

Agenda Item 8

Overview & Scrutiny Committee - Communities

16 September 2009

JG



Virtual Affordable Housing Team & interim affordable housing policy proposal

Summary

This report informs the Committee of the work of the Virtual Affordable Housing Team. The report also puts forward for consideration an interim affordable housing planning policy to encourage more affordable housing development in our rural areas.

Recommendation

To consider and recommend for adoption the Rural Departure site policy set out in the report.

a) Reasons for Recommendation

To raise awareness of the multi-disciplinary team established to promote and deliver affordable housing schemes and testing the appetite for an interim affordable housing policy for Rural Departure sites.

b) Alternative Options

Not to vary current planning policy now but await its reconsideration through the Local Development Framework (LDF) process.

c) Risk Considerations

The policy is not used or we are oversubscribed with applications.

d) Policy and Budgetary Considerations

These are set out in the report.

e) Date for Review of Decision

In one year.

1 Introduction

- 1.1 At your last meeting I reported on the constraints and issues of delivering affordable housing and the Committee resolved to push forward on a number of items outlined in the report. Last time we considered the barriers to delivering affordable housing and the financial and other constraints which were conspiring to prevent us delivering against this important corporate target.
- 1.2 A further report has been requested on the work of the Virtual Affordable Housing Team mentioned in my earlier report.

2 Virtual Affordable Housing Team

- 2.1 The Virtual Affordable Housing Team concept arose nearly two years ago and is essentially a meeting of representatives from council services who meet to promote and provide affordable housing. An informal arrangement has been developed between council officers.
- 2.2 An important element of the idea behind the creation of the Team was to take sites that are outside present planning policy, but appealing for housing development, and use them to develop affordable housing for the community. The Team would need to be prepared to push the boundaries of planning policy and consider opportunities that would not normally be possible within our present policy. In practice the process would operate in much the same way as the 'exceptions policy' for development of affordable housing in villages.
- 2.3 In outline the projects adopted would entail selection of an appropriate town, and tackling the affordable housing issue there in a proactive rather than reactive fashion. The town would be selected taking into consideration a number of factors, including the appetite of the Town Council to proceed in this way, levels of housing need in the locality, availability of possible sites and supporting infrastructure solutions, etc.
- 2.4 In order to optimise the effects of the approach, it was considered useful to focus simultaneously on the private sector housing in the area, so as to maximise the use of empty buildings and unused facilities, etc. Similarly the Housing and Social Inclusion Service would pay particular attention to tackling the under occupation of its housing stock in the town.
- 2.5 Good communication was seen as central to the success of this approach and might be facilitated by the creation of a 'virtual team' to consider these ideas and move the project forward. Membership of the virtual team needed to include officers from Development Management, Planning Policy, Legal; Housing and Environmental Health sections. Consideration could be given to widening the team in future to include Members, Town/Parish Council, developers, housing associations, etc, according to the requirements of the project at that time.
- 2.6 To take this forward an initial scoping meeting of appropriate officers was arranged in February 2008 to consider how this idea may be developed and set in motion during April 2008. The following purpose, composition and objectives were agreed:

Purpose: To deliver the corporate priority and targets in relation to providing more affordable housing.

Composition: Housing Enabling Officer; Section 108 Officer; Heads of Housing, Planning and Legal; Senior Planning Officer; Principal Planning Policy Officer; Senior Estates Surveyor, as required.

Objectives:

- To proactively identify sites with development potential and bring these forward for affordable housing development.
- To undertake land availability assessments to identify land suitable for affordable housing development.
- To work intensively on an identified site to provide affordable housing.
- To overcome obstacles (policy, funding etc) to development and progress schemes.

- To work as a team and extend the Council's role from enabler to developer, including land assembly and project management.
- To involve partners as appropriate who will contribute towards achieving these objectives (landowners, developers, RSL's, Housing Corporation).
- To add value as a team to the individual work undertaken by officers.

2.7 The team have been meeting on an occasional basis since its creation. Formalising the team was one of the ideas put forward as part of the Leaders Service Transformation Group exercise.

2.8 An example of the work of the team is an affordable housing scheme at Rodney Close, Exmouth. This potential scheme is situated on what is currently designated open space and should use approximately half this area. We are working with Devon and Cornwall Housing Association to provide a mixed scheme comprising a four bedroom house, a bungalow, three bedroom houses and a number of flats. Due to the current economic situation all fourteen homes will be available as rented accommodation. We are hopeful that a planning application will be submitted within a few months.

2.9 Another project the team has taken on is looking at an innovative affordable rural housing policy and the remainder of this report is dedicated to this work.

3. Affordable housing planning policy proposal

3.1 The current economic climate and the ongoing problem of delivering affordable homes in any significant numbers have combined now to reach a point where it is appropriate to consider a more pragmatic approach in respect of the relevant planning policies to secure alternative solutions, which in normal circumstances would be judged to be unacceptable.

3.2 It is proposed therefore to widen the scope of the affordable housing model for delivery. However, this is to be seen as an interim measure, applicable only during the current economic crisis and to be reviewed on an annual basis to assess whether economic circumstances have changed for the better, ultimately it will be replaced by LDF policies.

3.3 There are two pre-requisites to delivering affordable housing – these are finance and land. The Council is examining separately the issue of finance options. This paper looks specifically at how landowners could be persuaded to release land for the purpose, ahead of the delivery of the Core Strategy and other Development Plan documents, which will deal far more comprehensively with the release of land for housing, of all categories.

4.0 Development Economics

4.1 An appreciation of development economics by Local Planning Authorities is essential as developers seek to maintain construction activity against a back drop of limited credit availability and reduced property values. The number of land sales in recent months has contracted sharply, leading to a substantial reduction in land values relative to that of property.

4.2 The opportunity for securing planning obligations from the development process to fund infrastructure and affordable housing can be found in the residual land value of a development. Residual land value is calculated after deducting costs and reasonable profit from the gross development value (GDV), this is expressed by the following formula:-

$$\text{GDV} - (\text{costs} + \text{profits}) = \text{residual land value.}$$

- 4.3 A developer is rarely able to control the overall costs of development and as such will have limited ability to extract more value to pay for increase contributions to strategic infrastructure, particularly during the later stages of the process. Ultimately, therefore land value will provide the main element for negotiation and the landowner may be passed the majority of effects for strategic infrastructure contributions via a lower land price.
- 4.4 Theoretically affordability is becoming less stretched, as pricing and mortgage rates have fallen. Mortgage affordability was only marginally higher than the long term average by the fourth quarter of 2008. Throughout late 2008 it was increasingly evident that mortgage rates were more closely aligned to the high LIBOR rates (London Inter-Bank Offered Rate - the rate at which international banks lend to each other) than the base rate. This finance rate though has fallen sharply from a peak of 6.3% in October 2008 to 2.1% in January 2009, further easing affordability in the New Year supposedly. However, mortgage approvals remain near record lows, though there are some signs of stabilisation. The RICS does not anticipate a notable bounce back in approvals this year as the range of mortgage products remains limited, though Government initiatives may ameliorate this situation in due course.
- 4.5 Developer activity has fallen dramatically in response to low end sales values. Completions are anticipated to drop as low as 60,000 units nationally this year (2009) which is half the estimated level for 2008. Such extreme constraints in short term supply are set to result in medium term pricing pressure.
- 4.6 With house builders sales expectations remaining weak and constrained development finance, land transactions have dropped sharply. Lower sales rates result in slower developer activity. This in turn leads to an extension in the life span of the existing land bank, reducing the need to acquire new sites. With lower end sale pricing weakness, land values fell by 50 – 70% in 2008.
- 4.7 Where demand has been evident, developers are either looking for medium to long term deals on an options basis, once planning consent has been secured or draw downs on a plot by plot basis in order to avoid a high capital outlay. Most landowners have been content to hold assets throughout the recent down turn, but further double digit falls in land values are anticipated in 2009, again making the likelihood of landowners releasing land unlikely ahead of an upturn
- 4.8 In a plethora of Government initiatives in January to encourage lending, two schemes are notable. Firstly, the decision to guarantee mortgage back securities as recommended in the Crosby Report. Wholesale funding, as opposed to customer deposits, provided 60% of funds used by lenders to provide new mortgages prior to the credit crunch. Since then this source has been effectively frozen. Tax payer provided guarantees will be offered to re-invigorate this market, but not until April 2009.
- 4.9 The second issue is the role of Northern Rock, which will become a net lender again, subject to European Commission Approval, having previously been forced to run down its loan book. The combined effect should see improved mortgage availability in the spring this year.
- 4.10 Whilst initiatives are being introduced to avert the worst of the financial crisis, the effects of the downturn in the real economy are set to affect the housing market for some time to come. For example, rising unemployment will result in repossession levels rising possibly to levels last seen in the early 90s.
- 4.11 A related concern for Local Authorities would be the prospect of reduced quality of development as the ratio of build cost to gross development value becomes less favourable.
- 4.12 As a result of the downturn, Local Authorities have to think of more proactive, collaborative and 'light footed' ways of maintaining

development activity, in broad terms. Measures being considered consist of either or both of the following:-

- Stimulating private sector development
- Public sector lead

- 4.13 In the longer term the Council will need to undertake, or more likely commission work, on affordable housing viability to determine appropriate policy targets for affordable housing. PPS3 advises of the importance of viability considerations and in the future Planning Inspectors can be expected to place considerable weight on viability considerations. Having policies that are non-viable in practice will not be acceptable.

There was a Court of Appeal decision in 2008 in which Persimmon Homes, Barratt Homes and Millhouse Developments challenged Blyth Valley Borough Council Core Strategy policy of seeking 30% affordable housing on qualifying sites. The Core Strategy policy had been endorsed by Inspector at Examination; however, in the first such case to be heard by the courts, the house builders challenged adoption of the strategy under section 113 of the Planning and Compulsory Purchase Act 2004 in the High Court. Mr. Justice Collins allowed their application and quashed the affordable housing policy; the council appealed. Affirming the earlier decision, Lord Justice Keene said: "One only has to read paragraph 29 of PPS3 to see that such an informed assessment of the viability of any such percentage figure is a central feature of the PPS3 policy on affordable housing. It is not peripheral, optional or cosmetic. It is patently a crucial requirement of the policy."

- 4.14 Economic considerations and house prices, and developer returns in Blythe will differ from those in East Devon, but the same basic concerns will still apply. What a viability study will need to demonstrate is that there is enough profit for developers and enough of a return for land owners to make it commercially viable and credible and desirable for them to go ahead with development. The viability of affordable housing provision will relate not just to overall affordable percentages sought, but also the mix of affordable housing types and other economic considerations.
- 4.15 Affordable housing at one extreme can cost a lot of money (i.e. it will require large subsidies whether from the public and/or private sectors). The rents on social rented houses are not high enough/scarcely high enough to repay interest on capital loans required to build them (let alone pay for/contribute any money to land acquisition costs or any ongoing costs). Therefore, social rented homes require considerable public subsidy.
- 4.16 At the more expensive end (shared owners for example) of affordable housing provision costs may not be that much less than renting or buying a property on the open market. There are two further key qualifying considerations to note:
- (a) The Exeter and Torbay Housing Market Assessment points to around 2/3rds of the affordable housing need falling in the social rented sector. Therefore, if housing is to be provided for this majority in need then subsidy hungry forms of affordable housing will be required.
 - (b) There are likely to be very few households in the 'need of affordable housing bracket' that have incomes sufficient to afford to pay for the types of 'affordable' housing that require minimal/nil subsidy (or can generate a profit).

5.0 Planning Policy Statement 3 (PPS3) – Housing

- 5.1 PPS3 was written in response to the recommendations in the Barker Review of the housing supply, in March 2006. It was seen as a new, more responsive approach to land supply at the local level. Whatever amended policy we opt for, it will still be necessary to achieve general compliance with the requirements of PPS3 and the Regional Spatial Strategy.
- 5.2 PPS3 advocates, amongst other things, that an implementation strategy for housing delivery should include:-
- “Scenario and contingency planning to identify differing delivery options, in the event that actual housing delivery does not occur at the rate expected.
 - A risk assessment to identify obstacles and constraints to housing delivery and development of management strategies to address any risks.”
- 5.3 The definition of the term ‘affordable housing’ in PPS3 includes social rented and intermediate (e.g. shared equity housing) but excludes what it calls ‘low cost market’ housing. It explains that the terms ‘affordability’ and ‘affordable housing’ have different meanings. ‘Affordability’ is a measure of whether housing may be afforded by certain groups of households. ‘Affordable housing’ refers to particular products outside the main housing market. ‘Housing need’ is defined as the quantity of housing required for households who are unable to access suitable housing without financial assistance. Local Planning Authorities are charged with ensuring that provision of affordable housing, meets the needs of both current and future occupiers, taking into account information from the Strategic Housing Market Assessment.

6.0 The Strategic Housing Market Assessment

- 6.1 PPS3 sets out requirements for authorities to undertake Strategic Housing Market Assessments. East Devon District Council teamed up with Devon County, Exeter City, Torbay, Dartmoor National Park and Teignbridge and Mid Devon District Councils to commission consultants to undertake the study. The combined areas Housing Market Assessments was completed in late 2007.
- 6.2 With respect to East Devon the study identifies that Exeter has a fundamental impact on housing demand for/in the District. The study also recognises the growing population level/need for housing in East Devon and the elderly population profile of the District; one consequence of which is under-occupation of larger family homes. The studies identified 6,767 households in East Devon as living in unsuitable accommodation, with over half of these households being unsuitable on account of major repairs being needed, though many households have support needs, and overcrowding is a significant contributor to unsuitability of current accommodation. The study highlights options for better use of the housing stock in East Devon, but also highlights the need for additional development. Overall the study concludes a need for 3,211 dwellings to be built in East Devon over the next five years with 1,967 (61.3%) being market housing, 373 (11.6%) being intermediate housing and 870 (27.1%) being social rented housing.
- 6.3 It should be noted that the report was produced and completed at a point in time when the housing market was buoyant. Over the past 18 months significant changes have occurred in the housing market and these will have impacted on need/supply/demand considerations.
- 6.4 Planning and housing officers from across the two HMAs have discussed options for an update of the HMA. This would seem sensible and if the same consultants (Opinion Research Services) were re-employed by all of the original commissioning authorities the cost is likely to be relatively modest.

6.5 The remainder of this report now concentrates on rural affordable housing provision.

7.0 Cross Subsidisation

7.1 To date Rural Exception sites are defined (both nationally and locally) as sites solely for 'affordable housing' in perpetuity. The use of such sites for low cost or other market housing is therefore contrary to policy (both national and local). The Taylor Review of Rural Economy and Affordable Housing made two recommendations regarding landowner's interests with a view to securing more sites for affordable housing. These were that *landowners should be allowed to nominate someone such as a family member or employee to occupy houses on an exceptions site and that schemes should be investigated in which landowners retain some interest / income from the land.* In responding to these recommendations in March 2009 the Government stated:

"It is important to clarify that the Government has no intention of allowing market housing to be built on rural exception sites as this would undermine their very purpose. However, we think that now is the time to show a degree of flexibility to encourage and incentivise landowners to come forward to provide land for rural exception sites. We therefore are going to set up a practitioners' Working Group which will examine Matthew Taylor's proposals for landowners to have nomination rights for affordable housing units while retaining an interest in their land.

The working group will be established in April and will provide a guidance note for local authorities and housing associations in the autumn on the practical implications of making these changes work."

The Affordable Rural Housing Commission was set up by DeFRA and the then ODPM to inquire into the scale, nature and implications of the shortage of affordable housing for rural communities in England and make recommendations to help address unmet need. In their 2006 report they refer to having considered a range of proposals for more detailed changes to be made to the planning system, including whether cross subsidy should be allowed on exception sites. They rejected this for a number of reasons. Concern was expressed that this could increase landowners' expectations of the value of land in the locality, reducing the chances of bringing forward windfall exception sites. In addition, it would be difficult to define the limit of cross subsidy and ensure it was funding the affordable housing as opposed to inflating the return to the landowner or profit for the developer.

7.2 Against this background the key question is whether or not, given the exceptional circumstances pertaining at the moment, this stance could be relaxed or an alternative approach to rural housing could be taken, for a short period, in order to encourage landowners to release blocks of land on the edge of rural settlements. However, this of course, will only take the solution so far, as the financial institutions are presently loathed to lend to potential new home owners having anything less than a 30% deposit, a figure well beyond what many can secure.

7.3 Discussions with the Government Office of the South West (GOSW) last year indicated that there may be some potential for limited cross subsidisation schemes, but based on an assessment of 'need' for open market housing similar to that for affordable housing, underpinning the provision. The size of units was also important with small housing being preferred (on the basis that they would be more likely to be justified in respect of meeting a local need) rather than large executive style properties, potentially serving no local need and just meeting a housing choice that might typically be expected to be met through purchase of housing on the open market.

7.4 GOSW would want to be kept informed of all potential cross subsidisation schemes and indeed of any intended temporary change of policy approach.

8.0 Proposed Interim Affordable Housing Policy

- 8.1 Given the acute need for affordable housing in East Devon it is considered that an interim policy should be applied in respect of housing development in rural areas beyond Local Plan Built-up Area Boundaries. The following wording is suggested as a starting point to help define a new interim policy.

NB – Policy must be supported by documented evidence.

Interim Rural Departure Site Policy for Mixed Affordable and Market Housing

Rural departure sites for development of a mix of affordable and market housing will be allowed provided that the following criteria are met in full:-

- (a) The development is well related to and will complement and be compatible with the built form of a settlement.
- (b) The residents of any scheme will have easy walking or public transport access to a range of facilities such as a shop, pub, church and (in particular) state primary school.
- (c) A local housing needs assessment has been undertaken showing a need for affordable dwellings in the settlement and in surrounding areas.
- (d) At least 66% of all dwellings will be affordable in perpetuity and of these at least half will be available as social rented properties.
- (e) Secure arrangements are made, by the imposition of a planning condition or planning obligation, to ensure that the initial and subsequent occupation of any open market housing proposed on the site is restricted to people currently living in the local area, having local connections or working in the local area.
- (f) Any planning permissions granted under the terms of this policy will be for a period of one year only to ensure early delivery of the scheme and the policy will apply (in the first instance and subject to annual review) to the end of year 2010 (unless superseded by adopted LDF Development Plan Policy before this time).
- (g) -No open market property/ies may be occupied until at least twice that number of affordable dwellings have been built and occupied.
- (h) The development will be for no more than a total of 15 dwellings.
- (i) The scheme is economically viable.
- (j) The open market housing will be designed to meet evidenced local needs (no., size and type)

- 8.2 This policy proposal is an addition to our adopted Rural Exception site policy, which will be retained as an alternative affordable housing delivery option.

- 8.3 This proposed new policy is presented as a starting point for discussion. The following observations about the criteria are made to inform council debate:

- (a) We have not sought to define settlement but consider that to accord with national and regional policy (and to accord with the

thrust of Local Plan policy) a settlement should have a number of buildings/developments and a resident population. A settlement under this policy could be considered to be all those with a Built-up Area Boundary under Local Plan policy, but could also include other smaller villages (policy does not seek to define the point at which a group of buildings or hamlet would be too small to fall under the coverage of this policy). As a general objective it is desirable for new development to be well related and close to existing developments rather than dispersed across the countryside. It may be preferable to specify in the policy that it applies only to sites within or on the edge of a village with a population of fewer than 3,000 persons. This would accord with government guidance for exception housing sites and make the policy less likely to attract objections from the Government Office.

- (b) Linked to the above is the need to recognise that residents of any new housing will need access to facilities, this can be particularly important for affordable housing occupants who are typically poorer and may be disabled (or for other reasons) may lack access to private transport. Therefore, walking and public transport are important means of travel and facilities should be accessible by these modes of travel. Also reducing the need to use private vehicles is a broad objective of planning policy at a national, regional and local level. It is important that we focus on delivering communities, not remote housing estates and the connection to a village school is important for both the village and the school.
- (c) It would be inappropriate to provide housing under this new policy if it is not related to a local need. However, it is recognised that need may be from an area that is larger than just the immediate settlement or village. As drafted policy provides flexibility in respect of assessing what is local and spatially relevant to a settlement. It is not proposed that 'local' should be defined by parish or other administrative boundary. It may need some form of definition however.
- (d) These % figures are not justified by any viability assessment and may need to be refined. What the policy is implying to a land owner is "you won't get open market housing on your land and therefore sell it at open market residential value, but neither will/should you receive an agricultural value. As a land owner you will get somewhere between the two. Although it would be unusual (perhaps unacceptable) for a planning policy to be explicit on land values perhaps we should do this. What the policy is intending to do is advise that in practice a large part of the uplift in land value that planning permission will result in will need to go into paying for (cross-subsidise) some or all of the affordable housing. Also what some landowners aspire to is to get planning permission for a bigger house for themselves and as a 'pay-off' to accept that they will have to give some land away for some affordable houses. On a pragmatic level this may not be seen as a bad thing. What these percentages and the policy as worded does not do is to advise on what will happen if there is no public subsidy available. The availability of public subsidy will be absolutely critical to the viability of any scheme
- (e) This criterion is seeking to establish that the market housing relates to a local need and the draft policy includes local occupancy requirement. The Government Office have suggested a more rigorous local needs test, so that the requirement would be that housing should be of a type under-represented in the market place in the locality and it would therefore be 'needed' or justified to house this need. If this approach were applied in practice it might typically be expected to be small or smaller dwellings that would be developed, but could also be elderly person housing or other specific housing types. This criterion reflects the need for time limiting the policy.
- (f) This criterion seeks to ensure that the open market houses are not built and then the affordable housing element is abandoned or not built.

- (g) Having a size limit may be an appropriate as a means to ensure schemes are of a smaller scale.
- (h) .We would not want to see potential and bogus schemes where the development fails to complete due to a viability issue.
- (i) The open market housing must also be designed for the appropriate market need, in line with the Government Office suggestion.

8.3 One potential negative of this policy approach is that it could further suppress the potential for exceptions site (100%) affordable housing. Landowners might choose not to bring forward exceptions sites in the hope of higher returns on these mixed sites. In the longer term a land owner might also gain permission for development and then sit on the permission and seek to argue that the precedence has been set for housing but that a lower affordable housing mix is appropriate (perhaps on viability grounds). Furthermore, a danger is that it could set long-term aspirations that if and when the policy is defunct it may take some time before the mind set of landowners reverts to accepting that lower value exceptions site policy (100% affordable) is the only means to secure housing on (remoter) rural sites and therefore the value of land will be lower.

8.4 Some anecdotal evidence suggests that where authorities take a consistent long term policy stance on resisting open market housing in rural areas the result is that landowner's hopes/aspirations for higher market values diminish and they are more prepared to release land for much lower exceptions site values. As such the rural housing policy could be counter-productive in the longer term in respect of the objective of securing higher rural affordable housing levels.

9. Consultation

9.1 The Government Office was keen to promote the importance of consultation on any policy and its implementation prior to any permission being granted. It is considered that a new interim policy could be given some weight before any consultation was concluded. However it would be desirable to undertake targeted consultation with housing and planning stakeholders. It is proposed that we use the Affordable Housing Summit that the Council are running on 17th September 2009 to launch the policy and invite responses from delegates. We would also make the policy available on the Council website for comments.

9.2 With respect to any planning applications and especially pre-application inquiries it is suggested that we ensure that consultation is undertaken in the locality of the application as part of the application process. This could dovetail with a local needs assessment, and it is considered that we should give further thought to how the local needs assessment exercise can be slimmed down from its current (relatively) lengthy set process to a much quicker exercise.

Legal Implications

There are no legal issues requiring comment in this report.

Financial Implications

There are no financial implications identified in this report.

Consultation on Reports to the Executive

None.

Background Papers

None.

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