

CABINET

5 AUGUST 2014

PLANNING POLICY AFFORDABLE HOUSING

Portfolio Holder: Councillor Jane Chitty, Strategic Development and Economic Growth

Report from: Robin Cooper, Director of Regeneration, Community & Culture

Summary

This report updates the Cabinet on the issue of affordable housing.

1. Budget and Policy Framework

- 1.1 This is a matter for Cabinet and can be contained within existing budgets.
- 1.2 The Cabinet is asked to accept this item as urgent to enable it consider the issues set out in the report at the earliest opportunity and provide certainty on the issue of affordable housing.

2. Background

- 2.1 Cabinet indicated at its meeting of 15 July that it would like to alter the Council's affordable housing planning policy from a requirement to provide **at least** 25% affordable housing on new developments which over a minimum size, to one of providing **up to** 25% affordable.
- 2.2 The announcement was in the context of updating the Council's Guide for Developers' Contributions whereby the Council requires developers to contribute towards mitigating the effects of their development on Medway.
- 2.3 The Guide to Developer Contributions is a Supplementary Planning Document ("SPD") which is consistent with the provisions of the 2003 Medway Local Plan. That Plan defined affordable housing as low cost market housing and housing which is made available at a subsidised cost to people with insufficient income to gain access to full home ownership or to occupy houses generally available on the local housing market suitable for their needs.

(Paragraph 5.5.5 Medway Local Plan 2003). Policy H3 in the adopted Local Plan gives the thresholds for affordable housing in rural and urban areas.

- 2.4 Members had previously approved the retention of the **at least** 25% affordable housing policy in June 2014 as part of recommendations to the Cabinet report on Planning Policy. Work for the Council by the firm ORS in 2013 did not identify a significant change in the level of affordable housing required in Medway. This indicates that the use of the 2009 Strategic Housing Market Assessment (SHMA) was an appropriate evidence base supporting the policy decision which Members took.
- 2.5 A change of planning policy on affordable homes requires a reasoned justification. An SPD cannot conflict with the adopted Local Plan and requires adequate consultation (Town and Country Planning (Local Planning) (England) Regulations 2012). A statement is required on who has been consulted, a summary of the main issues raised and how those issues are addressed in the SPD. As this was not raised when we consulted on the Developer Guide the Council would need to consult specifically on this change.
- 2.6 The Leader stated at Full Council in July that “we ought to weigh up in more detail the wider implications and consider whether or not more consultation should be undertaken”. Legal advice is that further consultation is required. If it is decided following consultation and consideration of further evidence on housing need that a change of policy is required that will be a matter for Council to agree, not Cabinet, as this would be outside the Policy Framework.
- 2.7 Cabinet has only recently confirmed the policy of **at least** 25% affordable homes, so as a starting point to a new Policy on Affordable Housing the Council will need to undertake a new Strategic Housing Market Assessment as the last one was undertaken in 2009. The Council plans to undertake one as part of its work on the new Local Plan and we are currently discussing with neighbouring authorities if they wish to commission the work jointly with ourselves. It seems likely that at least one North Kent authority will do so. That work is scheduled to be commissioned in Autumn 2014 and report back by May 2015.
- 2.8 Once the report has been delivered it will need to be presented to Members at the cross party Development Plan Advisory Group, possibly to an all-Member briefing and then to Cabinet. That document would provide the reasoned justification required to change our affordable housing policy which would stand up to any legal scrutiny and planning appeals. Once that document has been published and agreed by Members we would then be in a position to consult on any changes to our affordable housing policy or alternatively it can be changed as part of the local plan process. The latter would be preferable as paragraph 174 in the National Planning Policy Framework states: ‘Local planning requirements for affordable housing’, so it could be argued that it would be premature to revise the affordable housing policy in advance of the local plan preparation process. To be consistent with our Statement of

Community Involvement we would need to consult for 6 weeks, then assess the responses and report back to Cabinet.

3. Scope to Vary the 25%

- 3.1 The Council's policy on affordable homes is set out in the Local Plan 2003. "In assessing sites that come forward, the size, sustainability and economy of the provision of affordable housing will be taken into account including the proximity of local services and facilities and access to public transport. The proportion of affordable housing on each site will be dependent upon the particular site characteristics and will be subject to negotiation.
- 3.2 What this means is that the Council will continue to seek to deliver affordable housing at a rate of 25%, however, in assessing sites that come forward the size, sustainability and economics of providing affordable housing will be taken into account. This is expressly provided in the Guide to Developers' Contributions, where paragraph 4.3 states that "the target will be the baseline for negotiations for affordable housing on suitable housing sites. Where a developer considers that this requirement significantly affects the viability of a scheme an "open book" approach based on the residual valuation methodology will be taken to establish the extent of this case".
- 3.3 The Council follows an "open book" approach to valuations and development economics on affordable housing schemes where developers present schemes that do not meet the requirements of the affordable housing policy. In these cases the applicants should be prepared to discuss the various cost components of their schemes with the Council, and will be required to meet the costs of an independent assessment of these costs commissioned by the Council. The Council can then make an informed decision on the viability of affordable housing.
- 3.4 The Council will generally expect affordable housing to be provided on the development site in order to create balanced communities. The Council will, in exceptional cases, take into account the size of the site and the type of development proposed and consider provision on an alternative site within Medway or a financial contribution towards such provision in lieu of on-site provision.
- 3.5 Where it is agreed that it is not possible to provide an alternative site or buildings, the Council will seek a level of financial contribution that will actually result in the provision of affordable housing elsewhere in the relevant area. The sum involved must be adequate to ensure that affordable housing can be provided in that location within an agreed timescale.

4. Risks

Risk	Initial Rating	Mitigation	Revised Rating
A revised policy is not evidence based	A1	Without a robust evidence base provided by an up to date Strategic Housing Market Assessment Members and the public lack the basis on which to take a reasoned decision to alter the current affordable housing policy. A new Strategic Housing Market Assessment will therefore need to be commissioned and properly assessed and taken into consideration in any policy alteration	C3
A revised Affordable Housing policy is challenged through the courts or via the Planning Inspectorate	A2	Following a new Strategic Housing Market Assessment full and meaningful consultation will be required before any policy change can be agreed to prevent successful challenges.	C3

5. Financial and Legal Implications

- 5.1 The cost of a new Strategic Housing Market Assessment is budgeted for as part of the work on the new Local Plan. The cost of any consultation can be contained within existing resources for the Local Plan.
- 5.2 The legal implications are as outlined in the body of the report.

6. Recommendations

- 6.1 That Cabinet continue with the **at least** 25% affordable housing planning policy at present until a new Strategic Housing Market Assessment has been undertaken and reported to Members.
- 6.2 That Members note the likely timescale to change the current policy following 6.1 above.

7. Suggested Reasons for decision

- 7.1 To ensure that any changes to the Council's policy for affordable housing is supported by an up-to-date evidence base – and has been the subject of reasonable consultation in accordance with statutory requirements.
- 7.2 This will enable the revised Guide to Developer Contributions to be finalised and published on the basis that it was presented to Cabinet on 15 July 2014.

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Background papers

None