

Central Bedfordshire Council

EXECUTIVE

Tuesday 5 April 2016

Affordable Housing Guidance Note (South Central Bedfordshire)

Report of the Executive Member for Regeneration and Business, Cllr Nigel Young (nigel.young@centralbedfordshire.gov.uk)

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This report relates to a Key Issue

1. This report asks Executive to endorse the Affordable Housing Guidance Note as planning guidance. The note provides guidance on the affordable housing target in the South of Central Bedfordshire.

RECOMMENDATIONS

The Executive is asked to:

1. **endorse the Affordable Housing Guidance Note (South Central Bedfordshire) as planning guidance for Development Management purposes; and**
2. **recommend that Council delegates authority to the Director of Regeneration and Business, in consultation with the Executive Member for Regeneration and Business to make any minor amendments to the Affordable Housing Guidance Note**

Overview and Scrutiny Comments/Recommendations

1. The Overview and Scrutiny committee recommended that the guidance note be endorsed by Executive on 17th March 2016.
2. A member of the committee questioned why the guidance did not cover the whole of Central Bedfordshire. This is noted in the body of the report at paragraph 4 but in addition it was explained that a development plan policy carries significantly more weight than guidance, having been subject to formal public consultation and having been found sound by a Planning Inspector at Public Examination. As such there would be no advantage in introducing guidance that carries less weight for the northern parishes.

3. There was also a question in relation to starter homes with regard to the likelihood of them being classified as affordable housing through the Planning and Housing Bill. The commentary on financial risk in the OSC report had identified a detrimental impact on overall provision for those in housing need if starter homes were to be classified as affordable housing. The paragraph on financial risk has therefore been updated (see paragraph 27) to take into account the third reading of the Planning and Housing Bill in the House of Lords which occurred after the OSC report had been drafted. Following this several amendments have been put forward which ask that local authorities are able to deliver starter homes alongside other affordable homes for rent in line with locally assessed need.

Overview

4. The Affordable Housing Guidance Note provides guidance to support the determination of planning applications for those parishes that formerly made up South Bedfordshire District Council. The South Bedfordshire Local Plan 2004 remains adopted development plan for this area and Policy H4 Affordable Housing remains the extant policy.
5. This guidance note does not apply to the parishes that formerly made up the legacy authority of Mid Bedfordshire District Council. The adopted development plan for this area is the North Core Strategy 2009. Under Policy CS7 Affordable Housing, 35% of homes on sites of 4 or more dwellings are required to be affordable, and as such no guidance in relation to this policy is sought at this time.
6. The note has been produced as interim guidance, and shall apply until such time as the Central Bedfordshire Local Plan reaches submission stage and its emerging affordable housing policy carries sufficient weight.
7. The guidance note is concerned with the percentage of affordable housing required and is not intended to provide detailed advice around the procedures related to the implementation of affordable housing policy.

Proposed Target in Guidance

8. The guidance note would make the target for affordable housing provision in the South of Central Bedfordshire **30%** on all qualifying sites of **4 dwellings** and above. On sites of 4 dwellings, one affordable dwelling must be provided.
9. This guidance has been produced because policy H4 of the South Bedfordshire Local Plan is now out of date in relation to current evidence and national planning policy (The National Planning Policy Framework, 2012) that has been subsequently introduced.

10. Having reviewed national planning policy and current evidence this guidance reflects the current position and will be translated into any emerging affordable housing policy as part of the new Central Bedfordshire Local Plan.

Current Policy Requirement

11. The South Bedfordshire Local Plan Policy H4 seeks a lesser percentage of affordable housing (at least 20%) at a higher threshold (on sites of 25 dwellings or more or sites of over 1 hectare) and therefore would not allow the Council to seek affordable housing in line with the need identified by the Strategic Housing Market Assessment 2015.
12. This would conflict with national planning policy which states that the council must have policies in place that seek to boost housing supply (National Planning Policy Framework, 2012, Paragraph 47).

Background

13. There are currently two adopted development plans in operation in Central Bedfordshire covering the respective legacy district council areas that previously administered the geographical extent of the current unitary authority. These plans will remain in place as the relevant development plan for the determination of planning applications until the new Central Bedfordshire Local Plan reaches submission stage in December 2017.
14. The Council had previously progressed a local plan to submission stage (known as the Development Strategy) which included affordable housing policy for the whole of Central Bedfordshire. This was however withdrawn in November 2015.

Evidence for Approach

15. The approach taken in this guidance is informed by:
 - National planning policy which stresses the need for local planning policy which meets identified need for affordable housing (National Planning Policy Framework, 2012, Paragraph 50).
 - The Strategic Housing Market Assessment (SHMA) 2015 which identifies the objectively assessed need for market and affordable housing in Central Bedfordshire. This technical evidence identifies a need of 27% affordable housing which is translated to a policy target of 30%.

Reason/s for decision

16. If the guidance note is not endorsed to be used in the determination of planning applications, there is a risk that the Council could be challenged if it seeks to secure affordable housing in line with the identified need but with no endorsed guidance to support decisions.
17. This is particularly pertinent for smaller sites that fall below the 25 dwelling or 1 hectare threshold that is outlined in the extant policy of the South Bedfordshire Local Plan (H4). Smaller sites in the south tend to be in and around the villages where house prices are higher, and so by not recommending that this guidance be endorsed, it is likely that the delivery of affordable housing in rural areas will be disproportionately inhibited.
18. By introducing this guidance it also provides clarity to agents and developers on the Council's expected affordable housing target.
19. Furthermore, the guidance allows the Council to comply with national planning policy which requires local policy that boosts the supply of market and affordable housing. Without this guidance in place the Council will not be delivering a level of affordable housing on development sites in the south that correlates with the objectively assessed need for housing as identified by the SHMA 2015.

Council Priorities

This supports the Council's priority of 'creating stronger communities'.

20. This guidance will enable the Council to secure a higher percentage of affordable housing on a wider range of sites; particularly smaller sites which are more likely to be delivered in rural areas of the south. This will help to create stronger communities by ensuring greater diversity, choice and the ability to access a decent home for all residents.
21. A better mixed social composition in our communities can create a new dynamic which leads to increased land values, a better-functioning housing market, increased social sustainability and a reduction in overall concentrations of social deprivation. Neighbourhoods are thus less likely to be reliant on repeated 'regeneration' and or local authority intervention.

Corporate Implications

Legal Implications

22. Without adopted guidance in place, there is a greater risk of legal challenge in relation to the provision of affordable housing if the Council seeks a percentage in excess of that specified in the South Bedfordshire Local Plan and at a lower threshold. There is however a strong case for

doing so as the percentage requirement is stated within the preamble to the policy rather than the policy itself. Furthermore, the stipulation is for “at least 20%” allowing for a higher percentage as new evidence becomes available.

23. Affordable housing contributions are secured under Section 106 of the Town and Country Planning Act 1990 (as amended) and like other planning obligations, make a development proposal acceptable in planning terms that would not otherwise be acceptable.
24. Section 106 agreements are formal commitments and legal deeds given between a land owner (and subsequent owners) and the local authority. These agreements are legally enforceable. If the S106 is not complied with, it is enforceable against the person that entered into the obligation and any subsequent owner. The S106 can be enforced by injunction or by direct action, with the recovery of expenses.
25. Counsel opinion has been sought in relation to this draft guidance note.

Financial and Risk Implications

26. The primary risk identified is that the state of the market may on certain larger sites not be sufficiently robust to allow the level of affordable housing to be provided, where there are multiple other constraints on development or exceptional infrastructure costs. The guidance note provides for this to be addressed in those exceptional cases by means of a financial viability appraisal. It also reminds agents and developers that affordable housing is not an abnormal cost and should be factored in to the cost of any land.
27. The Government’s proposals around lower cost housing known as ‘starter homes’ have not yet been finalised as they are being progressed through the Housing and Planning Bill. The proposal is that the definition of affordable housing includes ‘starter homes’.
28. However the House of Lords have proposed amendments to the third reading of the Bill which would ensure local planning authorities promote Starter Homes based on their local assessment of need and viability within the local area. It is also recommended that local planning authorities should have the powers and flexibilities to deliver Starter Homes alongside other affordable homes for rent, in line with the locally assessed need and viability undertaken in developing their local plan with communities.
29. If the amendment is not carried forward and starter homes are classified as affordable housing, this could have the potential to reduce stocks of affordable rented housing in Central Bedfordshire.

30. The final financial/risk related implication is in relation to the New Homes Bonus. The amount paid to local authorities is linked to the number of new build homes and there is also an extra payment for affordable housing which will mean an overall reduction to the award if the Council has to seek a lower percentage of affordable housing. Under the New Homes Bonus affordable homes premium mechanism, payments for new build affordable homes are based on matching the average national council tax band of the unit (Band D at £1308 for CBC) plus an additional £350 per unit per annum.
31. For 15/16 the total final payment for the Council was £9,070,127 in New Homes Bonus with 1281 affordable units delivered. If the policy percentage of affordable housing was reduced from 30% and only enforceable at a higher threshold, this would, assuming a static rate of delivery, result in a loss to the Council of much needed revenue.

Equalities Implications

32. The Council is strongly committed to providing everyone with the opportunity of a decent home and to providing affordable housing which meets demonstrated local needs.
33. Evidence of local need shows a continuing shortfall of affordable housing in Central Bedfordshire. A variety of demographic and social factors, coupled with pressures generated by economic growth and in-migration mean that a substantial number of households are unable to rent or buy in the open market.
34. This affordable housing guidance for the south of Central Bedfordshire will ensure that a higher percentage of affordable homes can be provided on new housing sites to meet identified needs of all residents including those in more vulnerable groups.

Sustainability

35. Providing an appropriate level of affordable housing is part of ensuring social sustainability. Specifically in relation to social inclusion issues, this guidance addresses the need to ensure that supply and need for affordable housing are related in policy terms and that the policy takes account of the relative ability of people to afford their own housing. It is considered that there are no potential conflicts between the Affordable Housing Guidance Note and overall sustainability.

Conclusion and next Steps

36. If the recommendations are agreed, the guidance note will be put before Executive on 5th April 2016 to be endorsed as planning guidance. This will enable Development Management officers to cite the note as a material planning consideration in the determination of planning applications.

37. It is expected that the percentage target and threshold stated in this interim guidance note will be the same as that in any affordable housing policy drafted for the whole of Central Bedfordshire in the emerging Local Plan, subject to any future changes to evidence.

Appendices

The following Appendix is attached:

The Draft Affordable Housing Guidance Note

Background Papers

38. The following background papers are available on the Council's website:

- (i) The South Bedfordshire Local Plan 2004
<http://www.centralbedfordshire.gov.uk/planning/strategic-planning/ldf-south.aspx>
- (ii) The Strategic Housing Market Assessment 2015
<http://www.centralbedfordshire.gov.uk/planning/strategic-planning/planning-policy/document-library.aspx>