

BRIEFING NOTE

Agenda Item no. 6

TO: Regeneration Scrutiny and Performance Panel

DATE: 18 July 2013

RE: Affordable Housing Supplementary Planning Document (SPD)

Purpose

Brief members on the draft Affordable Housing SPD prior to 6 week public consultation period, after which the Panel's views will be sought on the consultation responses received.

Supplementary Planning Documents

A planning authority may prepare Supplementary Planning Documents (SPDs) to provide greater details on the policies of its development plan. Supplementary planning documents should not be prepared with the aim of avoiding the need for the examination of policy but should give more tailored guidance on existing planning policies.

An issue based SPD provides additional information on a specific topic or theme. This type of SPD is not based on a specific physical location, but deals with a theme that is relevant to development across the entire borough. Two of the three Council existing SPDs – 'Conserving Walsall's Natural Environment' and 'Designing Walsall' – have been reviewed and are being submitted to Council for adoption on 24 July 2013.

Affordable Housing Supplementary Planning Document

The Affordable Housing Supplementary Planning Document (SPD) was adopted by Walsall Council in 2005. The purpose of the SPD is to explain how the Council will expect developers to provide affordable housing as part of new residential developments. The SPD explains how UDP Policies GP3: Planning Obligations and H4: Affordable Housing are applied through the development management process. Although UDP Policy GP3 is still in place and remains relevant, Policy H4 has been partly replaced (paragraphs (a) to (f)) by the Black Country Core Strategy (BCCS) Policy HOU3: Delivering Affordable Housing

The SPD was last revised in 2008. Since then, there have been major changes both in national and the Council's own planning and housing policies. The downturn in the economy has severely affected the viability of many housing developments and the ability of developers to provide affordable housing. The Homes and Communities Agency (HCA) has also revised the requirements for schemes that it funds. The SPD therefore needs to be revised to ensure that it reflects current circumstances. A Draft Affordable Housing SPD was approved for public consultation by Cabinet on 13 March 2013. It is intended to hold a 6 week public consultation sometime during September and October 2013, and then report back to this Panel for views on consultation responses, prior to submission of a final SPD for adoption by Cabinet in February 2014.

The SPD does not contain any new policy but does provide further detail on what type, size, tenure, location and quality of affordable housing is required. The key change in this revised SPD is a requirement for housing providers to pay a commuted sum in lieu of affordable housing, rather than provide the affordable housing on site. The commuted

sums will then be invested in providing affordable housing on key strategic housing sites across the borough.

As noted above, affordable housing is not the only contribution required from developers as part of the planning process. Walsall's current policies can also require developers to contribute to improvements to, and the provision and maintenance of, green space, as well as funding to provide additional school places, where these are necessary to allow a development to proceed. These contributions are currently provided through Section 106 agreements, but, with the exception of affordable housing, the Government is encouraging contributions to be provided instead through the Community Infrastructure Levy (CIL). Cabinet has agreed to commence preparation of a CIL charging schedule in parallel with the Site Allocation Document.

National planning policy on affordable housing was formerly contained in Planning Policy Statement 3 (PPS3). This was revised in June 2011, primarily to amend the definition of affordable housing to include Affordable Rent (defined as no more than 80% of the local market rent). PPS3 was replaced by the National Planning Policy Framework (NPPF) in March 2012. However, the NPPF retained the affordable housing definitions previously contained within PPS3. Paragraphs 47 and 50 of the NPPF state that local planning authorities should ensure that their local plan meets the full, objectively assessed, needs for market and affordable housing in the housing market area. Policy 50 of the NPPF states that local planning authorities should, where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.

Commuted sums

There are good arguments in favour of commuted sums in the Black Country. The original idea behind requiring on-site provision was to provide a better social mix and avoid concentrating affordable housing in particular locations. The nature of housing sites in Walsall is such that there are lots of fairly small sites that come forward through planning applications but also a heavy concentration of social housing in certain areas. The sites that seek planning permission are not necessarily in areas where there is the greatest need for more affordable housing, or the best access to services such as public transport or schools. By pooling contributions, the Council will be more able to direct affordable housing to more suitable sites, in line with the accessibility criteria in the Core Strategy. A more mixed and balanced community as encouraged by the NPPF would in fact be provided by adding more "aspirational" housing in certain locations: the need for more aspirational housing is supported by the BCCS. Omitting affordable housing from some sites would increase the overall after-sale value and so increase viability: as long as the affordable housing is still provided elsewhere, this may result in more housing being provided overall.

This Draft SPD therefore proposes that the default position will be for a commuted sum to be sought, unless particular circumstances apply that mean it is preferable to provide affordable housing provision on site as part of the development. These circumstances are set out in the attached Draft SPD. They include very large developments on sites that are allocated in the development plan, and sites where there are no suitable locations for affordable housing nearby.

The Draft Affordable Housing SPD also proposes changes to:

Tenure

RPs who receive funding from the HCA 2011/15 Affordable Homes Programme (AHP) are contractually obliged by the HCA to purchase homes provided by developers through S106 agreements (known as 'nil grant' units) for Affordable Rent, rather than Social Rent. Affordable Rent is set at up to 80% of the local market rent, and in some other parts of England, notably the South, can be substantially greater than Social Rent. However in Walsall there is little difference between Affordable Rent and Social Rent levels, due to the lower market rents in the area. Therefore it is proposed that the standard requirement for on site affordable housing is Affordable Rent, although the SPD will still allow for the use of Social Rent and Shared Ownership where required.

Standards

The current SPD only 'encourages' affordable homes to be built to the HCA's Design and Quality Standards (DQS). However, RPs who receive funding from the HCA 2011/15 AHP are contractually obliged to only purchase 'nil grant' units that meet DQS. Therefore it is proposed that this becomes a mandatory requirement for housing that is to be managed by RPs. The DQS require that Code for Sustainable Homes (CSH) level 3 is met, which is above current building regulation requirements. The council is keen to encourage higher levels of environmental sustainability, but acknowledge the financial viability issues associated with providing an affordable housing contribution in Walsall. Therefore this revised Draft SPD will encourage affordable housing to be constructed to CSH level 4 or above, but it will not be a mandatory requirement. It should be noted that some of these standards, in particular the Code for Sustainable Homes, are currently being reviewed by Government.

Overage requirements

Poor economic conditions in the last few years have led the Council to relax affordable housing requirements on many sites. However, conditions may change in the future. As noted above, paragraph 50 of the NPPF expects affordable housing policies to be flexible. Policy HOU3 of the BCCS also refers to the use of claw back. Overage is the term used where in the present day market a planning permission is granted with reduced affordable housing contribution, based on a financial viability appraisal which clearly takes account of current expected sales values. An overage clause would allow the Council to require a future review of the financial viability based on revised sales figures (which may have risen in a rising market) to judge whether there could /should now be a payment towards affordable housing. It is proposed that this should take place when 50% of sales have been completed.

Recommendations (if required)

That a further report be received following the 6 week public consultation.

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