

Affordable Housing Guidance Note (South Central Bedfordshire)

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This report relates to a Key Issue

1. This report asks Executive to endorse the revised 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. **to authorise the Director of Regeneration and Business, in consultation with the Executive Member for Regeneration, to make any minor amendments to the Affordable Housing Guidance Note.**

Overview and Scrutiny Comments/Recommendations

2. The Note was considered at Overview and Scrutiny committee in March 2016 prior to the original note being endorsed at Executive. All recommendations were incorporated at that time and all subsequent revisions relate to current evidence and extant national planning policy.

Overview

3. 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.
4. 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 required at this time.
5. This is an updated note and has been revised as a result of the new National Planning Policy Framework (July 2018) which has altered national policy in relation to affordable housing thresholds. This note is still interim guidance, and shall apply until such time as the Central Bedfordshire Local Plan is adopted and its emerging affordable housing policy carries full weight.
6. 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

7. The guidance note would make the target for affordable housing provision in the South of Central Bedfordshire **30%** on all qualifying sites of **10 dwellings** and above.
8. 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, July 2018) that has been subsequently introduced.
9. Having reviewed national planning policy and current evidence produced in support of the Local Plan, this guidance reflects the current position and is consistent with the emerging affordable housing policy in the Central Bedfordshire Local Plan.

Current Policy Requirement

10. 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 2017.
11. This would conflict with national planning policy which outlines as a key objective, the need to significantly boost the supply of housing (National Planning Policy Framework, 2018, Paragraph 59).

Background

12. 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 is adopted by the Council next year.

Evidence for Approach

13. 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, 2018, Paragraph 61).
 - The Strategic Housing Market Assessment (SHMA) 2017 which identifies the objectively assessed need for market and affordable housing in Central Bedfordshire.

Reason/s for decision

14. If the revised 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 up to date guidance to support decisions.
15. Indeed, a current planning appeal (Tyler House, Creasey Park, Dunstable) is based on the assertion that no weight can be applied to either the extant development plan (South Bedfordshire Local Plan 2004) or to the Affordable Housing Guidance Note 2016 and as such there is a grave risk that much needed affordable housing will not be secured.

16. By introducing this revised guidance, it also provides clarity to agents and developers on the Council's expected affordable housing target.
17. 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 to meet the objectively assessed need for housing as identified by the SHMA 2017.

Council Priorities

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

18. This guidance will enable the Council to secure a higher percentage of affordable housing. This will help to create stronger communities by ensuring greater diversity, choice and the ability to access a decent home for all residents.
19. 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

20. Without this revised 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. 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.
21. 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.
22. 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.

23. Counsel opinion has previously been sought in relation to this guidance note.

Financial and Risk Implications

24. 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.
25. 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 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 for CBC) plus an additional £350 per unit per annum.
26. If the policy percentage of affordable housing was reduced from 30%, this would, assuming a static rate of delivery, result in a loss to the Council of much needed revenue.

Equalities Implications

27. Central Bedfordshire Council has a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics; age disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
28. 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.
29. 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.

30. 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

31. 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

32. If the recommendations are agreed, the revised guidance note will be used as a material planning consideration in the determination of planning applications until the Central Bedfordshire Local Plan is adopted by the Council.

Appendices

The following Appendix is attached:

Appendix A - The Affordable Housing Guidance Note (Revised version September 2018)

Background Papers

33. 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 2017

<http://www.centralbedfordshire.gov.uk/planning/policy/local-plan/submission.aspx>