



<b>Report of</b>	<b>Meeting</b>	<b>Date</b>
Director of Development, Preston City Council	Central Lancashire Strategic Planning Joint Advisory Committee	27 June 2016

## **AFFORDABLE HOUSING SUPPLEMENTARY PLANNING DOCUMENT**

### **PURPOSE OF REPORT**

1. To advise members of the need to replace the currently adopted Affordable Housing Supplementary Planning Document as a result of various changes.

### **RECOMMENDATION(S)**

2. The Joint Advisory Committee is recommended to note the contents of this report.

### **EXECUTIVE SUMMARY OF REPORT**

3. This report sets out details of the requirement to provide a replacement to the currently adopted Affordable Housing Supplementary Document resulting from changes in legislation and other requirements in relation to the provision of affordable housing.

### **REASONS FOR RECOMMENDATION(S)**

4. To advise members of the work coming forward.

### **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

5. N/A

### **BACKGROUND**

6. The current Central Lancashire Affordable Housing Supplementary Document was adopted in October 2012. A number of changes make it necessary to produce a replacement SPD; in particular the introduction of Starter Homes in the Housing and Planning Act; the year on year reduction in social and affordable rents on property rented by registered providers (housing associations) by 1% p.a. for the next 4 years from April 2016; and the Court of Appeal decision on thresholds following the successful high court decision in favour of West Berkshire and Reading Councils against the Secretary of State's threshold for site size in

relation to the provision of affordable housing. There are also issues arising in relation to viability, which may require the introduction of 'clawback' from developers.

## **STARTER HOMES**

7. As reported elsewhere in the agenda in the context of the Housing and Planning Act 2016, the provision of starter homes is now included in legislation. There is a general duty placed on local planning authorities to promote the supply of starter homes. In addition the Act provides that local planning authorities are to set a starter homes requirement, meaning that local planning authorities may only grant planning permission for residential development if the starter homes requirement is met. Regulations are to be brought forward setting out the details of that requirement.
8. Alongside that The Act (S159) inserts a new Affordable Housing definition into the Town and Country Planning Act 1990. Affordable Housing is defined as being for people whose needs are not adequately served by the commercial housing market and now includes Starter Homes (as defined by the Act).
9. Whilst not specifically stated this infers that sub-market housing products such as discount market sale and rent to buy will be formally recognised as Affordable Housing. The definition was first proposed within the Government's "National Planning Policy: consultation on proposed changes" in December 2015. It expands the definition in Annex 2 of the National Planning Policy Framework (NPPF).
10. At present, therefore, and until regulations are introduced, there are in effect two definitions of Affordable Housing: in the Housing and Planning Act 2016 and in the NPPF. Until secondary legislation is passed the NPPF Annex 2 definition will continue to take supremacy in the application of policy. However, it has to be expected that regulations will be brought out in the near future so the SPD requirement will have to be widened to include Starter Homes plus any other changes.

## **YEAR ON YEAR REDUCTION IN RENTS**

11. The Welfare Reform and Work Act 2016 requires registered providers of social housing in England to reduce social housing rents by 1% a year for 4 years from a frozen 2015 to 2016 baseline and to comply with maximum rent requirements for new tenancies. The policy applies from 1 April 2016. In each of 4 'relevant years', usually commencing on 1<sup>st</sup> April, registered providers of social housing must reduce the total rent payable by a tenant in year by 1%.
12. While this provides a benefit to the tenant, there is a multiplied cost to the registered provider. Registered providers have planned for rent increases of RPI + 0.2%. Evidence provided by registered providers to Preston City Council, therefore, is that the cost will be the equivalent of an 8.8% cut in rents over the four years. As a consequence registered providers are moving away from rented social housing towards more housing for sale or market rented property. This will have implications for the Councils' ability to apply the requirement in the Supplementary Planning Document, particularly for the split on site between rented and for sale housing, which is currently set out in paragraph 35 of the SPD as a 70:30 split.

## COURT OF APPEAL JUDGMENT ON SSCLG & WEST BERKSHIRE AND READING COUNCILS

13. In November 2014, the Secretary of State in a written ministerial statement introduced a threshold of 10 dwellings or 1,000 sq metres for the provision of affordable housing i.e. any site of Developments of 10 units or 1000 sq m or less (including annexes and extensions) would be excluded from affordable housing levies and tariff based contributions. A lower threshold would apply in designated rural areas, National Parks and Areas of Outstanding Natural Beauty (as defined in section 157 of the Housing Act 1985), with developments of 5 units or less to be excluded from affordable housing levies and tariff based contributions. Development of between 6 and 10 units would be subject to a commuted sum payable on or after completion.
14. The thresholds set out in the Central Lancashire Core Strategy policy 7 are, aside from rural exception sites, 15 dwellings (5000 sq metres) or in rural areas 5 dwellings (1,500 sq metres). Generally, therefore, the government threshold would not apply except in rural areas.
15. In July 2015, the High Court ruled that the introduction of the threshold in the ministerial statement was unlawful in an action brought jointly by West Berkshire and Reading Councils. In September 2015 the Secretary of State was given leave to appeal and judgment was handed down by the Court of Appeal on 11<sup>th</sup> May 2016. The Court of Appeal ruled in favour of the Secretary of State and reinstated the threshold set out in the ministerial statement. However, in doing so the Court of Appeal, in a closely argued judgment, stated that policy could not fetter an authority from setting another threshold if there were exceptional circumstances to justify that. Broadly, therefore, while the threshold is 10 dwellings it is open to local planning authorities to set a lower threshold provided that can be justified.
16. The three authorities, therefore, need to consider whether there are any exceptional circumstances that justify a reduced threshold and those can be set out in the replacement SPD.

## VIABILITY

17. The viability of development is one that can affect the requirement for affordable housing. Paragraph 173 of the National Planning Policy Framework advises that:

*Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.*

18. While the return to the landowner and development costs, particularly on-site infrastructure are factors that will determine viability at the start of a development, that could change over time especially on large sites that might be built out over a number of years. While requirements for affordable housing at the start of a development might be restrictive due to other on-site requirements, factors such as increases in property values over time might mean that provision becomes more viable. As part of the revision of the SPD, the implications of this will be considered by officers.

## NEXT STEPS

19. A redraft of wording of the SPD will be considered by officers taking into account the matters identified above. The current expectation is to have a draft for consultation by September, after the main summer holiday period, subject to government regulations relating to Starter Homes and definitions of affordable housing being in place. This is also timely in connection with the FOAN/SHMA work being carried out and reported elsewhere on the agenda for this meeting.

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