

**REPORT TO:** Planning Committee

14 November 2018

**LEAD OFFICER:** Joint Director of Planning and Economic Development

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## **Local Plan Affordable Housing Threshold (Policy H/10 Affordable Housing)**

### **Purpose**

1. To inform Committee about the differences between the affordable housing threshold set out in the Local Plan 2018 (in policy H/10 affordable housing), and that in the new National Planning Policy Framework 2018 (NPPF) and recommend that significant weight be given to the national threshold in planning decision making and when planning advice is given. This is not a key decision.

### **Recommendations**

2. It is recommended that Planning Committee:
  - a) take note of the different affordable housing thresholds between the adopted Local Plan 2018 (policy H/10) and the National Planning Policy Framework 2018 (at paragraph 63 and the glossary); and
  - b) agree that for the reasons set out in this report in paragraphs 5-16 that when determining planning applications and when giving pre-application advice that significant weight will be given to the affordable housing threshold policy set out in the National Planning Policy Framework 2018 (at paragraph 63 and the glossary).

### **Reasons for Recommendations**

3. Through the course of the examination of the plan the Local Plan Inspector's have sought to ensure that the affordable housing threshold included in the Local Plan was in conformity with national planning policy and the modifications to the plan proposed in January 2018 about this were in conformity with national planning policy as it then stood. However in July 2018 just before the Inspector's report was published in August 2018 a new National Planning Policy Framework was published which included a different national affordable housing threshold.
4. The NPPF 2018 states at paragraph 214 that the previous NPPF from 2012 will continue to apply for the purpose of examining plans submitted for examination before the 24<sup>th</sup> January 2019. Our Local Plan was submitted for examination in 2014 and so it is understandable that the Local Plan Inspector's Report makes no reference to the NPPF 2018. Nevertheless the Local Plan Inspector in recommending plan modifications needed to ensure soundness had sought to ensure that the Local Plan affordable housing threshold was consistent with that set out in national policy as then stated in the Written Ministerial Statement 2014.

### **Background**

5. When our Local Plan was submitted for examination in 2014 the proposed affordable housing threshold in policy H/9 'affordable Housing' was 3 dwellings or more (with such developments having to provide an affordable housing contribution). This was

very similar to the threshold included in our then adopted Development Control Policies plan.

6. In 2014 a Written Ministerial Statement (WMS) was published stating:

*“Due to the disproportionate burden of developer contributions on small scale developers, **for sites of 10-units or less**, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought.” (bold emphasis added)*

7. Between 2014 and 2017 this Council had some success in defending the lower affordable housing threshold in its adopted Development Control policies plan through a series of planning appeals. However in January 2017 the Local Plan Inspector wrote to the Council on this threshold issue following the Local Plan hearing into policy H/9 ‘Affordable Housing’ stating:

*“the application of the threshold of 3 or more dwelling units across the District represents a substantial departure from the WMS”.*

The letter went on to note that local affordable housing delivery would be reduced as a consequence of the need (for the Local Plan) to be consistent with the minimum threshold in the WMS. Officers sought to advance reasons why the WMS should not be followed locally but were not successful, the Inspector’s eventually concluding in October 2017:

*“We are therefore inviting the Council to amend the wording of the policy in order to remove the conflict with the WMS.”*

8. Appropriate modifications to this effect was included in the January 2018 Main Modifications which can be read in Appendix 1 to the Inspector’s Report (Mod numbers SC194 and SC195 and as included in Appendix A to this report). The modifications were required to be made to the Local Plan in order for it to be found ‘sound’ by the Inspector’s. Paragraph 114 of their report stating:

*“Policy H/9 requires all developments which increase the net number of homes on a site by 3 or more to provide affordable housing. For the reasons given in our interim findings (RD/GEN/390) SC194 and SC195 are necessary to increase the threshold to ensure conformity with national policy which requires that affordable housing should not be sought from developments of 10 units or less.”*

9. In the Local Plan adopted on the 27<sup>th</sup> September policy H/9 is now numbered as policy H/10. The threshold in the policy is consistent with that given in the Inspector’s Report Appendix 1 whereby developments of **11 or more homes** are required to provide affordable housing which wording is also consistent with that in the WMS of 2014.

10. In July 2018 the new NPPF was published coming into immediate effect. Relevant extracts from the NPPF are included in this report as Appendix B. When the policy text in paragraph 63 and the definition of ‘Major Development’ given in the glossary are read together it can be seen that national planning policy towards affordable housing thresholds has evolved away from that given in the WMS. National planning policy is now that affordable housing should not be sought from developments that are not major development and the definition of which given in the glossary of the NPPF only relates to housing developments of **10 or more homes** or where the site has an area of 0.5 hectares. This policy formulation is not consistent with the Local Plan Inspector’s intention to ensure that our Local Plan policy was consistent with national planning policy.

11. It follows that the affordable housing threshold given in policy H/10 is no longer consistent with national planning policy towards affordable housing both in terms of the Local Plan policy threshold being 11 or more homes (as opposed to the NPPF threshold of 10 or more), and in its inclusion of a 1,000 sqm housing floorspace threshold (as opposed to a site area threshold of 0.5 hectares in the NPPF).

### **Considerations**

12. Planning law requires that applications for planning permission have to be determined in accordance with the development plan, unless material considerations indicate otherwise (the development plan includes our Local Plan 2018). However the NPPF 2018 states at paragraph 212 that *“The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication”*. And paragraph 213 of the NPPF 2018 states: *“However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”*
13. In regard to the affordable housing threshold set out in policy H/10 of the adopted Local Plan 2018 it is clear that it is not consistent with the policy set out in the NPPF 2018. It follows that in planning decision making and when giving pre-application advice significant weight needs to be given to the affordable housing threshold set out in the National Planning Policy Framework 2018 (at paragraph 63 and the glossary). This point is reinforced by the fact that the Local Plan Inspector in recommending plan modifications needed to ensure soundness had sought to ensure that the Local Plan affordable housing threshold was consistent with that set out in national policy as stated in the WMS 2014.
14. Furthermore it can be noted that the Local Plan Inspector did not disagree with the viability evidence officers advanced in evidence to the Inspector’s that a lower affordable threshold than that in the WMS was normally viable across much of South Cambridgeshire or that there was not significant affordable housing need across the district (see Background Papers RD/GEN/530). On this basis there is no risk that applying the lower affordable housing threshold set out in the NPPF 2018 would have any negative impacts on the viability of housing delivery in South Cambridgeshire compared to the marginally higher threshold set out in the Local Plan at policy H/10.
15. It is therefore appropriate and necessary that when making planning decisions and when giving pre-application advice that significant weight is given to the affordable housing threshold policy set out in the NPPF.

### **Options**

16. The only alternative option would be to seek to continue to apply the affordable housing thresholds set out in the Local Plan at policy H/10. This is not recommended as it would not be consistent with the NPPF 2018 and because to do so could lead to a small loss of much needed local affordable homes.

### **Implications**

17. In the writing of this report, taking into account financial, legal, staffing, risk management, equality and diversity, climate change, community safety and any other key issues, the following implications have been considered: -

## Equality and Diversity

18. Access to affordable and quality housing can make an important contribution to household health, education and employment. Application of the national affordable housing threshold will make a marginal improvement to the provision of affordable housing in Greater Cambridge and so can be expected to have a beneficial impact on social equality.

## Consultation responses

19. There has been no formal consultation involved in the preparation of this report.

## Effect on Strategic Aims

### **A. LIVING WELL Support our communities to remain in good health whilst continuing to protect the natural and built environment**

20. Access to affordable, sustainable and quality housing can make an important contribution to household health.

### **B. HOMES FOR OUR FUTURE Secure the delivery of a wide range of housing to meet the needs of existing and future communities**

21. The provision of additional affordable housing across Greater Cambridge will help to meet the housing needs of households whose needs are not being adequately met by the market.

## Background Papers

The following background papers were used in the preparation of this report:

House of Commons: Written Statement (HCWS50)

Written Statement made by: The Minister of State for Housing and Planning on 28 Nov 2014.

<https://www.parliament.uk/documents/commons-vote-office/November%202014/28%20Nov%202014/2.%20DCLG-SupportForSmallScaleDevelopersCustomAndSelf-Builders.pdf>

Letter from the Local Plan Inspectors to South Cambridgeshire District Council regarding policy H/9 Affordable Housing (19/1/2017) RD/GEN/390

<https://cambridge.blob.core.windows.net/public/ldf/coredocs/RD-GEN/rd-gen-390.pdf>

Letter from the Local Plan Inspectors to South Cambridgeshire District Council regarding policy H/9 Affordable Housing (20/10/2017 at page 20) RD/GEN/530

<https://cambridge.blob.core.windows.net/public/ldf/coredocs/RD-GEN/rd-gen-530.pdf>

South Cambridgeshire Local Plan Inspector's Report (2018) & Main modifications recommended by the Inspector's (Appendix 1 of the Inspector's Report) & South Cambridgeshire Local Plan (2018)

<http://www.scambs.gov.uk/planning/local-plan-and-neighbourhood-planning/the-adopted-development-plan/south-cambridgeshire-local-plan-2018/>

National Planning Policy Framework (2018)

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

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**Appendices:**

Appendix A – Extract from the Inspector's Report Appendix 1 showing modifications to the policy for affordable housing (was policy H/9 now policy H/10).

Appendix B – Extracts from the NPPF 2018

## Appendix A – Extract from Appendix 1 of the Inspector’s Report

Mod No.	Local Plan Page	Policy / Paragraph	Proposed Modification
SC194	141	Policy H/9: Affordable Housing	Amend part 1 of Policy H/9 to read: ‘1. All developments <del>which increase the net number of homes on a site by 3 of 11 dwellings</del> or more, <u>or on development sites of less than 11 units if the total floorspace of the proposed units exceeds 1,000 sqm,</u> will provide affordable housing as follows.’ <i>Note: criteria a, b and c to part 1 are unchanged.</i>
SC195	142	Paragraph 7.35	Amend paragraph 7.35 to read: ‘7.35 The Council has previously operated a threshold of 2 properties, but <del>has raised</del> this threshold <del>to 3</del> <u>has been raised in line with the Written Ministerial Statement of 28 November 2014,</u> to encourage <del>more very small scale developments to come forward</del> <u>development on smaller brownfield sites and to help diversify the house building sector by providing a boost to small and medium sized developers.</u> Affordable homes should be integrated with market homes in small groups or clusters to create sustainable, inclusive and mixed communities. <u>Note that a vacant building credit may apply to developments bringing vacant buildings on site back into lawful use or where such buildings are demolished as part of a development. If a vacant building credit is allowed the effect would be to reduce the expected affordable housing contribution from a site.</u> ’

Changes shown in **bold** text. Deletions ~~struck through~~. New text underlined.

## Appendix B – Extracts from the NPPF 2018

63. Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount<sup>28</sup>.

<sup>28</sup> Equivalent to the existing gross floorspace of the existing buildings. This does not apply to vacant buildings which have been abandoned.

*Note that South Cambridgeshire is not a designated rural area.*

### Annex 2 Glossary

**Major development**<sup>70</sup>: For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. For non-residential development it means additional floorspace of 1,000m<sup>2</sup> or more, or a site of 1 hectare or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

<sup>70</sup> Other than for the specific purposes of paragraphs 172 and 173 in this Framework.

*Note that paragraphs 172 and 173 relate to National Parks, Areas of Outstanding Natural Beauty and Heritage Coastal areas only.*