

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

27th November 2013

REPORT OF CORPORATE MANAGEMENT TEAM

COUNCIL DECISION/CABINET DECISION/KEY DECISION

Portfolio - Regeneration and Transportation – Lead Cabinet Member – Councillor Smith

INITIAL WORKING DRAFT SUPPLEMENTARY PLANNING DOCUMENT 8 – AFFORDABLE HOUSING

1. Summary

The Supplementary Planning Document (SPD) provides guidance on how Local Plan policies relating to affordable housing will be applied and how their requirements can be met and will be a material consideration when determining applications for planning permission within the Borough

SPDs must be subject to public consultation prior to their adoption as part of the Borough's Development Plan. It is intended that the draft SPD will undergo public consultation between December 2013 and January 2014.

The initial working draft of the SPD is attached at Appendix A, and is accompanied by a Habitats Regulations Assessment (HRA) Scoping Report (Appendix B), an Equalities Impact Assessment (Appendix C) and the Consultation Statement (Appendix D). The HRA Scoping Report concludes that a full HRA is not required for this SPD.

2. Recommendations

It is recommended that Cabinet:

1. Note the contents of this report.
2. Note the attached 'initial working draft Supplementary Planning Document 8 – Affordable Housing' and provide any comments or suggestions
3. Delegate to Officers amendments to the contents of the document prior to the public consultation period.
4. Delegate to the Cabinet Member for Regeneration and Transport and the Head of Planning the authority to agree the final version of the document for public consultation

3. Reasons for the Recommendations/Decision(s)

To provide clear guidance on the application of planning policies relating to affordable housing planning obligations

4. Members' Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest and the business:-

- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or
- relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code)

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

Disclosable Pecuniary Interests

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code)

AGENDA ITEM

REPORT TO CABINET

27th November 2013

**REPORT OF CORPORATE
MANAGEMENT TEAM**

COUNCIL DECISION/CABINET DECISION/KEY DECISION

**INITIAL WORKING DRAFT SUPPLEMENTARY PLANNING DOCUMENT 8 –
AFFORDABLE HOUSING**

SUMMARY

The Council's affordable housing requirement is set out in Core Strategy Policy CS8. The Core Strategy (2010) recognised that the Council's Planning Obligations SPD (2008) would require updating to reflect the new Core Strategy policy. This Supplementary Planning Document will provide clear planning guidance on determining appropriate 'affordable housing' contributions.

SPDs must be subject to public consultation prior to their adoption as part of the Borough's Development Plan. It is intended that the draft SPD will undergo public consultation between December 2013 and February 2014.

The initial working draft of the SPD is attached at Appendix A, and is accompanied by a Habitats Regulations Assessment (HRA) Scoping Report (Appendix B), an Equalities Impact Assessment (Appendix C) and the Consultation Statement (Appendix D). The HRA Scoping Report concludes that a full HRA is not required for this SPD.

RECOMMENDATIONS

It is recommended that Cabinet:

1. Note the contents of this report.
2. Note the attached 'initial working draft Supplementary Planning Document 8 – Affordable Housing' and provide any comments or suggestions
3. Delegate to Officers amendments to the contents of the document prior to the public consultation period.
4. Delegate to the Cabinet Member for Regeneration and Transport and the Head of Planning the authority to agree the final version of the document for public consultation

DETAIL

Affordable Housing

1. It is established practice that affordable housing delivery is an appropriate developer contribution which can be sought through a planning obligation. The National Planning Policy Framework (NPPF 2012) provides multiple references on the matter,

specifically paragraph 174 which explains that 'Local planning authorities should set out their policy on local standards in the Local Plan, including requirements for affordable housing'.

2. The NPPF also provides a lengthy definition of affordable housing for planning purposes; this is repeated within section 2 of the draft SPD. In short, affordable housing is provided to eligible households whose needs are not met by the general housing market, based on local incomes and house prices. Types of affordable housing include social rented, affordable rented and intermediate housing.

The reason for not proceeding with the previous version of the SPD

3. It will be recalled that a report entitled 'Draft Supplementary Planning Document 8 – Provision of Affordable Housing and the Need for Viability Evidence' was reported to the Cabinet meeting of 13th June 2013.
4. The previous version included reference to 20% affordable housing provision as the standard target. The Inspector in his report following the Low Lane, Ingleby Barwick Public Inquiry commented "... it is inescapable that the provision of affordable housing at a rate of 15% clearly falls within the range of 15-20% set out in CS Policy 8 criterion 5'
5. Counsel's opinion was also sought on this matter. Counsel advised that applying 20% affordable housing provision as the standard target is in conflict with adopted development plan policy and that 'were the matter to be tested, a court would be likely to find the SPD unlawful.'
6. The current draft SPD is therefore withdrawn and will be replaced with the new draft SPD which omits the identification of 20% affordable housing provision as a standard target but deals with other affordable housing matters in greater depth than was possible in the first draft, given the very tight timeframe for its production. To all intents and purposes this is a new refreshed SPD and it is recommended to Cabinet that it should be the subject of a fresh consultation

The consequences for the operation of Policy CS8.5

7. The target range for affordable housing provision on sites of 0.5 ha or more and schemes of 15 dwellings or more remains 15-20% as set out in Policy CS8.5. However, in the context of the Inspector's Report, the Council is now clearly obliged to accept that any provision within the target range of 15-20% is policy compliant, even if it is at the lower end of the range (15%) and not supported by viability evidence that provision at the upper end of the range (20%) would make the scheme economically unviable

Purpose of the SPD

8. The Council's affordable housing requirement is set out in Core Strategy Policy CS8. This Supplementary Planning Document (SPD) has two fundamental purposes. These are as follows: -
 - a) To provide guidance on how development plan policy regarding affordable housing, set out in Policy 8 of the Core Strategy, is applied
 - b) To provide guidance on how the Council's Strategic Housing, Development Services and Spatial Planning teams will work with both developers and Registered Providers to deliver affordable housing.
9. The report concludes by setting out the next steps in the production of the SPD, which relate to the recommendations before Cabinet.

How the SPD achieves its purpose

10. The SPD approaches this task through the following steps: -
 - a) It sets out the national and local policy context.
 - b) It summarises the evidence base provided by the 2012 Tees Valley Strategic Housing Market Assessment (TVSHMA), 2013 Rural Housing Needs Assessment and the Economic Viability of Affordable Housing Requirements Report (2009).
 - c) It then provides guidance on the how requirements for affordable housing provision set out in Core Strategy Policy 8 are to be applied as well as making reference to how up-to-date evidence in the 2012 TVSHMA and 2013 Rural Housing Needs Assessment is applied.
 - d) Finally, it provides guidance on the robust justification needed if a developer wishes to vary from the affordable housing requirements set out in development plan policy CS8 on economic viability grounds.
11. The guidance on how Policy CS8 is applied makes clear that affordable housing provision should be on-site unless it can be demonstrated that this would make the site unviable or would not promote sustainable mixed communities. When exceptionally off-site provision or a financial contribution is accepted, it sets out in broad terms the Council's procedures and provides supporting information.
12. In addition, the Council's phasing requirements within developments are set out, specifically with regard to the 'trigger points' for the delivery of the affordable housing.

13. The SPD stresses the importance of developers entering in to pre-application discussions to ensure that adequate information is submitted for assessment. It details how we will work with developers and Registered Providers to achieve the delivery of affordable housing.
14. Proposals which do not meet the Council's affordable housing requirements which are not supported by robust viability evidence will normally be recommended for refusal.

Next Steps

15. The methodology for calculating a commuted sum, in the limited circumstances when it is agreed that it is appropriate instead of on-site provision, has only been set out in broad outline. It is intended to provide more detail in the final version of the SPD.
16. However, it is necessary first to consult with Registered Providers regarding the detail of the methodology, in particular the data they will be able to provide. A consultation exercise with Registered Providers has therefore been initiated.
17. This is a separate consultation ahead of the formal consultation on the SPD. This is because the consultation with Registered Providers is an essential pre-requisite to establishing a robust detailed methodology for calculating commuted sums. This methodology will then, once agreed, be included in the draft SPD that is formally consulted upon.
18. Cabinet is requested to delegate to the Cabinet Member for Regeneration and Transport and the Head of Planning the approval of the final document for consultation. This is because the consultation exercise with Registered Providers will not be complete prior to the date of the Cabinet.
19. Approval will then be sought from the 11th December 2013 Full Council to publish the SPD for a six week consultation between 18th December 2013 and 29th January 2014. A longer consultation than the statutory four week period is recommended, as the consultation falls over the holiday period.
20. Officers will review consultation responses, amend the document and aim to report back to Cabinet and Council in March / April 2014.

FINANCIAL IMPLICATIONS

Provisions for the consultation period and subsequent adoption and publication of Supplementary Planning Document 8 – Affordable Housing can be made within existing budgetary provision.

LEGAL IMPLICATIONS

The Affordable Housing Supplementary Planning Document has been prepared under the relevant provisions of the Planning and Compulsory Purchase Act 2004 as amended by the Planning Act 2008 and the Town and Country Planning (Local Planning) (England) Regulations 2012. Failure to comply with the provisions of the Act or Statutory Regulations may result in all or part of the document being challenged in the High Court under section

113 of the 2004 Act, which if successful may lead to all or part of an adopted Supplementary Planning Document being quashed.

RISK ASSESSMENT

The Affordable Housing Supplementary Planning Document has been categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

The Affordable Housing Supplementary Planning Document is part of the Borough's development plan, which seeks to provide guidance on the implementation of policies contained in the Borough's adopted Core Strategy. The Core Strategy aims to create developments comprised of inclusive communities where all residents have access to the best in housing, education and training, health care, employment opportunities, sport, recreation and cultural activities in safe, healthy, prosperous, inclusive and sustainable communities.

EQUALITIES IMPACT ASSESSMENT

This report has been subject to an Equality Impact Assessment and has been judged to have a positive impact. No remedial actions are required.

CONSULTATION INCLUDING WARD/COUNCILLORS

The Affordable Housing Supplementary Planning Document is equally applicable in all parts of the Borough; therefore there was no consultation with specific wards or ward councillors. Relevant Council officers have been consulted and further input will be welcomed during the period of public consultation.

Name of Contact Officer: Matthew Clifford
Post Title: Principal Planning Officer
Telephone No. 01642 526049
Email address: matthew.clifford@stockton.gov.uk

Education related? No

Background Papers

Appendix A – Draft Supplementary Planning Document 8 – Affordable Housing
Appendix B – HRA Screening Report
Appendix C – Equalities Impact Assessment
Appendix D – Draft Consultation Statement

Stockton on Tees Borough Core Strategy (2010)
National Planning Policy Framework (2012)
Town and Country Planning Act (1990) as amended
Planning Compulsory Purchase Act (2004) as amended
Planning Act (2008) as amended
The Town and Country planning (Local Planning) (England) Regulations 2012

Ward(s) and Ward Councillors: N/A

Property: N/A