

## LOCAL PLAN SUB COMMITTEE - 25 SEPTEMBER 2019

### PART I – NOT DELEGATED

#### 6. LOCAL PLAN TOPIC PAPER: AFFORDABLE HOUSING (DCES)

##### 1 Summary

- 1.1 This topic paper sets out the issues which the new Local Plan will need to address in relation to affordable housing and proposes policy wording to be contained within the new Local Plan.

##### 2 Details

- 2.1 Average house prices in Three Rivers are some of the highest in the country outside London. Housing affordability within the District continues to be a major concern for many residents, and many local people have difficulty in accessing housing on the open market. This particularly affects the young and those on lower incomes who are entering the housing market.
- 2.2 The Draft Local Housing Needs Assessment (LHNA) (2019) is clear that there is a notable need for affordable housing in Three Rivers and across South West Hertfordshire. Improving the supply and standard of affordable housing is therefore one of the biggest priorities for the Council to address the needs of our community.
- 2.3 The National Planning Policy Framework (NPPF) (2019) sets out at paragraph 62 that where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site unless off-site provision or an appropriate financial contribution in lieu can be robustly justified; and the agreed approach contributes to the objective of creating mixed and balanced communities.
- 2.4 The NPPF defines affordable housing as housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:

*a) **Affordable housing for rent:** meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).*

*b) **Starter homes:** is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or*

*decision-making. Where secondary legislation has the effect of limiting a household's eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.*

*c) **Discounted market sales housing**: is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.*

*d) **Other affordable routes to home ownership**: is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement.*

- 2.5 The draft LHNA demonstrates that the average house price in Three Rivers during 2017 was £641,706. This is significantly above the Hertfordshire average of £492,392 and the England and Wales average of £338,621 during the same period. Monthly rents across all sizes of accommodation are similarly above Hertfordshire and England averages within Three Rivers.
- 2.6 Affordability ratios in Three Rivers and across the South West Hertfordshire area have deteriorated significantly since 1997 and lower quartile house prices in the District were 14.68 times higher than lower quartile incomes at January 2018. The affordability of housing therefore remains a critical issue in Three Rivers, and will continue to be so for the foreseeable future.

#### Requirements and Tenure

- 2.7 The draft LHNA considered needs for affordable housing in accordance with the methodology set out within the National Planning Practice Guidance (NPPG). This identifies an annual net need for affordable housing for rent in Three Rivers over the period 2017-2036 of 373 homes per year.
- 2.8 The need for affordable housing for rent is equivalent to 60% of the District's total housing requirement under the standard methodology, and given the significant and growing need for affordable housing the draft LHNA confirms that seeking the maximum amount of affordable housing for rent as is viably possible is justified.
- 2.9 The percentages sought in the draft policy will be subject to a Whole Plan Viability Assessment which the NPPF requires to test the policies within the Draft Local Plan to consider whether those policies maintain the viability of development. The assessment will include modelling of all policy requirements likely to impact on viability, such as affordable housing, carbon reduction requirements, environmental standards, space standards, open space requirements, Community Infrastructure Levy etc.
- 2.10 It should be noted that where it is likely that a policy will impose greater financial burdens on developers, regard should be had to its potential adverse consequence

on the delivery of other important policy objectives e.g. carbon reduction requirements.

- 2.11 The Whole Plan Viability Assessment has not yet been completed. Should the Viability Assessment result in changes to the draft policy provided in Appendix 1, the Draft Affordable Housing Policy will be amended and brought back to this sub-committee for further consideration. Officers recommend that the Council seek an overall provision of 50% of all new housing as affordable housing<sup>1</sup>. Seeking more than 50% affordable housing provision is considered to put the Local Plan viability at risk and could potentially affect the viability of other policies.
- 2.12 With regard to the tenure of affordable housing for rent that is required, the greatest need in the District is for Social Rented housing, followed by Affordable Rent. Based purely on an analysis of affordability the draft LHNA recommends a tenure mix of 80% as Social Rent and 20% Affordable Rent.
- 2.13 However, when benefits are taken into account, the draft LHNA notes that for households claiming Household Benefit, an affordable rent may be appropriate as long as the Housing Benefit is able to cover all of the rent, whilst for households with an income that would allow them to afford an affordable rent it is arguable that a social rent would be more appropriate as the housing costs would be less of a strain on household finances.
- 2.14 A higher proportion of social rent is likely to be less viable and is unlikely to be delivered based on past performance and on the current market. As such, the amount of social rent provided would be subject to viability, resulting in a significantly lower provision than the required target. At site allocation stage the Council will require proposals to be fully policy compliant. Requiring too high a level of Social Rent housing would make this difficult and could result in sites failing to deliver the required amount of affordable housing. Officers do not consider that the draft LHNA recommendation of requiring a target 80% Social Rent is achievable. The Whole Plan Viability Assessment will test the following tenure mix options:

Option 1: Require a tenure mix of 80% Social Rent and 20% Affordable Rent (a much lower percentage of Social Rent would be delivered due to viability)

Option 2: Require a tenure mix of 50% Social Rent and 50% Affordable Rent (a lower percentage of Social Rent would be delivered due to viability)

Option 3: Require a tenure mix of 20% Social Rent and 80% Affordable Rent (even with this option a lower percentage of Social Rent may be delivered due to viability)

Option 1 has been included in the policy wording in Appendix 1 as this was based on the recommendation in the draft LHNA. Should the Whole Plan Viability Assessment recommend an alternative option (i.e. Option 2 or 3), then the draft policy wording will be amended accordingly.

- 2.15 The draft LHNA also indicates that in addition to the requirement for affordable housing for rent, seeking 10% of housing on larger sites as affordable home ownership in line with the NPPF would be reasonable. However, given the main analysis demonstrates that the most significant need is for households who cannot

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<sup>1</sup> Subject to the results of the Whole Plan Viability Assessment.

afford anything in the market without subsidy, there would be no basis to increase provision of affordable home ownership above this baseline 10% figure.

- 2.16 The Council acknowledge that requiring a higher proportion of affordable homes for rent, will impact on the overall level of affordable housing that may be delivered. However, these are the most urgent and pressing needs for housing in the District and the Council will therefore prioritise the delivery of a greater proportion of affordable housing for rent rather than a higher total level of affordable housing delivery through, for example, a higher proportion of affordable home ownership. A tenure mix in accordance with the draft LHNA will therefore be sought<sup>2</sup>.
- 2.17 On the basis of the types of housing that would best meet needs for housing, and ensuring that development remains viable, the Council will therefore seek<sup>3</sup>:
- 40% of all dwellings as affordable homes for rent comprising:
    - 80% of the affordable housing for rent as Social Rent<sup>4</sup>,
    - 20% of the affordable housing for rent as Affordable Rent,
  - An additional 10% of all dwellings on sites delivering 10 or more dwellings as for affordable home ownership, except where an exemption applies under paragraph 64 of the NPPF.
  - 4% of affordable housing meeting the Building Regulations M4(3) standard (wheelchair user dwellings) as per the requirements of Policy xx on Accessible and Adaptable dwellings.

#### Thresholds for Provision

- 2.18 Paragraph 63 of the NPPF advises that affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas where policies may set a lower threshold of five units or fewer.
- 2.19 However, the local circumstances in Three Rivers are considered to justify an alternative approach to require all developments resulting in a net gain of housing to contribute to affordable housing provision. This is on the basis of the acute need for affordable housing in the District demonstrated by the LHNA, and the crucial role that smaller sites delivering fewer than 10 dwellings has played in delivering housing historically which is expected to continue in future.
- 2.20 These factors are considered to outweigh the guidance within the NPPF and justify the approach within the Affordable Housing Policy to require all sites resulting in a net gain of dwellings to contribute to affordable housing provision in the District, and this approach has been supported in recent appeal decisions in the District.

#### Existing Affordable Housing

- 2.21 Given the substantial need for affordable housing in the District, it is also essential that development does not lead to a reduction in the overall supply of affordable housing, or to changes to the tenure of affordable housing which is provided so that it is less well suited to meet demonstrated local needs. Such proposals would

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<sup>2</sup> Subject to the results of the Whole Plan Viability Assessment.

<sup>3</sup> Subject to the results of the Whole Plan Viability Assessment.

<sup>4</sup> The percentages will be amended should The Whole Plan Viability Assessment recommend an alternative option.

undermine the overall approach to the supply of affordable housing in the District and will be resisted.

### Rural Exception Sites

- 2.22 There are fewer opportunities to build new homes in the District's smaller villages surrounded by, or designated as Green Belt due to more restrictive policies on housing in countryside and particularly in the Green Belt.
- 2.23 However, an element of new development can help to support these communities and paragraph 145 of the NPPF therefore enables provision of limited affordable housing for local community needs under policies set out in the development plan, including policies for rural exception sites.
- 2.24 In line with this potential exception, proposals for rural exception sites delivering 100% affordable housing<sup>5</sup> within and immediately adjacent to the village core areas of Bedmond and Sarratt<sup>6</sup> may be supported in the Green Belt where these are evidenced to provide affordable housing which would meet identified local community needs. The type and size of affordable housing provided on such sites must address identified needs in the individual village or the area it serves which is defined as the village or parish in which it is located.
- 2.25 Limited affordable housing provided on rural exception sites will be subject to a requirement to provide for people with a need to live in the locality. Any such schemes will therefore be subject to eligibility criteria limiting occupancy to people with a local connection (through past residence, employment or close family connection).
- 2.26 In addition, legal agreements will ensure that the affordable housing remains affordable in perpetuity, including through restricting 'right to buy' or 'right to acquire' for rented homes and the ability of purchasers to staircase beyond 80% ownership of affordable home ownership homes.

### Affordability

- 2.27 Where affordable housing is delivered, it is essential that this addresses needs as identified by local evidence. This includes ensuring that housing is provided at rents or prices which are affordable to those in need of housing.
- 2.28 The LHNA considers the costs that affordable housing should be made available at so that it is affordable in the local context. For affordable rent, the LHNA identifies 'Living Rents' in Three Rivers of:
- 1-bedroom - £410 per month;
  - 2-bedroom - £532 per month;
  - 3-bedroom - £655 per month.
- 2.29 These are below the relevant Local Housing Allowance and these limits will be a key consideration in setting rent levels for any new developments. Affordable rent should

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<sup>5</sup> A minor degree of market housing to support the delivery of the affordable housing may be acceptable

<sup>6</sup> Subject to the villages of Bedmond and Sarratt remaining washed over by Green Belt following the recommendations of the Stage 2 Green Belt Study

therefore be priced at the lower of the Local Housing Allowance or 80% of market rents.

- 2.30 For affordable home ownership products, the NPPF indicates that these should be made available at a discount of at least 20% from open market value. However, to provide housing that would meet the needs of households between buying and renting the LHNA suggests prices within Three Rivers which may mean a greater than 20% discount from open market value in some instances of:
- 1-bedroom - £132,000;
  - 2-bedroom - £167,000;
  - 3-bedroom - £212,000;
  - 4+-bedroom - £291,000
- 2.31 Applicants should ensure that affordable housing is genuinely affordable to the local community. The affordability benchmarks within the LHNA and guidance above will inform consideration of whether affordable housing proposed is genuinely affordable until further guidance is provided in an update to the Affordable Housing Supplementary Planning Document.
- 2.32 The Council will also seek 100% nomination rights on the first lets/sales of all affordable homes, potentially dropping to 75% for subsequent re-lets. This allows Registered Providers to determine the allocation of a proportion of the properties in accordance with their own objectives. However in practice, many Registered Providers locally continue to accept nominations from the Council on 100% of all future re-lets.
- 2.33 New affordable housing provision must be managed by a Registered Provider; or other bodies whose accountability, governance and regulation are equivalent to Registered Providers, that are able to demonstrate their ability to fund the scheme, and provide guaranteed and appropriate long-term management and maintenance arrangements, within an appropriate regulatory regime.

#### Mode of Affordable Housing Provision

- 2.34 Affordable housing will generally be required to be provided on site as this will make the greatest contribution to meeting needs in the short term. However, for small sites delivering one to nine dwellings the Council will consider the use of commuted payments, in lieu of on-site provision where requested on the basis that it is unfeasible to make provision onsite. Commuted payments will be broadly equivalent in value to the on-site provision, taking into account the additional market housing that would be provided due to there being no on-site affordable units and further guidance will be provided through an update to the Council's Affordable Housing Supplementary Planning Document.
- 2.35 Commuted payments for small sites and the trigger point for payment of the contribution will be secured through a legal agreement under Section 106 of the Town and Country Planning Act, 1990 which site owners will be required to enter into before planning permission is issued. The contribution will generally be payable on commencement of the development.
- 2.36 Where affordable housing is to be provided on site, the timing of this is a key issue in securing mixed and balanced communities at all stages. Wherever possible, affordable housing should be delivered in tandem with the provision of market housing and planning conditions or legal agreements will be used to ensure that affordable housing is built out alongside, and proportionately, to the amount of market

housing at any one time. The precise amount and timing of the affordable housing units required will be set out in the relevant condition or legal agreement.

- 2.37 To create mixed and inclusive communities it is also vital that there is no distinction between the design and quality of market and affordable homes, and that affordable homes address all relevant objectives and design policies of the Local Plan. Affordable homes should also be distributed throughout developments within clusters appropriate to the scale and nature of the development to enable effective management while providing a balance of housing across the site.

### Delivery

- 2.38 The affordable housing requirements will be supported by detailed viability evidence demonstrating that these levels are viable and will not preclude development from coming forward. Given that viability assessment is undertaken in preparation of the Local Plan, the impact of policies on development viability will have been considered and will be regarded as realistic. The need for a viability assessment at planning application stage will therefore need clear justification by the applicant in line with paragraph 57 of the NPPF.
- 2.39 It is however recognised that on a limited number of sites, there may be genuine exceptional circumstances which necessitate provision of site-specific viability information to support an alternative approach. The council will consider this on a case-by-case basis but in line with national guidance, site specific factors such as the price paid for land are not exceptional reasons to justify provision of site-specific viability assessment.
- 2.40 Where viability evidence is provided, this should be undertaken in accordance with the recommended approach set out in national planning guidance, including standardised inputs and explanation of what factor(s) have changed since the viability assessment underpinning this Local Plan. Submitted viability evidence will be made publicly available and the council reserves the right to have any viability assessment independently assessed, the cost of which must be borne by the applicant.
- 2.41 Exceptional circumstances justifying deviation from the required level and mix of affordable housing will only exist where this is fully justified through a policy compliant viability assessment. In these situations, with regard to the evidence of housing need in the District and the priority to deliver rented affordable housing, the Council will seek to secure the preferred tenure split as a priority over a potentially higher percentage of affordable housing overall through the provision of more intermediate tenure dwellings for affordable home ownership which would not be consistent with meeting priority needs. Flexibility may be appropriate to move away from the preferred tenure of social rent to affordable rent, although it would need to be demonstrated that these homes would be affordable to those in need in the District.
- 2.42 Where it is accepted that there are exceptional circumstances to justify departure from the policy requirement for affordable housing, any permission will be subject to requirements for detailed review mechanisms to consider viability through the lifetime of development up to full completion to ensure policy compliance and optimal public benefits through economic cycles and that the maximum reasonable level of affordable housing is provided in line with the Draft Affordable Housing Policy.
- 2.43 Review mechanisms are an important tool to seek compliance with relevant policies and will be provided through the legal agreement accompanying a permission. These will provide for review of viability to determine whether a development is capable of providing additional affordable housing (or meeting other unmet policy requirements)

deemed unviable at application stage. Any additional obligations will be capped based on policies of the Local Plan with the aim of securing provision of policy requirements previously deemed not to be deliverable.

- 2.44 Viability reviews carried out at an early stage of a development or prior to the implementation of later phases have the benefit of increasing the likelihood that additional affordable housing can be provided on site, while viability reviews undertaken towards the end of a development will be based on up to date and accurate viability evidence and allow robust, up to date values and costs to be taken into account.
- 2.45 In general, viability reviews will therefore be required at an advanced stage of development for all schemes to ensure that viability is accurately assessed and up to date. This will generally be at a point of sale of 75% of market units to assist in meeting the Council's key priority of delivering genuinely affordable housing.
- 2.46 On phased developments (typically delivering more than 200 dwellings), additional viability review will be required prior to substantial implementation where this does not occur within 12 months of the grant of permission with a further mid-point review prior to implementation of the second half/later phases of large phased schemes delivering more than 400 dwellings.
- 2.47 Paragraph 63 of the NPPF advises that to support the re-use of brownfield land, where vacant buildings are being reused or redeveloped affordable housing contributions due should be reduced by a proportionate amount equivalent to the existing gross floorspace of the existing building.
- 2.48 However, the need for affordable housing within the District, pressure for development land and viability are considered to outweigh the Vacant Building Credit in Three Rivers. This tool is intended to incentivise development of previously developed brownfield sites, but given the availability of urban land within the District and viability of development, the use of this tool is unnecessary in this area. Where an applicant proposes to apply the Vacant Building Credit, this will need to be justified by exceptional circumstances in accordance with the criteria noted at part (11) of the Draft Affordable Housing Policy.
- 2.49 The proposed Draft Affordable Housing Policy is set out in Appendix 1.

### **3 Policy/Budget Reference and Implications**

- 3.1 The recommendations in this report are within the Council's agreed policy and budgets.

### **4 Financial, Legal, Equal Opportunities, Staffing, Environmental, Community Safety, Public Health, Customer Services Centre, Communications & Website, Risk Management and Health & Safety Implications**

- 4.1 None specific.

### **5 Recommendation**

- 5.1 That the Local Plan Sub Committee note the contents of this report and recommend to the Policy and Resources Committee the Draft Affordable Housing Policy as set out in Appendix 1

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**Background Papers**

National Planning Policy Framework (2019)

Planning Practice Guidance

Local Housing Needs Assessment (2019)

**APPENDICES**

Appendix 1 Draft Affordable Housing Policy