

NOTICE OF MOTION – CLLR L LYONS – PROVISION OF AFFORDABLE HOMES ONSITE

Executive Summary

At its meeting on 11 February 2021, the Council referred the following Notice of Motion to the Executive.

Councillor L Lyons

“CS12 of the Council’s Core Strategy requires that new developments over 15 dwellings will provide at least 40 per cent affordable homes onsite, and that those brought forward by this Council will provide 50 per cent of affordable homes onsite.

- (i) This Council notes that some applicants have successfully avoided having to provide any or all of these affordable homes as a result of viability assessments which have concluded that such a development would not be economically viable, were they to do so.
- (ii) Irrespective of any viability assessment, this Council, along with any of this Council’s arms-length companies (including but not limited to Thamesway), will not have any involvement in a development - save for determining its planning application - unless at least 40 per cent of the homes provided onsite are affordable homes.”

Officer Comment

“Policy CS12 (Affordable Housing) of the Core Strategy sets out the Council’s policy on Affordable Housing provision. The relevant parts of the policy states that ‘on sites providing 15 or more dwellings or on sites of over 0.5ha, the Council will require 40% of dwellings to be affordable. All residential development on land in public ownership will be required to provide 50% of the dwellings as Affordable Housing, irrespective of the size or number of dwellings proposed’.

Paragraph 5.88 of the Core Strategy provides an explanation on the approach the Council will take in applying the above policy requirements in relation to viability of development. It emphasises that ‘in exceptional circumstances where the provision of Affordable Housing in accordance with this policy is not economically viable, the Council will expect the submission of financial information alongside the planning application. Applicants will be expected to pay for an independent review of the information submitted. If the Council is satisfied that Affordable Housing cannot be provided in accordance with this policy, it will seek to negotiate alternative provision’.

National planning policy reiterates the Council’s policy to a significant extent. Paragraph 57 of the NPPF stresses that where up to date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker.

Given this policy context, whilst the intention of the Notice of Motion is supported, there are challenges to its practical implementation that could not be defensible. Both local and national policy allows scope in certain circumstances for an applicant to submit a viability assessment to negotiate alternative Affordable Housing provision. In this regard, development proposals are able to comply with Policy CS12 and not deliver the 40% or 50% Affordable Housing. There is the likelihood of a successful legal challenge if the policy is interpreted in any other way, in particular, if the Council is to rule out any consideration of a viability assessment as part of an application.

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There are unintended implications for bullet point (ii) of the Notice of Motion that Members should be aware of. It could take away any flexibility for the Council to make trade-offs to achieve other social and environmental objectives which could have greater benefits for the community. It could stop the Council bringing forward challenging sites with abnormal development costs of development. For example, it is reasonable to assume that it would have been difficult to develop Victoria Square to such high quality standards with multiple uses if this Notice of Motion were to apply.

The Council as decision maker on planning applications decide the weight to be given to a viability assessment. If the Council is not satisfied with the viability information, it can give it less weight as a material consideration. This provides an adequate and appropriate check and balance on how Policy CS12 should apply.

If this Motion is supported, to comply with Policy CS12, it is suggested that bullet point (ii) of the Notice of Motion be rephrased as follows:

‘The Council should make sure that it, and all its arms-length companies set an example by doing everything possible to meet the Affordable Housing requirements of Policy CS12’.

However, it is not recommended that the Motion be supported because to do so would be counterproductive in that it would frustrate the Council’s ambition to secure as much affordable housing as possible.”

Background Papers: None.

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