

## **AFFORDABLE HOUSING DELIVERY SUPPLEMENTARY PLANNING DOCUMENT (SPD)**

### **Executive Summary**

The report describes the draft revised Affordable Housing Delivery Supplementary Planning Document (SPD), presented as Appendix 1, and recommends the Executive to publish the SPD for public consultation.

Delivery of Affordable Housing in the Borough has been below the Core Strategy target of 35% of dwelling completions for most of the past twelve years. It is considered that this is due to a combination of factors, including changed national policy and issues of viability and viability assessments. The existing Affordable Housing SPD was adopted several years ago in a very different context, and requires an update to ensure the Council's position can fully support the delivery of affordable housing.

A revised version of the Affordable Housing SPD has been considered by both the LDF Working Group and Housing Task Group and updated following feedback. It is proposed to publish the document for public consultation in from November 2022. Comments received and an updated SPD will be presented to Executive and Council in 2023 with a view to adoption.

Given its significance as set out above, Members of the Executive are recommended to approve the SPD for consultation.

The SPD will be used by:

- Planning Officers as guidance against which to assess affordable housing provision in development proposals when determining applications and offering preapplication advice;
- Council Members when assessing development proposals in advance of and at Planning Committee meetings; and
- applicants and developers when preparing their development schemes, as guidance to indicate how to meet the requirements of policy CS12.

Officers are satisfied that the contents of the revised SPD are sufficiently robust and at the same time allow scope for flexibility to apply its key principles to the merits of individual applications and should therefore be supported for adoption. Overall, it will make the assessment of applications easier and increase the provision of affordable housing contributions.

### **Recommendations**

The Executive is requested to:

#### **RESOLVE That**

- (i) the contents of the draft Affordable Housing Delivery Supplementary Planning Document (SPD), attached at Appendix 1 to the report, be noted and approved for public consultation between 21 November 2022 and 19 December 2023; and

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- (ii) delegated authority be given to the Strategic Director - Place, in consultation with the Portfolio Holders for Planning and Regulation, to approve any minor amendments to the SPD before it is published for public consultation.

### Reasons for Decision

Reason: To give the public an opportunity to comment on the draft revised Affordable Housing Delivery SPD and for their comments to be considered before the SPD is adopted.

The Executive has the authority to determine the recommendation(s) set out above.

**Background Papers:** None.

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## **Affordable Housing Delivery Supplementary Planning Document (SPD)**

### **1.0 Introduction**

- 1.1 The report describes the draft revised Affordable Housing Delivery SPD, presented as Appendix 1, and recommends the Executive to publish the SPD for public consultation.
- 1.2 Delivery of Affordable Housing in the Borough is below the Core Strategy target of 35% of dwelling completions. That target has only been met in two years since 2010. In only four years has affordable housing delivery exceeded 20% of dwelling completions, and in six years it has been below 10%.
- 1.3 Some of the factors behind this low delivery of affordable housing are due to changes in national policy - for example, the Council is no longer able to require affordable housing contributions from most developments under 10 dwellings, and a large percentage of dwelling completions in recent years have been from permitted development change of use schemes, on which the council has no way of requiring affordable housing. Another factor is the ability of developers to argue that their developments are not viable, under the terms set out in Core Strategy policy CS12: Affordable Housing. This policy position could only be addressed by a change to the Local Plan, which would have to be supported by a revised Viability Assessment carried out in accordance with the new national policy on such assessments, which is intended to reduce the scope for such arguments.
- 1.4 The existing Affordable Housing Delivery SPD was adopted in October 2014, eight years ago, to inform the implementation of policy CS12. Since its adoption there have been many changes to the field of Affordable Housing, in national policy, in case law, in the funding and delivery framework, and in the local need context. A few of these changes were addressed by the publication of a guidance note on National Affordable Housing Threshold and Vacant Building Credit in in 2016, revised in 2019, but there are many more which have emerged and cause increasing questions to arise in the decision-making process around the implementation of CS12.
- 1.5 A revised version of the Affordable Housing SPD has therefore been drafted to address these discrepancies and gaps, and bring the document up to date in order to fully support the delivery of affordable housing.
- 1.6 The draft document was shared and discussed with the LDF Working Group and also the Housing Task Group. The Housing Task Group requested a number of minor changes to the document. It is proposed to take the document to public consultation from 21 November 2022 – 19 December 2023, and then a revised version to the Executive and Council in 2023 with a view to adoption.

### **2.0 Summary of changes between existing and proposed draft versions of the Affordable Housing Delivery SPD**

- 2.1 Structure: The existing version begins with a chapter on affordable housing need, followed by chapters on policy context, issues around the definition of affordable housing, when and how much affordable housing is required, the planning process, delivery of affordable housing on- and off-site, financial contributions, delivery and management and monitoring.
- 2.2 The new version has chapters on planning and housing policy context, affordable housing need (discussing categories of affordable housing required), delivery of affordable housing on- and off-site and financial contributions, when and how much affordable housing is required, and the planning process. The summary of changes below is set out in the order of topics in the existing SPD.
- 2.3 'Affordable housing need' chapter: Statistics on house prices, incomes, affordability and the Housing Register are updated (fewer statistics are provided, but the new version includes a link to a fuller report). These are now included in the introduction.

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- 2.4 The recent rate of affordable housing construction is now discussed under the section on the Annual Monitoring Report, where these figures are reported.
- 2.5 Updated information on property type and size targets to inform planning applications is now included in the new Chapter 3, 'Local Evidence of Housing Need'.
- 2.6 'Policy Context' chapter: An expanded section on the National Planning Policy Framework and PPG signposts to relevant parts of these documents, to avoid confusion which has sometimes occurred in the past. The section on the Core Strategy has been reduced to avoid repetition. A section has been inserted (2.11) on how to interpret differences in wording between the NPPF and Core Strategy, which will secure greater clarity.
- 2.7 The information on other Planning Policy documents has been updated. This has allowed for a significant reduction in text since in many cases those documents have been adopted with little or no policy relevant to this topic. The information on non-planning Council policy has also been reduced, now restricted to the Housing Strategy.
- 2.8 'Affordability' chapter: The definition of 'Affordable Housing' at the start of this chapter is replaced by references in the new Policy Context chapter to the definitions of Affordable Housing in the NPPF and Core Strategy, and the relationship between them. This approach is considered to be more flexible in the event of changes being made to either the NPPF or Core Strategy.
- 2.9 The description of the social rented housing category has been expanded slightly, to include 'encourage[ment of] this tenure where circumstances allow' and 'prioritise[ation]... where possible'. The section on affordable rent has been removed, since it related closely to the specific funding and national policy circumstances when it was written.
- 2.10 Sections have been added on the new Shared Ownership model (2021-26); First Homes; and affordable housing on Build to Rent schemes. These are all new types of affordable housing that have been introduced nationally since the original guidance was adopted. Applicants are directed to review the national guidance for details of these schemes. Amendments were made to each of these sections following Housing Task Group to provide greater clarity.
- 2.11 Under the First Homes section, it is explained that the Council is not seeking to set a higher minimum discount or lower price cap for First Homes than the national standard discount and price cap. All other Surrey authorities with published guidance take the same position. The reason for us avoiding this is that doing so would (still further) take away from the viability of providing social and affordable rented dwellings, which is considered a higher priority than making First Homes slightly more affordable. However, the Council will be applying a local connection test and keyworker priority to the buyers of First Homes (within the terms allowed by national policy). About half of other Surrey authorities with published guidance are also applying a local connection test. The details of the local connection test have been amended following input from the Housing Task Group.
- 2.12 The national guidance on First Homes states that 'Once a minimum of 25% of First Homes has been accounted for, social rent should be delivered in the same percentage as set out in the local plan. The remainder of the affordable housing tenures should be delivered in line with the proportions set out in the local plan policy.' The proposed SPD interprets this guidance regarding social rent as applying to the category in our Strategic Housing Market Assessment described as "social/affordable rent", so the planning authority will continue to require 71% of affordable dwellings to be social/affordable rent. The proportion of 'intermediate' affordable tenures other than First Homes will decline from 29% to 4%. About half of Surrey authorities with published guidance are taking a similar approach. Following Housing Task Group, a table has been inserted (including a worked example) to make the interpretation of these proportions clearer.

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- 2.13 The next section deals with 'Affordable Private Rent', the category of affordable introduced in 2018 specifically for Build to Rent schemes. It directs readers to the in depth national guidance on this topic. Developers are encouraged to provide more than the 20% of dwellings required by national policy to be Affordable Private Rent, and the Council may consider increasing this requirement through Local Plan policy when that is revised. The SPD sets out a requirement for Section 106 agreements to secure units as Affordable Private Rent for 15 years, and a mechanism for the Council to claw back money if the tenure is changed in that time.
- 2.14 Requirements for affordable housing provision: The existing SPD exempts Class C2 (residential accommodation and care) and Traveller accommodation from contributing to affordable housing. The proposed new SPD removes this exemption, reverting to the Core Strategy statement that CS12 'applies to all sites where new residential development is proposed... this will include sheltered and extra care accommodation and other forms of residential accommodation where relevant'. This change is targeted at large, institutions, in particular extra care accommodation, which was previously typically assumed to be Class C3 (and therefore would have contributed) but a succession of appeals and judgements have established as often being a C2 use. Affordable housing C2 schemes, and schemes where affordable housing contributions are shown to be genuinely unviable, would still not have to make a contribution. The supply of C2 and, in particular, extra care housing is healthy, in contrast to the supply of affordable housing. With regard to Traveller schemes, the great majority are no longer affected by CS12 since they do not constitute major development, and any major schemes would again be subject to consideration of viability.
- 2.15 The existing reference to an exemption for agricultural worker dwellings is removed; given that the council is no longer allowed to require affordable housing contributions from non-major development, this exemption is no longer relevant.
- 2.16 Regarding site size, the proposed SPD incorporates all the changes covered by our Guidance Note on the National Affordable Housing Threshold and Vacant Building Credit (2016, updated 2019). There is an amendment to remove a previous loophole relating to sites with less than 10 dwellings but an area of 0.5ha or more.
- 2.17 Regarding the nature of sites, the section on defining greenfield land is reduced to remove repetition (both internal, and of national policy). The SPD removes the current explicit allowance for flexibility on sites where the Council wants to encourage development away from the existing building footprint. This will be much less commonly applicable given that affordable housing would come from major site only. This matter would be better dealt with implicitly by planning officers through consideration of the planning balance.
- 2.18 The SPD has removed the previous sections on financial contributions from non-residential development (there is no expectation of this becoming viable again in the near future); on flexibility on Affordable Housing requirements in Priority Places (no longer thought generally suitable given our deficit of Affordable Housing, although in really significant cases this could once again be dealt with through the planning balance); and on exceptional circumstances, and the section defining 'net additional dwellings' (neither of which are considered necessary).
- 2.19 The new SPD has a section on Vacant Building Credit, reflecting our 2016 Guidance Note on that subject, but also introducing a requirement that to qualify for this credit, the building should not have been vacated for the sole purpose of redevelopment (e.g. the developer should be able to show that it has been marketed unsuccessfully).
- 2.20 Delivery of affordable housing on site and on alternative sites: An updated description of the nature of affordable housing need is provided, including a significantly different mix of dwelling sizes (by number of bedrooms) as per the 2015 Strategic Housing Market Assessment (SHMA). The existing table of minimum floor area sizes is excluded; given changes to national policy since the existing document was published, the re-inclusion of any such table would require amendments to the Local Plan.

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- 2.21 The requirements on tenure mix have been adjusted to reflect the 2015 SHMA, and the introduction of First Homes.
- 2.22 Specific requirements on the design of affordable housing have been removed. It is considered that the priority is to ensure delivery of affordable housing, that is of a good design in terms of the Council's general design policies. The section on Lifetime Homes has been removed as this largely repeated other policy.
- 2.23 Information about affordable housing development partners and funding has been updated, and that on nominations removed.
- 2.24 The requirement for a separate Affordable Housing Scheme document to accompany planning applications has been removed, as this is not currently used in practice.
- 2.25 Financial contributions: There is only one example provided of a financial contribution calculation.
- 2.26 Viability: Following Housing Task Group the section on Viability has been revised and moved to Chapter 4, with emphasis on linking to national guidance, in particular on existing use value and publication of appraisals.
- 2.27 Appendices: Several appendices have been removed where they are no longer considered relevant.

### **3.0 Next stages of the process**

- 3.1 Subject to the decisions of the Executive, the draft SPD will be published for consultation between 21 November 2022 and 19 December 2022. It is intended that a revised version will be taken to Executive then Council for adoption in 2023. When adopted, the SPD will take immediate effect from the date of adoption.

### **4.0 Corporate Strategy**

- 4.1 The SPD will make a meaningful contribution to the delivery of the Corporate Strategy and its objectives to deliver new affordable homes. It will help create an enterprising, vibrant and sustainable borough by ensuring that development makes more contribution to the provision of affordable housing.

### **5.0 Implications**

#### Finance and Risk

- 5.1 The Core Strategy was adopted in October 2012 and reviewed. The Site Allocations DPD was adopted in October 2021. Planning applications continue to be submitted to deliver their requirements. It is important that the revised Affordable Housing Delivery SPD is adopted and in reasonable time to provide the necessary framework to ensure better provision of affordable housing on the development coming forward. Failure to support the recommendations of the report could further delay the adoption of the SPD.
- 5.2 There are no additional financial implications for preparing the SPD. The preparation of the SPD has been done in-house, and the cost has been met from the existing Planning Policy and Housing Service budgets.

#### Equalities and Human Resources

- 5.3 There are no human resources implications for preparing the SPD. The SPD would have positive impacts on equalities by leading to increased provision of affordable housing.

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### Legal

- 5.4 The SPD should be prepared to be in general conformity with the development plan for the area, in particular, the Core Strategy. Officers will continue to ensure that this requirement is met to avoid the risk of legal challenge.

### **6.0 Engagement and Consultation**

- 6.1 The revised SPD has been prepared with the active involvement of the relevant sections of the Council. In particular, the document was prepared jointly by the Planning Policy and Strategic Housing and Development teams, and the Development Management Team were consulted during its production. The draft SPD is intended be published for consultation between 21 November 2022 and 19 December 2022. This period meets the statutory requirement of a four week consultation for a Supplementary Planning Document.

REPORT ENDS