

'A' ITEM

	REPORT TO PLANNING & DEVELOPMENT COMMITTEE (18 JANUARY 2018), CABINET (13 FEBRUARY 2018) AND COUNCIL (2 MARCH 2018)				
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REPORT OF: DIRECTOR (RB) 18/6

WARDS AFFECTED: "All"

SUBJECT: Adoption of Affordable Housing Supplementary Planning Document

RECOMMENDATION (S):

That Members recommend that Council adopt the Affordable Housing Supplementary Planning Document (SPD) and that the document is thereafter used in the consideration of planning applications.

REASON FOR RECOMMENDATION (S):

Since the Affordable Housing Supplementary Planning Document (SPD) was updated and adopted in November 2015, the Local Plan has been adopted (3rd July 2017), further affordable housing viability work has been completed and the Government has been successful in challenging the quashing of the Ministerial Statement of 28th November 2014. Following the latter, the relevant parts of the online Planning Practice Guidance were immediately updated by Government, with the thresholds for the provision of affordable housing and the 'vacant building credit' rule both being re-instated. As a consequence the Borough Council's previously adopted Affordable Housing SPD is not in accordance with current national and local planning policy.

HIGHLIGHTED RISKS:

The risks associated with not taking forward the proposed alterations are that the SPD will not accord with the adopted Local Plan and national planning guidance and could be subject to challenge.

1. INTRODUCTION

- 1.1 The current Affordable Housing SPD was adopted in November 2015.
- 1.2 In the period since adoption a major legal decision affecting the contents of the SPD has been issued. A previous High Court ruling was successfully challenged by the Government bringing the previously revoked guidance back into effect. This re-introduced affordable housing thresholds and 'vacant building credit'.
- 1.3 Another significant change is the adoption of the new Local Plan that brought in a new affordable housing policy along with revised thresholds and percentages that were based on up to date evidence on affordable housing viability.
- 1.4 This report provides Members with a précis of the responses to the consultation on the SPD and commentary on these.

2. CORPORATE AIMS

- 2.1 The Affordable Housing SPD has a significant impact on the delivery of objectives in the Corporate Plan and the Sustainable Community Strategy in relation to:
 - Increasing the availability of affordable housing in the Borough to meet identified housing need; and
 - Sustaining the delivery of rural affordable homes, to meet identified local housing needs.

3. BACKGROUND AND ISSUES

- 3.1 The issues for Members' consideration and attention are:
 - The consultation responses received on the Affordable Housing SPD;
 - The adoption of the SPD.

4. CONSULTATION

- 4.1 The document was consulted upon for a period of six weeks through the normal method for this type of document. All statutory/specific consultees as set out in the Planning Regulations were consulted along with other relevant bodies including housebuilders and Registered Providers.

4.2 Seven responses were received and these are shown in full in the Appendices.

5. ASSESSMENT

5.1 The SPD as updated since the consultation period is appended and should be read in conjunction with this report.

The Definition of Affordable Housing

5.2 The Government has signalled its aim of widening the definition of affordable housing to include starter homes. However, the 2016 Act in which this was set out has not been commenced. It is anticipated that the new definition will come into force in April 2018.

5.3 The actual definition of starter homes has also evolved from that which was initially set out and the latest position has been set out in the SPD attached to this report. The amendments are also shown below and confirm that any subsequent introduction of Regulation or associated guidance will supersede this definition:

Starter Homes: *The definition of affordable housing was widened by the Housing and Planning Act 2016 which under Part 6 Para 159 (1)(4)(b) now confirms that starter homes which meet the definition under the same Act will be classified as affordable homes. However, to date the relevant section of the 2016 Act has not been commenced and the existing definition of affordable housing continues to apply. It is anticipated that the new definition will come into force in April 2018.*

In general terms a starter home is a home that is offered for sale at a minimum of 20% below the open market value of the property. They are only available to persons under the age of 40 who have never been a home buyer. ~~Such properties must be for occupation by the buyer and not be resold or let at their open market value for 5 years following their initial sale.~~ The price of starter homes is restricted to £250,000 outside of London. A 15 year restricted period will apply to starter homes, so that if the home owner sells the property during this period, some or all of the discount is repaid. There will also be restrictions on renting out the property during this period. The purchaser will be required to have a minimum 25% mortgage and the price of starter homes is restricted to £250,000 outside of London.

Please note that this is the proposed definition as of the date of adoption of the Affordable Housing SPD. Any subsequent update to the definition as set out in Regulation or other associated guidance will supersede the definition set out above.

5.4 In the short term starter homes will not be formally recognised as an affordable product. However, a pragmatic approach should be taken towards schemes that include starter homes. This should be subject to sufficient safeguards within any associated s106 Agreement that ensures the reversion

back to traditional forms of affordable products (rented and intermediate) if they cannot be sold within a set period of time.

Achieving Policy Compliant Affordable Housing Numbers

- 5.5 The main issue raised in the consultation is the actual percentage of affordable homes that are negotiated on each scheme. A number of respondents have made comments in relation to this matter including:
- There should be no process to negotiate out of the requirement to build affordable homes;
 - Cost of affordable housing should be factored into the start of the process;
 - No deviation from affordable housing numbers. Any reduction should go back through planning process.
- 5.6 These concerns are noted as is the frustration when policy compliant affordable housing is not achieved. However, each site and its constraints are different and many issues are not fully understood until extensive site investigations are carried out. The policy must therefore allow for some deviation on the affordable percentage achieved and this was included in the Local Plan adopted in July 2017. This stated that:
- 'Where it is demonstrated to the Local Planning Authority's satisfaction through an independent assessment of viability that on-site provision is in accordance with the above requirements would render the overall scheme unviable, a reduced level of on-site provision or a financial contribution towards off-site provision may be acceptable.'*
- 5.7 This is the normal policy stance for affordable housing and the Planning Inspector who presided over the Local Plan Examination in Public found the policy to be sound. It is therefore not acceptable to prevent negotiation on affordable provision when a developer submits a viability assessment.
- 5.8 Whilst the cost of affordable housing should be factored into the early stages of process there is also a requirement for a landowner to achieve a realistic return and the developer to make a profit. Without achieving the above the sites would not be released and much needed housing not delivered. This is the crux of assessing any submitted viability assessment and officers have built up a substantial library of evidence on land values across the Borough, build costs, likely sales values and developers profit levels (as a percentage). Comprehensive assessments are therefore carried out when such information is submitted and in most occasions officers will question certain assumptions and often achieve a higher proportion of affordable housing through the process of negotiation than was initially submitted. When it is considered that a developer is not proposing the level of affordable provision that can realistically be achieved then such proposals will be recommended for refusal.

- 5.9 The comment relating to going back through planning is noted. Should an application be approved and a request for a deviation in affordable numbers be subsequently submitted then that would have to be considered through a formal application for an amendment. The application would be consulted upon in the normal manner including any relevant town or parish councils.

Open Market Valuations

- 5.10 A comment was received from a Registered Provider that fixed transfer values were welcomed; however, open market values should be determined by an independent local RICS surveyor if required. This is noted and amendments to the SPD are proposed as shown below.

To assist in determining the viability of schemes and to aid the calculation of ~~calculate an~~ off-site contribution the Housing Section has conducted research into transfer values and the most appropriate means of determining such values; whether they should be fixed, based on a £ per sq m or a % of open market value. The conclusion was that transfer values should be fixed and expressed as a percentage of open market value. This provides certainty for both the housebuilder and the registered provider. Furthermore there is still the flexibility allowed through 'viability appraisal' as set out in Policy HC 3 of the Scarborough Borough Local Plan and referred to in para 3.3 and 4.17 to 4.21 of this document.

This will allow account to be taken of occasions when values cannot be achieved and a Registered Provider cannot propose the transfer value set out below. Where this is the case and it affects the overall viability of a scheme, such evidence will need to be reflected in a viability appraisal. The proposed alternative transfer value must be based on an independent valuation carried out by a suitably qualified (RICS) local valuer, the cost of which should be borne by the applicant. It is therefore important that developers discuss the transfer of housing to Registered Providers as early in the process as possible and preferably prior to the submission of a formal planning application. Where such matters are not resolved to the satisfaction of the Local Planning Authority within the set period for determining an application such proposals will be recommended for refusal unless an extension of time can be agreed.

- 5.11 It is considered that this minor change emphasises the flexibility that the viability appraisal process allows and recognises that whilst fixed transfer values are beneficial there may be some occasions where they may not be achievable.

Priority for Local People for Affordable Housing

- 5.12 This is not a function of the Planning Section when determining planning applications, however, within the current policy for the allocation of affordable housing, applicants have to meet certain local connection criteria as part of the registration process.

Tenure Mix

- 5.13 One respondent suggested that the percentage qualified as affordable housing should have more flexibility in part ownership. It is assumed that this refers to allowing a greater proportion of 'shared ownership' or 'discount for sale' tenure types. The adopted Local Plan specifically states the following:

Where on-site affordable housing is required, a minimum of 70% of the affordable housing units should be rented, unless the Local Planning Authority is satisfied that an alternative mix meets proven local need.

- 5.14 This enables alternative mixes where appropriate and has been used on previous occasions.

Conclusion

- 5.15 Subject to the minor amendments proposed the SPD is recommended for adoption and be used in the determining of planning applications with the potential for affordable housing provision.

6. IMPLICATIONS

(a) Policy

- 6.1 Subject to Members approval, the affordable housing policy of the Borough Council will be implemented as set out in this report

(b) Financial

- 6.2 The Forward Planning budget takes into account the commitments and resource implications of the preparation and updating of SPD.

(c) Environmental Implications

- 6.3 A sustainability appraisal of the SPD was prepared for the consultation.

(d) Legal

- 6.3 There are not considered be any legal implications.

(d) Planning Implications

- 6.4 The planning implications are as described under (a) Policy.

- 6.5 I have considered whether the following implications arise from this report and am satisfied that there is no identified implications will arise from this decision in relation to Staffing Implications, Crime and Disorder Implications, Health and Safety implications, Co-operation with Health Authorities, Equality implications, Human Rights Act or Environmental implications.

(e) Communications

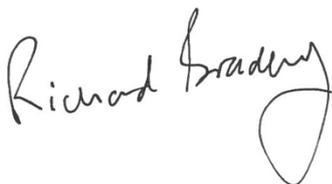
6.6 The document was consulted upon in the usual manner for planning documentation. Statutory/Specific consultees were consulted in addition to those bodies that were appropriate to the topic of consultation; namely housing developers and registered providers of affordable housing. The consultation was also prominent on the Council's Planning Website and the Forward Planning Twitter Account was updated to notify followers of the event.

6.7 I have considered whether the following implications arise from this report and am satisfied that there is no identified implications will arise from this decision in relation to **Staffing Implications, Crime and Disorder Implications, Health and Safety implications, Co-operation with Health Authorities, Equality implications or Human Rights Act.**

7. ACTION PLAN

7.1 Arising for the consideration of the issues, the following action plan is proposed:

Objective	Target
A. Report considered by P&D	18 January 2018
B. Report considered by P&D/Cabinet	13 February 2018
C. Report considered/adopted by Council	2 March 2018



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Background Papers:

Please give details of all publicly accessible (non private) background papers applicable to the report.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT THE AUTHOR.

Risk Matrix

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
1	3/1/18	The policy will not comply with adopted Local Plan and National Guidance.	If old guidance is used this could be challenged by prospective developers through the appeal system with the potential for costs against the Council.	Adopt new SPD which accords with both local and national planning policy.	C3	B2	David Walker / Steve Wilson	In body of report.

Glossary of Terms

Risk

An event which may prevent the Council achieving its objectives

Consequences

The outcome if the risk materialised

Mitigation

The processes and procedures that are in place to reduce the risk

Current Risk Score

The likelihood and impact score with the current mitigation measures in place

Target Risk Score

The likelihood and impact score that the Council is aiming to achieve

Service Unit Manager

The Service Unit or Officer responsible for managing the risk

Action Plan

The proposed actions to be implemented in order to reduce the risk to the target score

Risk Scoring

Impact	5					
	4					
	3					
	2					
	1					
		A	B	C	D	E
	Likelihood					

Likelihood:

A = Very Low

B = Not Likely

C = Likely

D = Very Likely

E = Almost Certain

Impact

1 = Low

2 = Minor

3 = Medium

4 = Major

5 = Disaster

Appendix 1: Comments on Affordable Housing SPD

Name	Organisation Details	Response
Cllr Tony Randerson		I am greatly concerned regarding the percentage of affordable housing that is or isn't negotiated with the developers.
Victoria Pitts	Parish Clerk Eskdaleside-Cum-Ugglebarnby Parish Council	There should be no process to negotiate out of the requirement to build affordable homes due to economic (profit based) reasons. The developer is fully aware of the affordable housing requirement for the site at the start of the project so can factor the cost in at the start.
Mrs Julia Marley	Parish Clerk Newby and Scalby Parish Council	<p>At its meeting on 8th November 2017, authority to respond to this consultation was delegated to the Chairman and Clerk by Newby & Scalby Parish Council.</p> <p>The following comments are only with regard to the proposals as they relate to this parish. The removal of the need for affordable homes on developments of 10 or less dwellings is welcomed. Similarly the reduction which will require developments of 11 and over dwelling to be 30% affordable rather than the current 30% for 10-14 dwellings and 40% for 15 and over dwellings.</p>
Miss Karen Howard	Yorkshire Coast Homes	4.4 – Welcome a proposal for fixed transfer values. Suggest open market value determined by an independent local RICS surveyor which may promote comparative and fair offers from bidding RP's.
Anne Cowey	Deputy Clerk Whitby Town Council	<p>Whitby Town Council's Planning Committee considered and discussed the above consultation documents in depth, and although they were happy with the overall document they did raise concerns regarding a clause with in the viability assessment which could enable developers to reduce the amount of affordable/social housing within the viability assessment procedure.</p> <p>Due to the economic and housing issues in Whitby members raised concerns about the following issues and would like them included within the document:</p> <ul style="list-style-type: none"> - Assurance that local people are prioritised for affordable/social housing - No deviation from social housing numbers with in a development - any reduction in numbers must go back through the planning process and the Town Council consulted. - The percentage qualified as affordable housing should have more flexibility in part ownership.
Mark Rushworth	Senior Policy Officer North Yorkshire County Council	<p>Thank you for consulting North Yorkshire County Council (NYCC) on the draft Supplementary Planning Document (SPD).</p> <p>Officers from our service areas have reviewed the consultation documentation and the following response has</p>

Name	Organisation Details	Response
		<p>been agreed with the Business and Environmental Service portfolio holders:</p> <p>One of the ambitions of the NYCC Council Plan is that North Yorkshire is a place with a strong economy and a commitment to sustainable growth that enables our citizens to fulfil their ambitions and aspirations. It sets a priority for creating high quality places and increased housing provision. As such, we welcome the use of an SPD to assist the efficient and effective delivery of affordable housing in line with your adopted Local Plan policy.</p> <p>Design standards are important to ensure that living conditions make a positive contribution to the health and well-being of residents and support place making that will help to retain and attract people to live and work in the area. The Nationally Described Space Standards are considered to be provide an appropriate baseline against which applications should be assessed to ensure that affordable housing is of an appropriate size. Their use within the SPD is therefore supported.</p> <p>It is noted that the information requirements for viability assessments (Appendix 2) includes reference to infrastructure (C1.2), including education (D1.5). Infrastructure such as education and highways is a necessary part of sustainable development and needs to be appropriately considered within any viability assessment. We therefore support its inclusion in Appendix 2.</p>
Janet Probert	Chief Officer Hambleton Richmondshire and Whitby Clinical Commissioning Group	<p>Thank you for giving the CCG an opportunity to review and comment upon your amendments and proposals for Affordable Housing.</p> <p>We have reviewed the proposals and have no specific observations to make at this time on the Affordable Housing Strategy being promoted by the Council. We would however, like to take this opportunity to highlight that the CCG remains interested in the overall impact of housing growth as it relates to the increasing workload in primary care and its ability to continually absorb incremental growth without further investment in services and in particular practice premises.</p> <p>We'd also like to draw your attention to the fact that consultation for primary care services is beyond that which has been undertaken with Scarborough and Ryedale CCG for central Scarborough town services and the catchment area for some of the surrounding villages fall within the responsibility for HRW CCG, so we look forward to further opportunities to engage with you.</p>