

Report for Decision

Report to Cabinet
14 December 2011

Report of Head of planning services

Subject Interim statement on the off-site provision of affordable housing

Item

9

Purpose

To identify issues with the implementation of JCS policy 4 with regard to the provision of affordable housing and suggest in certain limited circumstances it may be justifiable, in the light of government policy and local circumstances, to allow payment of a contribution in lieu of provision on site. An interim statement allowing the acceptance of such contributions is proposed alongside a scale of charges.

Recommendations

To endorse the interim statement attached as appendix 2, publish it on the website and agree regard should be had to it in determining planning applications with immediate effect.

Financial Consequences

There are no direct financial consequences for the council relating to endorsing this document. However, if the proposed policy document is endorsed this is likely to result in additional sec 106 funding being received by the Council. Any such funding will be ring fenced and only able to be spent on the provision of affordable housing. If the interim statement increases the amount of planning and development activities there may also be financial impacts associated with planning fees and new homes bonus payments to the Council.

Risk Assessment

Not applicable.

Strategic Priority and Outcome/Service Priorities

The report helps to meet the strategic priority "Strong and prosperous city – working to improve quality of life for residents, visitors and those who work in the city now and in the future" and the service plan priority to deliver the Local Development Framework for Norwich

Cabinet Member: Cllr Bremner

Ward: All

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Background Documents

None

Report

Background

1. In March of this year the council adopted the Joint Core Strategy. The adoption saw a significant change in policy towards housing and provision of affordable housing in particular. Prior to March policy had been contained in the City of Norwich Local Plan (particularly policy HOU4) and this was elaborated by a supplementary planning document (SPD) on affordable housing that was adopted in October 2009. In March this policy framework was superseded by policy JCS 4 and both HOU4 and the SPD ceased to be part of the development plan for Norwich.
2. In summary the framework that existed prior to March provided for an element of affordable housing to be provided on all housing sites of 25 dwellings or more. The proportion of affordable housing was the subject of negotiation on a case by case basis but the SPD set a target requirement of 40%, albeit one that could be reduced if evidence could be produced to demonstrate that a development was not viable was this level of provision.
3. The approach in JCS4 differs in two respects. It reduces the threshold at which the requirement for provision of affordable housing is applied and the target level of provision is specified in the policy. A proportion of affordable housing is now sought on all sites providing 5 or more dwellings (net). The proportion sought varies depending on the number of dwellings proposed or size of the site: 20% for 5-9 dwellings, 30% for 10-15 dwellings and 33% for 16 dwellings or more. The policy still provides for the proportion of affordable dwellings sought to be reduced where development would be unviable.
4. It should be noted that both HOU4 and JCS4 sought provision for affordable housing to be made on the site concerned. Neither policy set a framework to allow provision for affordable housing to be made off-site. However, the previous SPD did allow where a proposal was not viable consideration to be given to whether an off-site contribution would achieve an improved number or range of affordable housing in certain circumstances.

Affordable housing need and issues with delivery

5. The need for affordable housing is determined by the September 2011 update to the Strategic Housing Market Assessment. The current requirement in Norwich is for 677 new affordable dwellings each year to meet the identified need of which 651 should be for social rent or at lower intermediate levels and it is recognised that the demand for affordable housing is growing ever greater with the lack of availability of mortgages.
6. The scale of the challenge involved in meeting these needs cannot be overstated. In both 2009/10 and 2010/11 the total number of net housing completions in Norwich has been below these levels (at around 400 homes in each year) with the proportion of these dwellings which are affordable being 30% in 2010/11. It would appear that the numbers of those in housing need is likely to increase at a rate faster than the likely rate of provision of affordable

housing irrespective of the measures taken to increase supply. The greatest level of need currently identified is for housing suitable for families with children although the impact of future benefit changes may increase need for other forms of housing in future.

7. The field of affordable housing delivery has changed considerably recently. The funding regime for Registered Providers (RPs) of social housing has changed, the availability of grant support to assist with the provision of affordable housing on sites being developed for open market housing is much reduced, the affordable rented tenure is being promoted by government and a number of RPs are re-examining their business models and are reducing their development activity. Combined with increased build costs, increased costs of capital and a general risk aversion this has resulted in some uncertainty in the market and an increased reluctance of RPs to take on management of certain types of properties.
8. As this period of change has coincided with continued challenging conditions in the development market and the implementation of the reduced threshold for sites where affordable housing is required there have been particular challenges in seeking to negotiate acceptable proportions of affordable housing on site. These problems have been particularly acute in relation to relatively small sites where flatted development is proposed.

Issues around on-site and off-site provision and flexibility in planning

9. Seeking provision for affordable housing to be made on-site is an important and longstanding aspect of government planning policy. On-site provision is favoured as it ensures that affordable housing is integrated with open market housing thereby reducing any stigma that may be associated with affordable housing and promoting social cohesion.
10. This approach is embodied in current Planning Policy Statement 3 (Housing) which states (in para 29) that: "In seeking developer contributions, the presumption is that affordable housing will be provided on the application site so that it contributes towards creating a mix of housing. However, where it can be robustly justified, off-site provision or a financial contribution in lieu of on-site provision (of broadly equivalent value) may be accepted as long as the agreed approach contributes to the creation of mixed communities in the local authority area."
11. This approach is essentially proposed for retention in the National Planning Policy Framework (NPPF). The draft NPPF published in July 2011 proposed where local authorities have identified the need for affordable housing they should: "set policies for meeting this need on-site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified ... and the agreed approach contributes to the objective of creating mixed and balanced communities".
12. The consideration of flexibility in the planning system is also relevant to this matter. In a ministerial written statement on planning for growth issued in March this year the Rt Hon Greg Clark MP effectively urged local authorities to be flexible with planning requirements to allow development to proceed. He stated to "ensure that development can go ahead, all local authorities should

reconsider, at developers' request, existing sec 106 agreements that currently render schemes unviable, and where possible modify these obligations to allow development to proceed; provided this continues to ensure that the development remains acceptable in planning terms." He went on to indicate that the Secretary of State will take these principles into account when determining applications that come before him for decision with significant weight being attached to the need to secure economic growth.

13. The City Council had previously already agreed an approach to allowing development to proceed in circumstances where this may be considered acceptable notwithstanding the full range of planning requirements rendering a scheme unviable. This prioritisation framework was originally agreed by Executive in May 2009 and an updated version was agreed by Cabinet in March 2011 shortly before the statement from Mr Clark was issued.
14. The prioritisation framework sets an approach (for use by Officers and Planning Applications Committee when determining individual planning applications) for ranking requirements for developer contributions which may be covered by planning conditions, s.106 agreements or planning obligations. The Framework is based on attributing a ranking of requirements based on the following categories (listed in priority order): 1) site specific critical requirements; 2) essential policy requirements (including affordable housing); and 3) other related requirements. The framework acknowledges that the ranking of these factors is ultimately a matter of judgement and allows for local member and portfolio holder input into this process.

Proposed Interim Statement

15. In the light of the assessment set out above both in relation to the need for affordable housing and the problems with delivering it, and with regard to flexibility being urged in the planning system by government. Officers have examined the possibility of introducing an interim statement designed to examine the circumstances where a financial contribution to allow provision for affordable housing to be made off-site may be considered acceptable and not to undermine the objective of creating mixed and balanced communities. The issues are finely balanced but Officers tend to the view that the benefits of introducing such a statement outweighs the disbenefits.
16. The interim statement was considered by Sustainable Development Panel on 2nd December who supported its preparation and agreed to recommend its endorsement to Cabinet.
17. A draft of this possible statement is attached and three particular circumstances have been identified where it is considered that departures from policy JCS4 may be justifiable. All such proposals would need to be considered on a case-by-case basis, the portfolio housing for planning would be informed and decisions will ultimately rest with the Planning Applications Committee. In summary these circumstances are:
 - On any site where there is insufficient viability to justify provision of a single social rented dwelling on the site (this would allow pooling of small contributions to deliver housing elsewhere);

- On relatively small sites proposed for flatted developments (typically developments of 15 or fewer units on sites of 0.2ha or less) where it can be demonstrated that RPs are reluctant to take on the management of a small number of affordable units; and
- On small to medium sites with exceptional factors which would not be attractive to RPs and where it is capable of using contributions in lieu to deliver more affordable units off-site than would have been provided on-site elsewhere in the local area.

18. Officers have also examined the level at which contributions would need to be made in order to ensure a level of provision of affordable housing off-site of equivalent value to that which would have resulted from meeting the policy on-site. There are various means of doing this but the favoured method is to calculate a figure based on the saleable floorspace proposed and reflecting the level of affordable housing and tenure split that would have been required. Due to the varying level of floorspace in flatted development this is considered to be more robust than charging on a per bed room basis. It would also enable contributions raised from one form of private development to be used to fund a different form of affordable housing development.

19. It should be noted that as with the requirement for provision of on-site affordable housing, where provision off-site is considered appropriate and a scheme can be demonstrated to be unviable, then it will still be possible for the level of contribution to be reduced in accordance with the prioritisation framework. It does not necessarily follow that where such a viability exercise is conducted and this shows a development only to be viable with a minimal contribution to affordable housing that the development will itself be acceptable. A balanced judgement will need to be taken on whether the benefits of the development outweigh any disbenefits including the need to secure mixed and balanced communities. In reaching this view the local planning authority will need to have regard to all relevant material considerations including the issues of precedent and possible cumulative impacts. It is anticipated that in view of the levels of need for affordable housing in Norwich it will be very hard to justify any scheme with minimal levels of contribution to provision of affordable housing in this context.

20. Any statement that is issued will need to be issued on an interim basis pending the preparation of either a revised Supplementary Planning Document on Housing and/or the introduction of the Community Infrastructure Levy (CIL). CIL in particular may have a significant impact on policy in this area as the government is currently consulting on whether CIL receipts should be able to be used to fund affordable housing. If CIL is introduced and receipts are allowed to be used on affordable housing then this may restrict the ability of the local authority to pool planning obligations to contribute to the provision of affordable housing.

21. The City Council's draft response to the latest CIL consultation should be considered as a separate agenda item at this meeting.

Appendix 1 – Proposed methodology for Calculation of payments for affordable housing provision in circumstances where provision off-site is considered acceptable

Social Rent

Property Type	Land costs (a)	Build cost (b)	On Costs	Total Scheme Costs	RP / LA Borrowing (c)	Cost (d)	Typical floorspace* (sq m) (e)	Cost per sq m (d/e) (f)
Studio	15,000	24,000	2,925	41,925	-£7,824.58	£34,100.42	20	£1,705.02
1B2P	15,000	61,200	5,715	81,915	-£12,897.49	£69,017.51	51	£1,353.28
2B3P	15,000	79,200	7,065	101,265	-£19,015.72	£82,249.28	66	£1,246.20
2B4P	15,000	92,400	8,055	115,455	-£22,167.07	£93,287.93	77	£1,211.53
3B5P	15,000	111,600	9,495	136,095	-£28,300.68	£107,794.32	93	£1,159.08
4B6P	15,000	127,200	10,665	152,865	-£34,403.55	£118,461.45	106	£1,117.56
Average	15,000	82,600	7,320	104,920	-£20,769.87	£84,150.13	68.83	£1,222.52

Shared Ownership - 25% equity sold

Property Type	Land costs (a)	Build cost (b)	On Costs	Total Scheme Cost	Value to RP (c)	Value to tenant (d)	Cost (e)	Typical floorspace* (sq m) (f)	Cost per sq m (d/e) (g)
Studio	£15,000	£24,000	£2,925	£41,925	-£11,775.30	-£16,250	£13,899.70	20	£694.99
1B2P	£15,000	£61,200	£5,715	£81,915	-£22,751.23	-£25,000	£34,163.77	51	£669.88
2B3P	£15,000	£79,200	£7,065	£101,265	-£29,038.56	-£30,000	£42,226.44	66	£639.79
2B4P	£15,000	£92,400	£8,055	£115,455	-£33,742.53	-£33,750	£47,962.47	77	£622.89
3B5P	£15,000	£111,600	£9,495	£136,095	-£41,582.48	-£40,000	£54,512.52	93	£586.16
4B6P	£15,000	£127,200	£10,665	£152,865	-£47,869.81	-£45,000	£59,995.19	106	£565.99
Average	£15,000	£82,600	£7,320	£104,920	-£31,129.21	-£31,667	£42,124.12	68.83	£611.97

*Net internal

Average cost of provision of affordable floorspace is therefore calculated to be $0.85 \times £1222.52$ plus $0.15 \times £611.97 = £1130.94$ per sq m

Total contribution due therefore equals net internal floorspace of open market housing proposed x 0.20 (if 5-9 dwellings proposed), or 0.30 (if 10-15 dwellings proposed), or 0.33 (if 16 or more dwellings are proposed) x £1130.94. Plus flat fee of £1000 to cover legal charges associated with land transfer.

Figures correct at Oct 2011 - to be updated in Jan 2013 and annually in Jan thereafter.

Interim Statement on the off-site provision of affordable housing in Norwich.

Introduction

1. This note sets out the circumstances in which it is considered that off-site provision of affordable housing may be acceptable as a departure from adopted Joint Core Strategy policy 4 (JCS4). It also addresses how payments in lieu of affordable housing will be calculated in these circumstances.
2. It is intended that this interim note will be superseded by either the adoption of a new affordable housing supplementary planning document (SPD), or the adoption of a Community Infrastructure Levy, whichever is the sooner. Both these are expected to occur late in 2012.

Background

3. Norwich City Council adopted the JCS for Broadland, Norwich and South Norfolk in March 2011. At this point the JCS became part of the development plan for Norwich, superseding affordable housing policy set out in policy HOU4 of the Replacement Local Plan and its supporting Supplementary Planning Document. Policy 4 in the JCS concerns Housing Delivery and, among other things, sets out the following policy towards the provision of affordable housing:

“A proportion of affordable housing, including an appropriate tenure mix, will be sought on all sites for 5 or more dwellings (or 0.2 hectares or more). The proportion of affordable housing, and mix of tenure sought will be based on the most up to date needs assessment for the plan area. At the adoption of this strategy the target proportion to meet the demonstrated housing need is:

- On sites for 5-9 dwellings (or 0.2 – 0.4 ha), 20% with tenure to be agreed on a site by site basis (numbers rounded, upwards from 0.5)
- On sites for 10-15 dwellings (or 0.4 – 0.6 ha), 30% with tenure to be agreed on a site by site basis (numbers rounded, upwards from 0.5)

- On sites for 16 dwellings or more (or over 0.6 ha) 33% with approximate 85% social rented and 15% intermediate tenures (numbers rounded, upwards from 0.5)

The proportion of affordable housing sought may be reduced and the balance of tenures amended where it can be demonstrated that site characteristics, including infrastructure provision, together with the requirement for affordable housing would render the site unviable in prevailing market conditions, taking account of the availability of public subsidy to support affordable housing.”

4. This policy introduced a significant change to the previous policy on affordable housing provided by the City of Norwich Local Plan (adopted 2004) policy HOU4 and its associated SPD (adopted Oct 2009). The JCS policy was supported by a wealth of evidence and policy guidance and was subject to considerable debate and examination before it was adopted.
5. The previous approach required a higher proportion of affordable housing to be delivered (40%) but only required any provision to be made on sites delivering 25 dwellings or more.
6. Provision of affordable housing on-site is the city council’s preferred method, and is also the preference set out in government guidance. This promotes social inclusion and the design of individual sites should also take account of this objective.
7. JCS policy 4 seeks provision of affordable housing on site to meet this objective. However, in relation to some sites this can create certain practical difficulties and tensions with other policy objectives such as the minimum density requirement leading to flatted forms of development where high service charges or small floor areas may make the dwellings unattractive to Registered Providers (RPs). It is also recognised that the viability of providing affordable housing on site for some developments maybe difficult in the current housing market and that the RP capacity to take on affordable dwellings on private developments is limited at present.

Circumstances in which off-site provision may be acceptable

8. In accordance with current and emerging government policy to secure balanced and cohesive communities, the provision of affordable housing on-site in accordance with JCS4 is favoured and will remain the starting point in all cases. However, in the light of government statements about the need for flexibility in the planning system and in recognition of the need to stimulate the development economy to increase the rate of provision of homes and jobs it is considered that there are three circumstances where provision of a contribution to allow affordable housing to be provided off-site may be acceptable. These are:
 - 1) On any site where after an open-book viability has been conducted (and accepted by the Council after independent assessment) that demonstrates that a site is not sufficiently viable to enable the provision of a single social rented dwelling on the site;
 - 2) On relatively small sites proposed for flatted developments (typically developments of 15 or fewer units on sites of 0.2ha or less) where it can be demonstrated that RPs are reluctant to take on the management of a small number of affordable units. In these cases developers will be expected to provide written evidence that no RP is willing to take on the unit(s). The housing development team will contact the relevant RPs on behalf of the developer if requested.
 - 3) On small to medium sites with exceptional factors which would not be attractive to RPs (evidence of this will be required), such as inappropriate floor areas or high service charges, and where it is capable of using contributions in lieu to deliver more affordable units off-site than would have been provided on-site (or the same number of units but in a form that better meets established local needs) elsewhere in the local area.
9. In these circumstances it may be considered acceptable for a commuted sum to be accepted in lieu of the provision of affordable housing on site. It

will be up to the developer to demonstrate that the constraints associated with development of the site make it impractical for development to be brought forward in a form which may be more attractive to RPs and that RPs are not prepared to manage units as proposed. City Council Officers can advise further about the level of evidence that will be necessary to be submitted in relation to both matters.

10. Where off-site provision is accepted it may be necessary to revisit viability assessments to ensure that these adequately reflect values associated with development with no affordable provision.
11. A schedule of level of payments that will be accepted in lieu of provision on site is set out in appendix 1. These are set at a level that will enable the City Council to typically deliver a unit equivalent in type to the those being provided on the site proposed for development i.e. a site providing for 5 one bedroom flats and not able to provide an affordable unit on site will be expected to make a contribution sufficient to provide for a one bedroom flat as part of another development elsewhere in the City. Appendix 1 will be reviewed annually to ensure it is kept up to date with changing costs.
12. The level of contribution may be reduced only if an open-book viability assessment has been agreed demonstrating that the full level of provision would render the development unviable. Any such proposals will also need to comply with the Council's published approach towards prioritisation in the event of development being unviable.

Contacts

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