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South Hams District Council

**AFFORDABLE HOUSING DEVELOPMENT PLAN DOCUMENT
SUBMISSION STAGE**

Representations by Levvel Ltd

On behalf of

McCarthy & Stone (Developments) Ltd

March 2008 (Ref: PS/840)



Introduction

Levvel has been appointed by McCarthy and Stone (Developments) Ltd to make representations on the Submission Stage of the Affordable Housing Development Plan Document (DPD), issued by South Hams District Council for consultation closing in March 2008. We have made separate representations on the Council's draft Affordable Housing Supplementary Planning Document.

Levvel is a housing consultancy specialising in the planning and delivery of affordable housing. We have considerable expertise in the negotiation, co-ordination, funding and implementation of the full range of affordable housing initiatives.

Our clients are major landowners, developers, house-builders and housing associations. We work nationally providing advice on the planning and delivery of affordable housing and we are currently involved in negotiations to deliver well over 40,000 homes over the next decade.

In the course of the last 5 years, we have carried out detailed reviews of nearly 300 local authority affordable housing policies. We aim to influence policy at local, regional and national levels on behalf of the house building industry, including the Home Builders Federation. This work has included representations on national and regional policy and acting as an expert witness at Development Plan Inquiries and Planning Appeals.

Approach to this Consultation Response

In responding to the Submission Stage Affordable Housing DPD, we have considered the current adopted local planning policy, the relationship of the proposed approach to regional and national planning policy, the relationship to the adopted LDF Core Strategy and, particularly, the tests of soundness set out in PPS12¹ and guidance on the delivery of housing contained in PPS3 and the Government's affordable housing policy statement 'Delivering Affordable Housing'.

Our consultation response focuses on the affordable housing issues raised in the Submission Stage DPD and the potential impact this may have on the delivery of an adequate supply of housing to meet county, regional and national planning requirements. Our response is structured to focus on the 5 Affordable Housing Policies within the draft DPD, and accompanying explanatory text.

Policy AH1: Affordable Housing Provision

The Policy seeks to reduce the threshold for the provision of on-site affordable housing from the national minimum threshold of 15 dwellings in PPS3 to a threshold of 6 dwellings, justified on the basis of PPS3, which indicates that lower thresholds can be set "where viable and practicable" and the findings of the Council's 2007 Affordable Housing and Development Viability Study.

We do not seek to question the basic methodology behind the Viability Study, which appears to be based on the industry standard approach of residual land valuation, but we would query whether this study, together with other elements of the evidence base provide the

¹ Paragraph 4.24, PPS12, ODPM 2004



required PPS3 test of viability and practicability for reducing thresholds below the national figure.

The Viability Study, paragraph 20, does indicate that the consultant's preferred approach would be a requirement for on-site affordable housing at a threshold of 6 dwellings. But, paragraph 21 of the study goes on to say:

"In our view, the Council would also need to demonstrate the wider justification for lowering thresholds in terms of need, local site supply and market characteristics."

Although the Council has undertaken a Housing Market and Needs Analysis (HMNA), which demonstrates an affordable housing need, there is no evidence presented to demonstrate that lowering thresholds will increase overall affordable housing provision. Indeed, the evidence suggests the contrary. In particular, the supply of smaller sites is likely to decrease over time, indicating that the reduction in thresholds will have little impact. The Council's Housing Review, for example, paragraph 5.14, indicates that the current rate of windfall units (the main source of small site supply) is expected to gradually decline due to a diminishing supply of development potential. It must, therefore, be questioned whether reducing the on-site threshold in manner proposed will actually result in any increase in affordable housing, purely on the grounds that land supply from smaller sites is expected to further reduce.

In addition, although the Viability Study suggests that provision on smaller sites might be viable at lower overall affordable housing percentages, there is evidence from the Council's own monitoring and from the Inspector's Report into the Core Strategy that high affordable housing policy requirements are stifling the supply of market housing in the District. In coming to his conclusions on overall affordable housing requirements, and thresholds, the Inspector noted (paragraph 9.19):

"...I take particular account of the low completion figures for market and affordable units in recent years, which representors say is a result of the current high targets and low thresholds for affordable housing provision, **especially on smaller sites.**" (my emphasis)

The Council's 2006/2007 Annual Monitoring Report further demonstrates that delivery is still lagging far below overall Structure Plan requirements, with annual completions of 222 compared with the annualised requirement of 667. The AMR also indicates that much of the future provision is expected to come forward through the Sherford New Community Development, rather than through the existing urban areas. This again indicates that the scope for delivery on smaller sites will be limited and, therefore, concerns remain that lower thresholds will continue to act as a deterrent in bringing sites forward for development.

The proposed reduction in thresholds is unsupported by the findings of the Core Strategy Inspector or by a robust and credible evidence base and therefore fails Tests of Soundness iv and vii. Failure to set policy in line with other elements of adopted policy also fails Test of Soundness vi, which requires a consistent approach across the LDF. In the absence of clear evidence to support the proposed policy, the DPD should retain the existing PPS3 national threshold of 15 dwellings.

Policy AH2: Allocated Sites and Policy AH3: Unallocated Sites

Before considering the detailed proposals of each policy separately, it is necessary to firstly consider the justification for a difference in approach, both in thresholds and affordable housing percentage, for sites allocated through the DPD process and windfall sites emerging over time.



There is no justification set out in the DPD, or the accompanying Viability Study, for why a different approach should be adopted for allocated and windfall sites. Similarly, there is nothing in PPS3 to support such a distinction in terms of the operation of affordable housing policy.

The fundamentals of affordable housing viability and the methodology for assessing it will be the same for both allocated and windfall sites and, therefore, the approach to provision should be the same. This is not to say that the proportion of affordable housing that is viable will not differ between sites, it will, but this would need to be established via a site specific viability exercise of the kind recommended in the Council's Viability Study, and not pre-judged by assuming a different approach between allocated and windfall sites.

Further, the approach leads to internal inconsistencies in the way that policy is applied. For example, windfall sites in rural areas would attract a lower affordable housing requirement than allocated, despite the fact that costs, needs and infrastructure requirements are likely to be similar. This approach would seem to frustrate the implementation of the Plan led system in South Hams, as there will be no incentive for developers to bring sites forward for inclusion in the LDF. Without the certainty of development, the Council will not be able to demonstrate the rolling 5 year land supply required to ensure that its housing trajectory and policy can be delivered.

This approach, therefore, fails to meet Tests of Soundness iv, vi and vii.

Policy AH2: Allocated Sites

The Policy seeks to deliver as much affordable housing as is viable on allocated sites, setting 3 different levels of provision for the Plymouth Urban Fringe, the Area and Local Centres and Rural Areas. Whilst such a differentiation between areas in the district would be in line with the basic principles set out in PPS3, it is questionable whether this approach is fully supported by the results of the Viability Study and it would appear to ignore the clear advice of the Core Strategy Inspector.

Whilst the Viability Study did suggest this approach as a potential policy option, elsewhere in the assessment there is significant concern at the impact of such levels of affordable provision on delivery and the overall viability of development. For example, paragraph 27 suggests:

"We do not consider that a proportion of more than 50% affordable housing is likely to be a sustainable target, viability-wise, on a broadly applicable or District-wide/blanket basis."

Paragraph 28 goes on to say, in relation to targets of over 50%:

"The likelihood is that significant grant or other public funding might be needed to support such an approach ... or more flexibility may need to be exercised on tenure mix."

The Core Strategy Inspector also considered the issue of varying affordable housing percentages, concluding that there was no evidence of significant variation in housing need and that higher requirements in some parts of the district could act as a deterrent on housing development in these areas relative to other parts of the district. Such an approach would be "unreasonable as well as impracticable" and would be contrary to the intentions of the Core Strategy and the overarching spatial strategy. The Inspector concluded, at paragraph 11.18:



“Accordingly, I conclude that a consistent strategic target for affordable housing should be adopted across the district...”

In paragraph 13.4, the Inspector also indicates:

“In addition to the robust and credible evidence of a high level of local need in the South Hams, even in national terms, the above reinforces the conclusion that 50% is an appropriate and more practical strategic target for the district as a whole. It also has the advantages of consistency and clarity for all concerned, as well as being more straightforward to implement in practice.”

We would contend that no additional evidence has been presented by the Council to justify why such an approach, rejected by the Core Strategy Inspector, should now be supported. The proposed differentiation is therefore not supported by the 50% target in the Core Strategy, the overarching spatial strategy and therefore fails Tests of Soundness iv, vi and vii. The policy should seek provision at the level of 50% set by the Core Strategy on a consistent basis across the District.

Policy AH3: Unallocated Sites

We have already referred above to the principle of setting thresholds below those in PPS3, concluding that such thresholds cannot be supported by evidence of affordable housing delivery and may actually reduce the scope to deliver market housing. We have also concluded that overall affordable housing targets should reflect the strategic 50% target set in the Core Strategy for the district as a whole.

Whilst the principle of a sliding scale of contributions has been considered in the Viability Study and would appear to be supported in some circumstances, we have concerns that applying affordable housing requirements to smaller sites would actually frustrate the future supply of such sites, impacting upon the Council's ability to deliver not only affordable housing, but also market housing at the level required by strategic policy. We also have concerns that the generic viability study undertaken does not take sufficient account of the particular nature of small windfall sites, how they are brought forward and the implications of affordable requirements on overall development viability.

Specifically, such windfalls tend to be previously developed urban sites with an existing or alternative use value, often currently in existing residential use. Our experience working with house builders and development companies nationwide suggests that, to bring such sites forward for development, a house builder may well have to pay a premium over and above the market value of the land and this will have a significant impact on whether a scheme is viable with or without affordable housing.

In this regard, we would again draw attention to the detailed findings of the Viability Study, which indicates in paragraph 4.34:

“In a high value area such as South Hams, regardless of policy positions or site realities, starting land value expectations tend to be higher. Therefore although on some occasions there looks to be scope to erode value, this may be more limited than it appears due to owners' views and perceptions.”

The proposed approach is, therefore, not supported by the current evidence base and is contrary to Test of Soundness vii



Policy AH4: Mix, Size, Type and Tenure

i) Mix, Size and Type

The DPD indicates that the mix of affordable housing on site should reflect housing needs in the district and contribute towards mixed and balanced communities. We have no objection to the principle of mixed and balanced communities, a concept which clearly has the support of national policy in PPS3, but the mix required on a specific site should have regard to more than simply the identified affordable housing need in the district. It should also reflect the nature of development being proposed and particularly the needs associated with this type of development.

McCarthy & Stone provides specialist sheltered and extra care housing for the elderly. A key characteristic of which is the provision of self contained apartments, but with a range of communal facilities and services provided on-site and financed through a weekly service charge. Whilst it is difficult to generalise about the nature of the sites on which McCarthy & Stone develop, they do display several key characteristics that will be critical in addressing issues of mix, size, type and tenure. Specifically, sites are required in areas within easy, reasonably level, walking distance of a range of facilities and services. This tends to support sites within or close to established centres, meaning that sites are often relatively small in size and previously developed. To generate a viable scheme on a small site, sheltered developments are, therefore, often built at higher density than the surrounding development.

The predominance of smaller, higher density sites, means that in many circumstances it is inappropriate to seek a mix of either dwelling types or, more normally, tenures within such developments. Sites are often too small to allow for separate blocks of affordable and market sheltered accommodation and there are well established managerial and service charge constraints on mixing tenures within a single block – these constraints have been accepted by many local authorities across the country and upheld on numerous occasions at appeal. Consequently, the only practical way of delivering affordable housing in association with sheltered schemes is often through the provision of a commuted sum to allow provision elsewhere within a local authority area.

We would argue that the specialist nature of sheltered and extra care housing provision is such that specific reference should be made within Policy AH5 to the practicalities of provision of affordable housing on such schemes, with specific provision made within Policy for any affordable housing contribution to be met through the provision of a commuted sum.

The Council's own HMNA indicates an ageing population whose specific housing needs will have to be addressed. National policy also supports increased provision for older people, as evidenced by the recent launch of the Government's Strategy for Housing in an Ageing Society. The proposed changes we have suggested would ensure that affordable housing policy reflects this growing need and ensures it is addressed in a sound and robust manner.

ii) Tenure Split

In terms of the proposed tenure split, the DPD proposes a 60:40 social rented: intermediate split, suggesting that this is supported by the detailed findings of the Council's HMNA. Whilst the HMNA does indicate that there is a significant affordable housing need and a significant need for social rented provision, it also indicates a strong demand for intermediate products, with particular growth noted over the past 5 years. In terms of the actual tenure split, therefore, the HMNA, in paragraph 2.12.1 indicates:



“Policy CS3 (of the Submission Draft Core Strategy) proposes a 50/50 apportionment and in the light of the scale of need and preference expressed for shared ownership from 220 existing and concealed households each year this ratio we believe will most effectively address current and future need and deliver balanced and stable communities.”

Consequently, in light of the findings of the HMNA, we would argue that the proposed tenure split is not supported by the evidence base and should be amended to ensure that it meets Test of Soundness vii.

We would, however, support the final sentence of the policy, that the specific split should be determined with regard to local circumstances, although we would propose that this should be extended to include reference to the need for the development to be supported by a site specific viability appraisal. We would also suggest that, to accord with the requirements of PPS3 and Delivering Affordable Housing (paragraph 94), the policy should address the need for a Cascade Mechanism to reflect site specific circumstances. Specifically, the policy should indicate that, if additional grant is not forthcoming, then either the tenure mix should change to allow a greater level of intermediate provision, or the overall number of affordable units required should be reduced.

Again, this is a position supported by the Viability Study which indicates (paragraph 5.1.4) that the Council will need to monitor scheme finances and grant requirements, and as part of its adaptable approach will need to consider the potential for using “cascade” discussions and mechanisms within s106 agreements to potentially deliver affordable homes of different numbers, dwelling mix or tenure/affordability make up if the scheme finances means some form of compromise is needed.

Policy AH5: Rural Exceptions

We have no comment on Policy AH5 which would appear to be in accordance with the requirements of PPS3 in respect of rural exceptions sites.

Additional Comments

1) Affordable Housing Definitions

The DPD definition of affordable housing accords with that set out in national guidance in PPS3. We welcome the adoption of the national definitions, but have some concern over the treatment of Low Cost Market Housing in the DPD. Whilst we accept that it should fall outside of the formal definition of what is affordable, the DPD should, nevertheless, reflect the further PPS3 guidance in paragraph 29, that local authorities should to take account of the need to deliver low cost market homes as part of the overall housing mix. The DPD fails to do this and, therefore, does not meet Test of Soundness iv in this regard.

2) Affordable Housing Supplementary Planning Document

The DPD sets out the role of the draft Supplementary Planning Document as one which reflects the policy content of the DPD but provides greater detail. In particular, the SPD sets out the detail of the Free Serviced Land Equivalent approach that the Council will use to calculate affordable housing contributions. Whilst we welcome the intention to base contributions on the valuation of Free and Serviced Land, we believe that this principle should first be enshrined in Policy within the DPD, with the SPD providing detail as to use and implementation. Such an approach would ensure that the SPD better accords with the key principles of PPS12 and, particularly, that it should not be used to set policy.



Consequently, we would suggest that Policy AH1 is amended to include reference to the use of the FSLE approach.

3) Viability Issues

We have made comments above about the use of the Council's Viability Study in setting policy and policy targets within the DPD. However, we have additional comments about the overall robustness of the Viability Study itself, which will impact further on the conclusions made in policy assumptions:

i) we do not seek to question the overall methodology of the study, but rather to draw attention to several inputs into the study, which might have a significant impact on its overall findings. Specifically paragraph 5.1.19 indicates that the assessment has not taken account of forthcoming requirements for new development to meet the various levels of the Code for Sustainable Homes. Paragraph 5.1.20 also indicates that no allowance has been made for the potential impact of the Community Infrastructure Levy. Consequently the study recommends that viability issues should be kept under review. Whilst we accept that it would have been premature to build in an allowance for CIL as it was at a very early stage of discussion at the time the study was undertaken, the same cannot be said of the Code for Sustainable Homes. The Government has a programme for moving towards zero carbon housing by 2016, a period which coincides with the timeframe of this DPD. Consequently, we believe that the study should have assessed the potential impact of the Code on new build costs and overall development viability. At the very least, it should have built in sensitivity testing to allow for potential higher costs to then inform policy development. The failure to include such detail potentially suggests that the viability of schemes at higher levels of provision, or on smaller sites below the national threshold, may have been overstated. This raises fundamental questions over the robustness of the Viability Study as required by Test of Soundness vii, but also reinforces our conclusions that the overall percentage requirement should not exceed the 50% set in the Core Strategy and that there is no justification for setting thresholds below the national minimum of 15 dwellings;

ii) we are concerned at the way the Council treats potential abnormal development costs. Paragraph 8.2 of the DPD indicates the Council's view that any abnormal costs should be considered prior to land acquisition, with the assumption that such costs would be met out of land value. Only in exceptional circumstances will the Council consider reducing the affordable housing requirement. Whilst some costs may be able to be anticipated at land purchase stage, others will emerge as a scheme develops through, for example, more detailed site investigation works. Additional costs may also emerge as a result of changing policy requirements, be that national in relation to changing Building Regulations or the Code for Sustainable homes, or local in relation to s106 requirements. Policy needs to be flexible enough to allow for such additional costs to be reflected via a site specific viability appraisal and the operation of a cascade;

iii) there will be a number of sites in the district, particularly larger and/or allocated housing sites where the purchase or agreement to purchase was undertaken on the basis of a previous policy requirement. Account has to be taken of these circumstances, and a reduced level of provision accepted on such sites. This is a position promoted by the Council's viability consultants. Paragraph 5.1.1 of their assessment indicates that there may need to be "a period of adjustment leading to sites being appraised differently." In such circumstances, the consultants highlight



the importance of flexibility in policy to reflect site specific viability assessments. Such an approach would ensure compliance with Test of Soundness ix.

4) Principle of Open Book

Para 8.4 requires an 'open book' approach to be adopted when a developer believes viability is affected by the affordable housing policy. Whilst we have no objection to a request for the provision of detailed information to justify an alternative viability approach and independent assessment of this, this is very different from the 'open book' approach required by the DPD.

The grant of planning permission is related to the land involved, it is not related specifically to the developer. There are a range of 'standard' toolkits available to assess residual land values and affordable housing contributions which have been accepted by local authorities and inspectors across the country (indeed the Adams Integra work is based on a similar approach). Such models use industry standard assumptions and district wide generic data (e.g. that for average build costs) combined with site specifics in terms of number of units, anticipated sales values and abnormal development costs. The outcome is a generic assessment of development viability and a view on whether the required level of affordable housing can be delivered or whether a cascade approach or grant funding is required. As the appraisals use generic data, the Council can be confident that they are relevant to any developer seeking to implement a particular permission and therefore provide a degree of certainty over the scale of affordable housing that will be provided.

What these models do not do is appraise the specific costs of an individual developer as implied by the open book approach. To do so, would mean that any subsequent permission would be personal to the developer concerned, contrary to the Government's stated General Principles for the Planning System, which emphasises that planning permission runs with the land. The open book approach would therefore be contrary to national guidance and fail Test of Soundness iv.

Monitoring and Implementation

This section sets out the Council's approach to monitoring and implementation of the policies. The emphasis is on whether the targets sets out in policy are being met and, where this is failing, to explain why and set out a strategy for addressing the problem.

Whilst welcoming the emphasis on monitoring in the DPD, which accords with the principles sets out in PPS12, a monitoring framework which looks only at affordable housing targets and whether they have been met is insufficient. The monitoring should also consider the impact of the affordable housing targets on overall housing supply and delivery in the district and, where there is a shortfall in supply, identify whether the affordable housing requirement is a contributory factor and one which would then warrant a review of the DPD, and/or the Core Strategy.

Without such a mechanism, the monitoring framework fails to assess correctly the impact of policy and therefore fails to meet Test of Soundness viii.

Conclusions

We welcome the Council's production of an Affordable Housing DPD to provide a more detailed policy basis for the delivery of affordable housing in South Hams, but believe that the approach as set out is unsound in the following respects:



- it fails to provide sufficient justification for setting thresholds below those in PPS3, contrary to Tests of Soundness iv, vi and vii;
- it fails to provide justification for the different approach to affordable housing provision from allocated and windfall sites and will frustrate the delivery of housing through the plan-led system, contrary to Tests of Soundness iv, vi and vii;
- there is no robust evidence to support the setting of affordable housing targets at a rate above the 50% level in the Core Strategy, contrary to Tests of Soundness iv, vi and vii;
- the proposed reduction in thresholds for smaller windfall sites is not supported by a robust and credible evidence base, contrary to Test of Soundness vii;
- the proposed tenure split is not supported by the Council's Housing Market and Needs Assessment, contrary to Test of Soundness vii;
- the Council's Viability Study and subsequent policy fail to provide sufficient flexibility to address emerging costs in the delivery of housing, contrary to Test of Soundness ix;
- the proposed Open Book approach is contrary to the Government's General Principles of Planning, contrary to Test of Soundness iv.

In addition, we would suggest specific changes to policy to reflect the requirements of specialist housing providers, such as McCarthy & Stone, in relation to housing type, mix, size and tenure and also a specific change to build in the principle of a cascade approach to provision in the light of site specific viability assessments.