triangulating values with local market analysis and other data
- No consideration of the site specific locational and environmental advantages of the canal side site.

Failure to comply with guidance is a material consideration in disciplinary proceedings.

Evolution's Director is a Chartered Surveyor and its report states that its Financial Viability Assessment is RICS compliant with an updated guidance note "*Assessing Financial Viability in Planning under the National Planning Policy Framework 2019"* effective July 2021. However, reference is absent to other RICS guidance notes which would have assisted the Director and avoided the flaws in the Evolution report. RICS Guidance Notes include the following advice: '*In regulatory or disciplinary proceedings, RICS will take account of relevant guidance notes in deciding whether a member acted professionally, appropriately and with reasonable competence.'*

<u>Comparable Evidence in Real Estate Valuation: RICS Guidance Note October 2019</u>

The Evolution assessment does not meet the guidance advice as these examples show:

'Comparable evidence is at the heart of virtually all real estate valuations. The process of identifying, analysing and applying comparable evidence to the real estate to be valued is, therefore, fundamental to producing a sound valuation that can stand scrutiny from the client, the market and, where necessary, the courts.' 1. Introduction, para 1

'Challenges arise, however, when considering assets that trade in less active markets and/or where there are significant differences between the assets providing the evidence and the asset being valued. In such circumstances the evidence available may not be directly comparable. It will therefore need to be analysed and reconciled in order for it to be used in the valuation. This is often the case for real estate. In such circumstances the skill and judgement of the valuer assumes a much greater importance.' 2. General Principles of Comparable Evidence. Where there is a shortage of evidence this may require the valuer to report *material uncertainty* under RICS Red Book Global Standards. None of these requirements were applied in the Evolution appraisal.

'Residential: location is vital in terms of residential value: the property's position in the country and factors such as aspect, outlook and the immediate environment are important'. Section 3.4 Comparable Evidence in Real Estate Sectors. The Evolution assessment dismissed the importance of location, and the implications of the canal side location and environment are missing in the Evolution appraisal.

This guidance is echoed in RICS guidance on development appraisal: '*In comparing sites, the following factors, which are not exclusive, may be relevant and require adjustments to be made when applying to the subject property: values may differ considerably within a small geographical area, particularly in established urban areas….'* 5.12 Section 5 Valuation: The Market Approach: Valuation of Development Property RICS Guidance Note 2019

'Real estate with development potential: the value of a development site is particularly sensitive to small changes in valuation inputs ….' Section 3.4: Comparable Evidence in Real Estate Sectors. Yet relying on evidence from outside the local market was not considered a risk in the Evolution report.

The guidance provides a hierarchy of evidence: Category A: Direct Comparables, Category B General Market Data, Category C-Other Sources. Transactions from other real estate types and locations are classified as Category C, the lowest- which potentially covers evidence from locations such as Barton, Headington and Wolvercote.

'Whatever method of analysis employed, the valuer will ultimately have to stand back and weigh up a considerable range of evidence with differing degrees of quality and applicability, much of which cannot be precisely quantified. This will require not only technical ability but also, and more importantly, experience of the relevant market and judgement developed from that experience. The process should lead to a ranking of the comparable evidence and an assessment of where the asset being valued, fits into that ranking. The aim is to ensure confidence in the reported figure, which can then be fully justified to all relevant parties.' Section 6: Analysis of Comparable Evidence. The Evolution assessment failed to fulfil this requirement but took a short cut using evidence from outside the local market which was then not tested to see if this was appropriate.

Cost Consultancy Advice: WH Stephens Review of Cost Plan 9 18th September 2021

Evolution's own cost assessment has varied significantly-having reversed its previous advice that the developer's costs should be reduced by £2.3 million. The Council's Cost Consultants signalled serious concerns with the 'agreed costs' reported by Evolution. Evolution side-lined these concerns, stating that the developer's revised costs are 'broadly agreed' and ignoring advice that identified potential areas of double counting to inflate costs and material concerns. WH Stephens state: '*To freeze a construction cost now to the detriment of the community stakeholders would be unfair and short sighted. The most logical conclusion is that further design work to allow more accurate costing and even procurement of bids is the fairest way to provide a fairly shared benefit to all stakeholders'*. Evolution has frozen the construction cost and agreed to the developer's proposal of a profit share arrangement in exchange, which is a wholly inappropriate mechanism (see following section), which does not reflect the cost consultants' advice and is heavily biased in the developer's favour.

- **Evolution's advice has been inconsistent-initially stating that the developer's costs were excessive and should be reduced by £2.3m and subsequently reversing this.**

- **Evolution state that the developer's revised costs are broadly agreed, but there is no statement from WH Stephens, the Council's cost consultants to confirm this.** The commentary from WH Stephen suggests otherwise.

- **The Council's cost consultants identify that there is potential for duplication** in the developer's allowance for construction cost risk on top of overall development appraisal risk and the potential for cost saving and value engineering in others.

- **The Council's cost consultants identify that use of BCIS forecast construction inflation indices are likely to change after a period of rapid inflation.** The consultants say: ***'****Therefore freezing a cost on this basis now would skew the entire basis of establishing a fair risk for all stakeholders. Note BCIS indices forecast as of now WILL be reviewed and WILL change in time, therefore using them for a cost freeze now would be flawed logic.'*

- Macbain's**,** the developer's cost consultants appear to have indexed construction costs over the whole of the construction period, when most of the construction costs will be fixed considerably earlier by the developer. This artificially inflates the construction costs.

Super-Profit Share Proposal

The Super-Profit Share formula proposed by the developer and accepted by Evolution does not compensate for a lack of a robust financial viability assessment. These formulae are inherently weak in operation and biased in favour of the developer. The developer makes a reduced payment from excess profits in lieu of planning obligations- saving cost and risk. It will avoid providing much needed affordable housing in Jericho. The Jericho Canal Side SPD specifically recommends against accepting a commuted sum for the new bridge crossing for these reasons.

- **After accepting the low Evolution appraisal the developer now proposes for a super-profit sharing arrangement ('overage'), in response to the criticisms of flaws and failings of the appraisal process.** The developer's planning application said no profit sharing was possible.

- **Super-profit share arrangements are not a substitute or mitigation for uncertain or poor financial viability assessments.** The GLA (Greater London Authority) formula is designed to return an element of the super-profit for the community *'if viability improves over time'* GLA SPD- in other words over the development period, and the GLA policy emphasises the need for a robust viability assessment in the first instance as a basis for this.

- **The payment in lieu of planning obligations removes the developer's responsibility and risk for delivering planning obligations**, **and transfers these to the Council.** Such arrangements for site specific planning requirements are generally poor planning practice. Without clear proposals the payments are unused and lost into general funds. The Council already holds funds for affordable homes in Jericho and has no sites. Residential developments in Jericho have not delivered any additional affordable homes (Grantham House and the Former Surgery)-even where the Council was planning authority and has land ownership, which is also the case for Jericho Canal Side.

- **With low valuations and excessive costs a profit sharing formula underwrites the developer's main profit and reduces his risk.** The developer's main profit is the first and prior call on any development surplus-so super-profit payments for planning requirements are at greater risk. There is no downside for the developer who has the option not to pursue the development if subsequently the financial circumstances have become disadvantageous.

- **There is significant scope for the developer to inflate 'eligible' costs** to offset potential super-profits even if independently audited, and a claims negotiation will ensue. The Council's cost consultants have already challenged the developer's costings, but Evolution and the Council officers have ignored this. The developer will fund the audit but the Council risks costs and professional fees if further negotiation is required.

- **In theory all the developer's excess profits should be applied to the cost of unmet planning obligations** until these are discharged. In practice it is assumed that unless the developer is left with at least 40% super-profits there will be no incentive for the developer to realise these profits to pay towards the outstanding planning obligations.

- **In conclusion excess-profits formulae are very inefficient and no substitute** for requiring robust financial viability assessment and delivery by the developer of planning obligations-in particular affordable housing. Evolution has accepted the developer's formula to cover for the lack of a robust financial viability assessment.

This review was undertaken by David Edwards, FRICS. He is a Fellow of the Royal Institution of Chartered Surveyors and qualified in Planning and Development and Valuation. He was head of profession for the UK Civil Service and responsible for the Government's regeneration programmes, as well as a senior director in Government regeneration agencies. As a Director in private practice he was the Government's lead independent external financial viability appraiser. He was also an Executive Director at Oxford City Council (2011-17) responsible for Regeneration, Housing and Economic Development. He is a trustee of a regional residential mental health charity, a member of the policy advisory committee for the Chartered Institute of Housing, and an Oxford resident.