

REPORT TO: Planning Committee

7 November 2018

LEAD OFFICER: Joint Director of Planning and Economic Development

Local Plan Affordable Housing Threshold (Policy 45 Affordable Housing)

Purpose

1. To inform Committee about the differences between the affordable housing threshold set out in the Local Plan 2018 (in policy 45 affordable housing), and that in the new National Planning Policy Framework 2018 (NPPF) and recommend that significant weight be given to the national threshold in planning decision making and when planning advice is given. This is not a key decision.

Recommendations

2. It is recommended that Planning Committee:
 - a) take note of the different affordable housing thresholds between the adopted Local Plan 2018 (policy 45) and the National Planning Policy Framework 2018 (at paragraph 63 and the glossary); and
 - b) agree that for the reasons set out in this report in paragraphs 5-16 that when determining planning applications and when giving pre-application advice that significant weight will be given to the affordable housing threshold policy set out in the National Planning Policy Framework 2018 (at paragraph 63 and the glossary).

Reasons for Recommendations

3. Through the course of the examination of the plan the Local Plan Inspector's have sought to ensure that the affordable housing threshold included in the Local Plan was in conformity with national planning policy and the modifications to the plan proposed in January 2018 about this were in conformity with national planning policy as it then stood. However in July 2018 just before the Inspector's report was published in August 2018 a new National Planning Policy Framework was published which included a different national affordable housing threshold.
4. The NPPF 2018 states at paragraph 214 that the previous NPPF from 2012 will continue to apply for the purpose of examining plans submitted for examination before the 24th January 2019. Our Local Plan was submitted for examination in 2014 and so it is understandable that the Local Plan Inspector's Report makes no reference to the NPPF 2018. Nevertheless the Local Plan Inspector in recommending plan modifications needed to ensure soundness had sought to ensure that the Local Plan affordable housing threshold was consistent with that set out in national policy as then stated in the Written Ministerial Statement 2014.

Background

5. When our Local Plan was submitted for examination in 2014 the proposed affordable housing threshold in policy 45 'Affordable Housing, Dwelling Mix and Employment-Related Housing' included a contribution of 10% affordable homes on sites for the

initial 2-9 dwellings. This was a lower threshold than that included in our then adopted Local Plan of 15 or more dwellings or sites of 0.5 hectares.

6. In 2014 a Written Ministerial Statement (WMS) was published stating:

*“Due to the disproportionate burden of developer contributions on small scale developers, **for sites of 10-units or less**, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought.” (bold emphasis added)*

7. The Local Plan Inspector’s Report received in August 2018 referenced the main modifications needed to make the Local Plan ‘sound’. The main conclusions are set out in paragraphs 65 and 66 Paragraph 114 of their report which state:

“Policy 45 seeks to ensure the effective provision of affordable housing and a mix of dwelling types, sizes and tenures. As submitted, the Policy requires 10% affordable homes on sites for the initial 2 to 9 dwellings. This is not consistent with the Written Ministerial Statement of 28 November 2014: Small-Scale Developers or with PPG (ID: 23b-031-20161116). The Council has produced evidence to demonstrate that sites of this size could make a contribution to the provision of affordable housing and remain viable. However, the WMS states that it is seeking to tackle the disproportionate burden on small-scale developers by lowering construction costs, thereby increasing the supply of housing. Viability is not, therefore, the sole consideration.

66. The number of additional affordable homes from developments of nine dwellings or less would only form a relatively small part of the overall affordable housing delivery. In the circumstances, (Main Modification MM) C134 is necessary to ensure consistency with national policy. We have made a minor addition to the wording of the MM to clarify that the affordable housing provision should be calculated on the basis of the net increase in the number of units on the site. “

8. Alongside other detailed changes to policy 45, MM C134 addressed affordable housing thresholds by requiring that **all developments of 11 dwellings or more**, or on sites of less than 11 units if the combined gross internal floorspace of the proposed development exceeds 1,000 sqm will provide affordable housing. This was entirely consistent with the WMS of 2014
9. In July 2018 the new NPPF was published coming into immediate effect. Relevant extracts from the NPPF are included in this report as Appendix B. When the policy text in paragraph 63 and the definition of ‘Major Development’ given in the glossary are read together it can be seen that national planning policy towards affordable housing thresholds has evolved away from that given in the WMS. National planning policy is now that affordable housing should not be sought from developments that are not major development and the definition of which given in the glossary of the NPPF only relates to housing developments of **10 or more homes** or where the site has an area of 0.5 hectares. This policy formulation is not consistent with the Local Plan Inspector’s intention to ensure that our Local Plan policy was consistent with national planning policy.
10. It follows that the affordable housing threshold given in policy 45 is no longer consistent with national planning policy towards affordable housing both in terms of the Local Plan policy threshold being 11 or more homes (as opposed to the NPPF threshold of 10 or more), and in its inclusion of a 1,000 sqm housing floorspace threshold (as opposed to a site area threshold of 0.5 hectares in the NPPF).

Considerations

11. Planning law requires that applications for planning permission have to be determined in accordance with the development plan, unless material considerations indicate otherwise (the development plan includes our Local Plan 2018). However the NPPF 2018 states at paragraph 212 that "*The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication*". And paragraph 213 of the NPPF 2018 states: "*However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".
12. In regard to the affordable housing threshold set out in policy 45 of the adopted Local Plan 2018 it is clear that it is not consistent with the policy set out in the NPPF 2018. It follows that in planning decision making and when giving pre-application advice significant weight needs to be given to the affordable housing threshold policy set out in the National Planning Policy Framework 2018 (at paragraph 63 and the glossary). This point is reinforced by the fact that the Local Plan Inspector in recommending plan modifications needed to ensure soundness had sought to ensure that the Local Plan affordable housing threshold was consistent with that set out in national policy as stated in the WMS 2014.
13. Furthermore it can be noted that the Local Plan Inspector did not disagree with the viability evidence officers advanced in evidence to the Inspector's that a lower affordable threshold than that in the WMS was viable in Cambridge or that there was not significant affordable housing need across the district. On this basis there is no risk that applying the lower affordable housing threshold set out in the NPPF 2018 would have any negative impacts on the viability of housing delivery in Cambridge compared to the marginally higher threshold set out in the Local Plan at policy 45.
14. It is therefore appropriate and necessary that when making planning decisions and when giving pre-application advice that significant weight is given to the affordable housing threshold policy set out in the NPPF.

Options

15. The only alternative option would be to seek to continue to apply the affordable housing thresholds set out in the Local Plan at policy 45. This is not recommended as it would not be consistent with the NPPF 2018 and because to do so could lead to a small loss of much needed local affordable homes.

Implications

16. In the writing of this report, taking into account financial, legal, staffing, risk management, equality and diversity, climate change, community safety and any other key issues, the following implications have been considered: -

Equality and Diversity

17. Access to affordable and quality housing can make an important contribution to household health, education and employment. Application of the national affordable housing threshold will make a marginal improvement to the provision of affordable

housing in Greater Cambridge and so can be expected to have a beneficial impact on social equality.

Consultation responses

18. There has been no formal consultation involved in the preparation of this report.

Background Papers

The following background papers were used in the preparation of this report:

House of Commons: Written Statement (HCWS50)

Written Statement made by: The Minister of State for Housing and Planning on 28 Nov 2014.

<https://www.parliament.uk/documents/commons-vote-office/November%202014/28%20Nov%202014/2.%20DCLG-SupportForSmallScaleDevelopersCustomAndSelf-Builders.pdf>

Cambridge Local Plan Inspector's Report (2018) &
Main modifications recommended by the Inspector's –

<https://www.cambridge.gov.uk/local-plan-review-about-the-examination>

National Planning Policy Framework (2018)

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

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Appendices:

Appendix A – Extract from the Main Modifications necessary for soundness concerning policy 45 for affordable housing

Appendix B – Extracts from the NPPF 2018

Appendix A – Extract from the Main Modifications necessary for soundness:

Reference No.	Local Plan Page	Policy/ Paragraph	Proposed Modification								
C134	147/148	Policy 45: Affordable housing and dwelling mix	<p><i>Amend the first paragraph and following text of Policy 45 to read:</i></p> <p>Planning permission will only be granted for residential development on sites with capacity for between 2 and 9 dwellings, if provision is made for a minimum of 10 per cent affordable housing. On such sites, financial contributions towards affordable housing off-site are considered acceptable. This does not prohibit on-site provision of affordable housing on sites of this scale, but recognises that circumstances may often not allow for delivery on-site.</p> <p>Planning permission will only be granted for residential development on sites with capacity for between 10 and 14 dwellings or on sites of between 0.3 and 0.49 hectares, if provision is made for a minimum of 25 per cent affordable housing on-site.</p> <p>Furthermore, planning permission will only be granted for residential development on sites with capacity for 15 dwellings or more or on sites of 0.5 hectares or more, if provision is made for a minimum of 40 per cent affordable housing on-site.</p> <p><u>Planning permission will only be granted for residential development on sites where the minimum percentage of affordable housing has been secured on site in line with the thresholds and percentages set out in the table below:</u></p> <table border="1" data-bbox="735 1368 1310 1541"> <thead> <tr> <th data-bbox="735 1368 1023 1451"><u>No of dwellings</u></th> <th data-bbox="1023 1368 1310 1451"><u>Minimun percentage of affordable housing required</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="735 1451 1023 1480"><u>2-9 units</u></td> <td data-bbox="1023 1451 1310 1480"><u>10%</u></td> </tr> <tr> <td data-bbox="735 1480 1023 1509"><u>10-11-14 units</u></td> <td data-bbox="1023 1480 1310 1509"><u>25%</u></td> </tr> <tr> <td data-bbox="735 1509 1023 1541"><u>15 or more units</u></td> <td data-bbox="1023 1509 1310 1541"><u>40%</u></td> </tr> </tbody> </table> <p>On sites capable of delivering between 2 and 9 dwellings, financial contributions towards the provision of affordable housing off-site are considered acceptable. This does not prohibit on-site provision of affordable housing on sites of this scale, but recognises that circumstances may often not allow for delivery on-site.</p> <p>Where it appears that a larger site has been subdivided into smaller development parcels in order to circumvent the requirements of this policy, or for any other reason, the threshold and the <u>pro-rata</u> percentage of affordable housing sought will</p>	<u>No of dwellings</u>	<u>Minimun percentage of affordable housing required</u>	<u>2-9 units</u>	<u>10%</u>	<u>10-11-14 units</u>	<u>25%</u>	<u>15 or more units</u>	<u>40%</u>
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			<p>apply to the <u>requirement from the</u> larger area as a whole. The required density on a given site will need to have regard to its wider context and other policies of this plan. <u>All Developments of 11 dwellings or more, or on sites of less than 11 units if the combined gross internal floorspace of the proposed development exceeds 1,000 sqm will provide affordable housing.</u></p> <p>The occupation of affordable housing will be limited to people in housing need and shall be available in perpetuity. Affordable housing shall be provided on development sites with the capacity of 10 <u>11</u> dwellings or more in accordance with the percentages and thresholds set out above unless exceptional circumstances are demonstrated. Where affordable housing is provided, it shall be of tenure blind design indiscernible from and well integrated with the general market housing.</p> <p>Developments should include a balanced mix of dwelling sizes*, types and tenures to meet projected future household needs within Cambridge. The mix of dwellings and tenure types shall have regard to the differing needs for different unit sizes of affordable housing and market housing. and to the council's Affordable Housing Supplementary Planning Document in force at the time planning permission is applied for.</p> <p>All sites** including employment related housing will be required to make affordable housing provision in line with the thresholds and percentages set out above. <u>Affordable housing provision should be calculated on the basis that the thresholds are to be considered against the net increase in the number of units on the site.</u> <u>Further details on the practical implementation of this policy will be set out in an up to date Affordable Housing Supplementary Planning Document.</u></p> <p>*Measured by the number of bedrooms to be provided in each dwelling. <u>** Except for Starter Homes Exception Sites</u></p>
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Changes shown in **bold** text. Deletions ~~struck through~~. New text **underlined**.

Appendix B – Extracts from the NPPF 2018

63. Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount²⁸.

²⁸ Equivalent to the existing gross floorspace of the existing buildings. This does not apply to vacant buildings which have been abandoned.

Annex 2 Glossary

Major development⁷⁰: For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. For non-residential development it means additional floorspace of 1,000m² or more, or a site of 1 hectare or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

⁷⁰ Other than for the specific purposes of paragraphs 172 and 173 in this Framework.

Note that paragraphs 172 and 173 relate to National Parks, Areas of Outstanding Natural Beauty and Heritage Coastal areas only.