

**Agenda Item No: 9.7**

**Report No: 152/17**

**Report Title: New Affordable Housing Technical Note: Supplementary Planning Document (SPD)**

**Report To: Cabinet**

**Date: 13 November 2017**

**Cabinet Member: Cllr. Ron Maskell, Cabinet Member for Housing**

**Ward(s) Affected: All wards outside the National Park**

**Report By: Anthony Howell, Strategic Policy Officer**

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### **Purpose of Report:**

For Members to authorise the publication of the draft Affordable Housing Supplementary Planning Document (SPD) for public consultation with the local community and other stakeholders for an 8 week period.

### **Officers Recommendation(s):**

- 1** To approve the Affordable Housing SPD for publication for an 8 week consultation period to receive representations and comments.
- 2** To delegate authority to the Director of Strategy, Regeneration & Planning and in consultation with the Lead Cabinet Member to make minor amendments before the commencement of the consultation period.

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### **Reasons for Recommendations**

- 1** There is an ongoing and increasing need for the provision of affordable housing in the Lewes District, as rent costs and the price of home ownership rises.
  - 2** There are challenges regarding the delivery of affordable housing. A significant proportion of affordable housing is delivered through the planning system. The Affordable Housing SPD will provide the Council with a policy reference point with weight during negotiations, better enabling the Council to deliver much needed affordable dwellings.
  - 3** The SPD builds upon and provides more detailed advice and guidance on Core Policy 1 and Core Policy 2 of the Lewes District Local Plan Part 1 – Joint Core Strategy (2016). This will provide developers and housing providers with a useful reference point, making the planning process more efficient and effective.
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## Information

### 1 Introduction

- 1.1 There is an ongoing need for the provision of affordable housing in the Lewes District. Census data (East Sussex in Figures) demonstrates that overall, households within the District experienced a decrease in home ownership from 2001 to 2011, both in percentage of all households and number. The number of households renting in the private sector doubled over the period, with the percentage of households privately renting almost doubling. The increasing reliance on the private rented sector is likely to cause the cost of renting to increase and hinder those on relatively lower incomes to access housing in this sector. The Lewes District Local Plan Part 1 – Joint Core Strategy (2016) explains that long term pressures of housing supply and affordability remain.
- 1.2 A significant proportion of affordable housing is delivered through the planning system. As part of planning permissions, Local Plan policy requires that applicants for housing developments make a contribution towards the delivery of affordable housing, either onsite or elsewhere in the District.
- 1.3 To provide a detailed explanation in support of the implementation of Core Policy 1 and Core Policy 2 of the Local Plan, and in reference to changes in national policy and updated information on development viability, Lewes District Council is preparing a new Affordable Housing Supplementary Planning Document to set out the position relating to affordable housing contributions sought from development.
- 1.4 A Supplementary Planning Document (SPD) is a planning policy document that builds upon and provides more detailed advice or guidance on the policies in a Local Plan. SPDs are material planning considerations in the determination of planning applications.
- 1.5 The Affordable Housing SPD will provide detailed explanation in support of the implementation of Core Policy 1: Affordable Housing, and Core Policy 2: Housing Type, Mix and Density of the Lewes District Local Plan Part 1 – Joint Core Strategy 2010 - 2030 (adopted 2016). It contains advice relating to the standards required of the range of residential sites in order to deliver the affordable housing necessary to meet local needs.
- 1.6 Before the new SPD can be adopted, it is required to be published for consultation with the local community and other stakeholders. It is proposed that public consultation on the draft SPD should take place for an 8 week period between late November 2017 and late January 2018, in line with the principles set out in the Statement of Community Involvement. The draft Affordable Housing SPD is provided as Appendix A.

### 2. Background

- 2.1 The Lewes District Local Plan Part 1 – Joint Core Strategy contains Core Policy 1: Affordable Housing, which required a district wide target of 40% affordable housing from developments of 10 or more dwelling units. For developments of less than 10 units, affordable housing would be sought according to a stepped target which begins at 3 units. The level of affordable housing contribution may be determined on a site

by site basis where justified by market and/or site conditions, where the local planning authority is satisfied by robust financial viability evidence that development would not be financially viable at the relevant target level.

2.2 However, in November 2014 the Government published a Written Ministerial Statement (WMS) whereby developments of less than 11 units would be exempt from affordable housing contributions. The WMS also stated that in designated rural areas (i.e. the National Park part of the Lewes District), local planning authorities may choose to apply a lower threshold of 5 units or less. No affordable housing or tariff-style contributions should then be sought from these developments. In addition, in a rural area where the lower 5-unit or less threshold is applied, affordable housing and tariff style contributions should be sought from developments of between 6 and 10 units in the form of commuted sums. The Government restated this position in May 2016 through the Planning Practice Guidance. This means that Core Policy 1 could no longer be implemented as it was originally intended and contributions could only be sought from developments of 11 units or more, and from developments of 6 or more in designated rural areas in the form of a commuted sum.

2.3 The Affordable Housing SPD presents Lewes District Council's position regarding affordable housing, explaining the type of affordable housing to be sought, the indicative values used to calculate commuted sums, how any commuted sum payments will be calculated, takes account of the changes to the contribution thresholds, and also explains the considerations which will be taken into account when assessing the viability of development.

2.4 The Affordable Housing document previously took the form of a Policy Guidance. The Policy Guidance was consulted on from 1 September to 13 October 2016, and from 2 February to 2 March 2017. From these consultations, and with reference to the upcoming consultation for the Lewes District Local Plan Part 2, it is now thought that adoption of the Affordable Housing document as a Supplementary Planning Document would provide the Council with a detailed approach to compliance with policy, carrying weight during negotiations, enabling a more efficient planning system and contributing to the efforts of the Council to deliver much needed affordable homes.

### **3. Approach to Affordable Housing Contributions**

3.1 National Planning Guidance is clear that planning obligations, including those in the form of affordable housing contributions, should not prevent development from coming forward.<sup>1</sup>

3.2 In order to take account of development viability, the Affordable Housing SPD divides the District into 'High Value' and 'Low Value' Market Areas, based on research by the District Valuation Service and which reflects the disparity between house prices and impacts on the viability of development.

3.3 Since the introduction of the national thresholds, an affordable housing contribution will be required where a development results in the creation of 11 or more residential units, and 6 or more in designated rural areas (for developments of 6 – 10 units the contribution will be in the form of a commuted sum). The strong presumption is that the affordable housing contribution will be delivered onsite, unless offsite provision or

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<sup>1</sup> DCLG. (Revision date: 19 May 2016). Planning obligations. (Paragraph: 004; Reference ID: 23b-004-20150326). <https://www.gov.uk/guidance/planning-obligations>. Last accessed on 17/07/17.

a financial contribution (commuted sum) in lieu of onsite provision can be robustly justified.

3.4 Through Core Policy 1, the starting point for affordable housing contributions is set at 40% on developments of 11 or more units, in both 'High Value' and 'Low Value' Market Areas. For example, for a development of 15 residential units, the affordable housing contribution would be 6 affordable units (40% x 15 units = 6 units).

3.5 Where evidence proves this level of contribution will not result in a viable development, the contribution can be negotiated to a level that will enable the development to be viable.

3.6 The New Affordable Housing SPD sets out:

- Policy requirements for the delivery of affordable housing on all residential development sites;
- Type and standard of affordable housing that is likely to be sought;
- Assessment of financial viability of the development;
- Calculation of any commuted sum payments;
- Delivery agencies for the affordable housing.

#### **4. Planning Application Process**

4.1 The SPD provides a detailed summary of the stages involved in seeking affordable housing contributions, from the pre-application stage through to submission and determination of a planning application.

4.2 Applicants are encouraged to undertake pre-application discussions to discuss financial viability to deliver the affordable housing requirements. During these discussions, regard will be made to:

- The viability of development, considering the need and cost of supporting infrastructure on and off the site and any unavoidable and necessary site remediation to resolve environmental hazards;
- The location and character of the site;
- The tenure of affordable housing and type of dwelling units required in relation to the housing needs and the viability of specific developments;
- The current availability of affordable housing in the local area when measured against demand for such accommodation; and
- Any updated national policy and/or guidance to be implemented.

4.3 If a developer considers that the mandatory requirements of the affordable housing policy cannot be met on a particular site, the representation must be justified in an evidenced and 'open-book' financial viability assessment and supporting statement, including all necessary information to demonstrate and justify residual values. If the

independent opinion of a viability expert is required to corroborate the evidence, this cost will be at the expense of the applicant.

## **5. Commuted Sum**

- 5.1 If it is not possible to deliver affordable housing onsite or offsite, or if the required contribution results in a percentage of an affordable unit to be delivered, then a commuted sum payment will be considered. The SPD sets out how commuted sums will be calculated.
- 5.2 The SPD sets out an affordable housing payment table, which identifies the required financial contribution per square metre for different types and sizes of development, arranged by market value area. This is used to calculate the total financial contribution required to contribute to affordable housing.
- 5.3 Further analysis and a comparison of developments whereby market housing with affordable housing is provided, and market housing with no affordable housing provision but with a commuted sum provided, is set out in the relevant background papers. The background papers indicate that the value of a development to a developer is higher when they provide no affordable housing and instead pay a commuted sum, than if they provide 40 per cent affordable housing onsite (with a commuted sum for 0.4 of a unit).

## **6. Delivery**

- 6.1 The Homes and Communities Agency (HCA) is responsible for registering and regulating providers of social housing. The HCA maintain a Statutory Register of Providers of Social Housing, which lists private (both not for profit and for profit) and local authority providers. However Lewes District Council is willing to work with housing providers which are not registered with HCA as well as those housing providers which are registered with HCA, in order to maximise the opportunities to provide affordable housing in the Lewes District. Affordable housing should be delivered by one of the housing providers which have a strong stake within the area. The choice of housing provider should be agreed upon by the developer with the Council.
- 6.2 For all planning applications where an affordable housing requirement has been agreed, applicants will be required to sign a Section 106 Agreement. The purpose of the agreement is to ensure that the affordable housing complies with the Council's housing and planning policies, to help ensure that the affordable housing is offered to those local people most in need and to require that it is retained as affordable housing in the future.

## **7. Consultation**

- 7.1 It is proposed that public consultation on the draft Affordable Housing SPD should take place for an 8 week period between late November 2017 and late January 2018.
- 7.2 Consultation on the SPD will follow the principles set out in the Statement of Community Involvement.
- 7.3 Following the consultation period, a summary of representations will be prepared and any revisions to the Affordable Housing SPD will be presented to Cabinet for endorsement and then Full Council for approval.

7.4 Lewes District Council was statutorily obligated to undertake a five week consultation on the New Affordable Housing Technical Note: Supplementary Planning Document Screening Report (see Appendix B) with the three statutory consultees of Natural England, Historic England, and the Environmental Agency. This consultation took place between 21 August and 25 September 2017. Neither of the three organisations have provided comments.

## **8 Conclusion**

8.1 A New Affordable Housing Technical Note: Supplementary Planning Document has been drafted to provide detailed explanation in support of the implementation of Core Policy 1: Housing and Core Policy 2: Housing Type, Mix and Density of the Lewes District Local Plan Part 1 – Joint Core Strategy. Specifically, the SPD has been drafted in reference to affordable housing contributions. The SPD reflects changes in national policy and development viability in the Lewes District.

8.2 Before the Affordable Housing SPD can be adopted, it requires public consultation. This is proposed to take place in accordance with the consultation principles set out in the Statement of Community Involvement. Following consultation, comments will be considered and adoption is anticipated for Spring 2018.

8.3 Cabinet are requested to authorise consultation with the local community and other stakeholders on the draft Affordable Housing SPD for an 8 week period between late November 2017 and 22 January 2018.

## **Implications**

### **9 Financial Appraisal**

9.1 There are no financial implications to the Council as a direct result of this report. The cost of the consultation and publication of the Affordable Housing SPD will be met from the service budget.

### **10 Legal Implications**

10.1 The Affordable Housing SPD has been prepared in order to comply with Regulation 13 of the Town & Country Planning (Local Planning) (England) Regulations 2012, and with regard to the requirements of the National Planning Policy Framework.

10.2 Regulation 12 requires that before the SPD is adopted, a statement setting out details of those consulted when preparing the SPD together with a summary of the main issues raised, must be prepared. Any relevant issues raised during the consultation will need to be addressed in the SPD. (Date of Legal Advice: 31 July 2017 - Legal Ref: 6543 –LDC-JCS).

### **11 Risk Management Implications**

11.1 The District Council's reputation and ability to facilitate housing development may be hindered if the SPD is seen by developers as overly stringent. However, the SPD states that the Council recognises there will be variation in circumstances, and will assess each development on a site-by-site basis. The SPD has been drafted with a focus on discussions and collaboration rather than taking a prescriptive approach.

## **12 Equality Screening**

- 12.1 An Equalities and Fairness Impact Assessment has been undertaken. The assessment demonstrates that the Affordable Housing SPD is unlikely to have any significant impact on equalities and fairness.

## **13 Background Papers**

- Lewes District Local Plan Part 1 – Joint Core Strategy (2016)
- Affordable Housing – Commuted Sum Comparison – 11 dwellings
- Commuted sum comparison
- Equalities and Fairness Impact Assessment

## **14 Appendices**

Appendix A: New Affordable Housing Technical Note: Supplementary Planning Document

Appendix B: New Affordable Housing Technical Note: Supplementary Planning Document Screening Report