



CABINET

18 January 2017

Subject Heading:

Affordable Housing – Adoption of a planning guidance note on the Council’s approach to commuted sums payments

Cabinet Member:

Councillor Osman Dervish
Lead Member for Environment, Regulatory Services and Community Safety

CMT Lead:

Steve Moore – Director of Neighbourhoods

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Policy context:

National Planning Policy Framework
London Plan
Havering Local Development Framework

Financial summary:

This report identifies and recommends a financial formula for establishing the commuted sum payments that a prospective developer would pay to the Council. The approach is ‘cost neutral’ to the developer. Monies secured from commuted payments from developers will be General Fund Income and will be ‘ring-fenced’ by the Council so that they are only used for the provision of affordable homes.

Is this a Key Decision?

Yes

When should this matter be reviewed?

April 2019

Reviewing OSC:

Towns and Communities

The subject matter of this report deals with the following Council Objectives

Havering will be clean and its environment will be cared for	<input type="checkbox"/>
People will be safe, in their homes and in the community	<input checked="" type="checkbox"/>
Residents will be proud to live in Havering	<input checked="" type="checkbox"/>

SUMMARY

The provision of affordable housing remains a key part of the overall delivery of housing and the Council is committed to providing more affordable homes in Havering in line with its commitment in the current Corporate Strategy and other strategies.

Cabinet at its April meeting approved the publication of a draft non-statutory planning guidance note to set out the circumstances in which the Council may accept commuted sum payments to the Council in lieu of affordable housing being provided 'on-site' within a development scheme or on an alternative site agreed by the Council.

Cabinet agreed to the draft planning guidance note being the subject of public consultation.

This report reviews the consultation responses. Several respondents support the preparation of the note and the Council taking this approach to increasing affordable housing stock. The report concludes that the consultation responses do not require any change to the draft planning guidance note.

Officers recommend that the planning guidance note be updated to reflect robust evidence on housing need including that for affordable housing. This evidence has been secured to support the preparation of the emerging Havering Local Plan which will be progressed in 2017.

The planning guidance note with the adjustments identified above is recommended for formal adoption.

RECOMMENDATIONS

That Cabinet:

- note the responses to the consultation on the draft planning guidance note which are summarised in Appendix 1
- note that no changes are recommended to the guidance note in the light of careful consideration of the consultation responses
- agree that the planning guidance note be updated in regard to the availability of robust and up to date evidence on housing need
- adopt the amended planning guidance note as set out in Appendix 2

REPORT DETAIL

(1) Background

1. The provision of affordable housing remains a key part of the overall delivery of housing and the Council is committed to providing more affordable homes in Havering in line with its commitment in the current Corporate Strategy and other strategies.
2. Cabinet at its April meeting approved the publication of a draft non-statutory planning guidance note to set out the circumstances in which the Council may accept commuted sum payments to the Council in lieu of affordable housing being provided 'on-site' within a development scheme or on an alternative site agreed by the Council (known as 'off-site provision').
3. Several other local authorities follow this approach within their affordable housing policy. The report made clear that this approach is in line with the flexibility provided by planning policies from the Government and the London Mayor.
4. Cabinet agreed to the draft planning guidance note being the subject of public consultation. Members were advised at that time that if the Council wished to formally adopt the planning guidance note that would need to be done at a Council meeting.
That matter has since been reviewed and it is now recommended that adoption should be by Cabinet.

(2) The purpose of this report

5. This report details the responses received during the consultation and explains some changes that officers recommend as necessary to the guidance note before it is recommended for adoption by the Council.

What happened during consultation

6. Copies of the draft planning guidance note were :
 - published on the Council's website (on both the local plan and consultation pages)
 - brought to the attention of stakeholders on the data base for the local plan preparation (both organisations and individuals)
 - provided to the Registered Providers of affordable housing who the Council work with to secure enhanced provision of affordable housing
 - made available to other parties who requested a copy of the draft planning guidance note
7. A short, 'easy to read' explanatory note was included on the Council's website to support the consultation. This was based on the Cabinet report and explained the background to its preparation.
8. Additionally, the draft guidance note was included on the agenda at an affordable housing 'workshop' facilitated by the Council. This was attended by a range of stakeholders involved in the provision of affordable housing.
9. At the event, officers provided a briefing on the note. The consultants who had advised the Council on the financial framework underpinning it, provided an explanation of how they had approached the work and the basis of the financial formula included in the paper. The draft planning guidance note was provided to attendees at the event when the papers for it were circulated following the event.

(3) The responses received during public consultation

10. Six responses were received. This encompassed 4 responses from affordable housing providers and 2 from other parties. The latter included a response from Tetlow King (Planning Consultants) on behalf of 'Rentplus'. 'Rentplus' say they deliver discounted rented homes to buy for people who are unable to acquire a property on the open market'. A response was received from a local resident.
11. The Housing Associations who responded were :
 - One
 - Peabody
 - Swan
 - Estuary

12. Appendix 1 summarises the consultation responses that have been received.
13. It will be seen that there was encouraging support for the Council's draft planning guidance note. Some 'themes' were common to the responses from several respondents including :
- support for the emphasis in provision of affordable housing 'on-site' rather than 'off-site' or in the form of commuted sum payments
 - support for the Council's approach being based on negotiation with developers and affordable housing providers
 - support for the financial framework included in the draft planning guidance note as it can be a challenge to deliver affordable housing through commuted sum payments because of factors such as difficulties in finding sites
 - there is a need for transparency in the operation of a commuted sum payments approach to the provision of affordable housing
14. Officers consider that the consultation responses set out in Appendix 1 provide a welcome endorsement of the approach set out in the draft guidance note as it was published for consultation and this is welcomed.
15. Careful consideration has been given to the consultation responses from the perspective of whether they warrant any change being recommended to the planning guidance note. Appendix 1 provides a recommended response to these. On balance, it is considered that no changes are required as far as the consultation responses are concerned.
16. Since the planning guidance note was prepared and approved for public consultation, the Council has been able to undertake work aimed at establishing a robust and up to date picture of housing need in the borough which will support the preparation of the new Havering local plan. This work has been undertaken by consultants (ORS) and is reflected in a document called the Strategic Housing Market Assessment (SHMA). In due course, the SHMA will be a formal part of the evidence base for the local plan. This work is also taking account of the latest population projections published by the Greater London Authority (GLA).
17. The SHMA identifies that over the period between 2011 - 2033, Havering will need more than 30,052 new homes. It indicates that some 19,530 of these will need to be market housing and the remainder (10,520) will need to be affordable homes. The SHMA identifies that the size breakdown of the affordable homes should be : 640 (1 bed), 4,290 (2 beds), 4,090 (3 beds) and 1,500 (4+ beds).
18. It is recommended that this information is included in the planning guidance note in its final form as it provides the most up to date information available to the Council. It will provide a clear picture to developers of the assessed need for new homes in the borough (both market and affordable tenures). It is

suggested that a link to the SHMA be included in the planning guidance note when the SHMA is finalised. This latest information from the SHMA will replace the previous content in the guidance note dealing with 'need'.

19. The note introduction section needs to be adjusted to reflect that it will have been the subject of public consultation but this does not have any material effect on its content.
20. **In summary, the planning guidance note is recommended for adoption in the form that it was published for public consultation with the exception of the matters above linked to the SHMA.** For convenience, a copy of the planning guidance note as it is recommended to be adopted (with the latest information from the SHMA) is included in full in Appendix 2 to this report.

(4) Next steps

21. Subject to Member approval, it is recommended that the guidance note be adopted.
22. Thereafter, the note will be used in discussions with prospective developers in cases where affordable housing is involved. In due course, consideration will need to be given to how the note should be reflected in the preparation of the new local plan for Havering.
23. As set out in the Cabinet report in April, the implementation of the note will be monitored and the receipt of commuted sum payments and how they are used will be published.

REASONS AND OPTIONS

Reasons for the decision:

To ensure that there is an adequate provision of affordable homes in Havering.

Other options considered:

The option of not preparing the guidance note has been discounted because it is important that Havering has adequate affordable homes.

The absence of explicit criteria setting out where commuted sum payments may be appropriate and a financial formula model for calculating such payments is unhelpful for both the Council and prospective developers. It may adversely affect the successful delivery of more affordable homes.

Alternative approaches to calculating a commuted sum provision were considered and rejected as they were not considered to be financially neutral and would incentivise the developer to provide a commuted sum in lieu of on-site provision, fail to achieve the maximum viable levels of affordable housing contribution or alternatively fail to sufficiently recognise the importance of assessing viability at a scheme by scheme level.

IMPLICATIONS AND RISKS

Financial implications and risks:

This report identifies and recommends a financial formula for establishing the commuted sum payments that a prospective developer would pay to the Council. The approach is 'cost neutral' to the developer.

As such it should not be a more, or less, attractive option in financial terms to the developer than providing the necessary affordable homes on-site or at an alternative site to be agreed by the Council.

The Council will then use these funds to provide affordable housing in the future. The formula does not provide a direct link between amounts initially collected from a developer and the cost of re-providing future units elsewhere which will be dependent on the Council development proposals prepared.

This report focuses on commuted sums received from developers for housing development purposes but other contributions are received from developers to contribute towards the funding of new infrastructure. These will be secured by legal agreements alongside any commuted payments to the Council in lieu of affordable housing being provided on-site or at an alternative site to be agreed by the Council.

Legal implications and risks:

The legal weight afforded to the Guidance Note in determining planning applications is limited but not absent, as the note does not form part of the formal Havering Local Development Framework.

Only adopted Development Plan Documents which fall within Regulation 5(1)(a)(iv) of the Town and Country Planning (Local Planning) (England) Regulations 2012 can be used as "development management and site allocation policies, which are intended to guide the determination of applications for planning permission".

Subsequently the Guidance Note cannot lawfully set out the Council's policies relating to the development and use of land unless formally adopted as a

Development Plan Document in compliance with Section 17(3) of the Planning and Compulsory Purchase Act 2004.

However, the Council is nevertheless entitled under its ancillary powers under Section 111 of the Local Government Act 1972 to produce research documents and analysis, including good practice guides (for example for shop fronts and trees) without the need to include the guidance as a Development Plan Document.

The Housing and Planning Act 2016 introduces measures intended to promote home ownership and address equality concerns, one being starter homes. This Act includes a duty on the Council to ensure that “starter homes” become a common feature of new residential developments and it is likely that certain residential developments will only receive planning permission if specified requirements on starter homes are met. The Advice Note includes clear guidance for Developers, by identifying the circumstances in which differing approaches are considered appropriate.

The final recommendation in this report sets out that the document is required to go before Cabinet for full adoption due the nature of the content of the guidance note and Council’s Constitution.

Human Resources implications and risks:

None specific to this report. The Advice Note can be finalised and will be implemented using existing staff resources.

Equalities implications and risks:

The application of the guidance will follow as appropriate the statutory requirements of the Equality Act 2010 and in particular the requirements set out in Section 149 of the Equality Act 2010.

BACKGROUND PAPERS

None.