

| | |
|--------------------|--|
| Title: | Affordable Housing in Rural Areas - Single Dwellings |
| Portfolio Holder: | Cllr Fortescue - Housing Cllr Phillips – Planning |
| Reporting Officer: | Mark Russell, Planning Policy & Conservation Services Manager |
| Key Decision: | Yes |

Purpose

The purpose of this report is to review the practice of requiring developers to make a financial contribution towards meeting affordable housing from developments of a single dwelling in rural areas.

Background

The Council's affordable housing policy is set out in the District Plan 1st Alteration, which was adopted by this Council in June 2004.

In villages the policy is for the Council to seek to achieve up to 50% affordable housing provision from all sites within village policy limits.

In August 2005, this Council approved Supplementary Planning Guidance (SPG) which sets out how the policy is intended to operate in practice. This document states that "where a net increase of only 1 dwelling is proposed, we will seek a commuted sum towards the provision of affordable housing off-site".

The Council is being challenged as to the legality of the procedure of requiring commuted sums from single dwelling developments. There is also some evidence that this practice is preventing schemes from coming forward in rural areas.

Key Issues

Planning Law

The Council's affordable housing policies will be comprehensively reviewed as part of the development of the Core Strategy, which is due to be submitted to the Secretary of State in December 2008. The policy is part of the statutory Development Plan and therefore can only be amended by the Council once the statutory procedures have been followed.

However, the practice of requiring commuted sums from single dwelling developments is not specifically part of the development plan policy and therefore can be reviewed by Cabinet.

In May 2006, an Inspector allowed an appeal at Hilperton, stating that "since it is impossible to provide half an affordable dwelling on a site, it seems to me that this policy could only apply to sites for two or more dwellings."

The policy does allow for a commuted sum in exceptional circumstances but the Inspector stated that "other than the site's size, there is no evidence of exceptional circumstances in this case".

With regard to the commuted sums practice specified in the Council's SPG, the Inspector agreed with the appellants that "the SPG expands Policy H2 too far" and is "substantially more than a supplement to Policy H2".

Following receipt of this decision, the Council received verbal Counsel advice on the decision. The advice given at the time was that the Inspector had been unduly harsh in her analysis of the situation and that the Council's case was arguable. The Council should not seek to change its policies or the way in which they are applied. At a future Inquiry a new Inspector may be persuaded to disregard the previous Inspector's decision.

There are currently 2 planning appeals waiting to be determined where the Council is being challenged again as to the legality of requiring a commuted sum from a single dwelling development.

Written Counsel opinion is being sought on the above matters and will be reported to Cabinet.

Delivery of Housing

The operation of the commuted sums approach to single dwelling applications may be one of the factors preventing housing developments from coming forward. However, insufficient data is currently available to confirm this.

According to Housing Services, in 10 cases over the last 18 months, applicants withdrew rural housing proposals due to the Council's affordable housing requirements and 9 of these related to single dwelling proposals;

The number of housing completions involving single dwelling schemes in rural areas has reduced from 19 in 2004/05 to 15 in 2005/06.

Overall, housing completions in rural areas have reduced from 59 in 2004/05 to 40 in 2005/06 and 45 in 2006/07 and permissions not started from 164 in 2004/05 to 117 in 2005/06 and 152 in 2006/07.

Nationally, the Government is seeking to achieve a step change in housing delivery. The planning system is expected to provide a flexible, responsive supply of land. The current

Structure Plan requirement is for West Wiltshire outside of Trowbridge to deliver housing at an annual rate of 337.5 dwellings. During 2005/06, the completions rate was 244 dwellings and during 2006/07 the annual rate was 311 dwellings. Whilst large strategic sites, such as East Melksham, will accelerate delivery in the longer term, all measures to increase supply in the shorter term should be investigated.

Delivery of affordable housing

There is substantial need for affordable housing to be provided in villages. The latest Housing Needs Survey indicates that there is an annual net shortfall of 200 affordable dwellings within rural areas.

Since 2004, 144 dwellings have been completed in rural areas. Of these, 13 affordable dwellings have been completed through the operation of the Council's rural affordable housing policy, and of these 2 dwellings through the nil public subsidy approach. This is 9% of the completed supply. The figures indicate that the Council is currently not achieving the target 50% affordable housing provision in villages. There are two main reasons for this.

These are:

- a) the time lag between the adoption of new policy and the build out of all schemes permitted before the new policy came into operation;
- b) evidence that the scheme would not be viable with affordable housing provision.

However, the commuted sums secured from permitted single dwelling schemes in rural areas total £82,878. This equates to around 1.5 affordable dwellings. No building on these schemes has started and therefore no affordable housing has yet been delivered through the operation of the single dwelling commuted sums procedure.

According to Housing Services, the commuted sums currently in negotiation from proposed single dwelling schemes could produce £1,157,342. This equates to approx. 23 affordable dwellings. The total commuted sums in negotiation from all rural schemes is £1,390,976.

The Council's PFI scheme proposes the delivery of approx. 80 rural affordable dwellings by the end of 2011, although this is acknowledged as a challenging target. This supply is additional to the number of rural affordable dwellings to be achieved through the planning system and would be unaffected by any changes to the operation of the Council's affordable housing planning policies.

Other Issues

There are a number of other updates and amendments to be made to the current Affordable Housing Supplementary Planning Guidance and any agreed change to commuted sums procedures could trigger a review of this document.

The Next Steps - Options

The Council has started its review of its affordable housing policies through the development of the Local Development Framework Core Strategy. However, the Council's draft Core Strategy will not be submitted to the Government until December 2008. Until

then, there are two broad options for addressing the issue of affordable housing from single dwelling developments in rural areas:

Option 1

Continue to operate the single dwellings procedure in accordance with the Council's approved Supplementary Planning Guidance.

This would maximise the potential contributions towards the provision of affordable dwellings in rural areas.

Should the Council win the pending appeal cases, it is likely that further monies will be obtained from future rural housing schemes towards the delivery of affordable housing.

However, should the Council lose the pending appeal cases, the amount of affordable housing in rural areas that could be achieved will be reduced. The Council may also have to pay costs arising from the 2 outstanding appeal cases.

Option 2

Remove the single dwellings procedure and only require affordable housing for developments of 2 or more dwellings.

This may increase the delivery of market housing within rural areas.

Most housing schemes in rural areas are for single dwellings. This would therefore reduce the future scope for affordable housing to be negotiated from schemes in rural areas.

The amount of affordable housing in rural areas that could be achieved will be reduced. The Council may also have to pay costs incurred to date from the 2 outstanding appeal cases.

Effect on Strategies and Codes

The Council's Corporate Plan seeks to identify and meet housing need in the district and identifies a shortage of affordable housing in the area. As most housing within rural areas is on single dwelling sites, the removal of the procedure for requiring commuted sums towards affordable housing from single dwelling schemes will have a negative impact upon delivering affordable housing in rural areas.

The Council through its statutory Local Plan is required to facilitate an annual supply of housing to meet both market demand and affordable needs. Any change in current procedure may increase market delivery but potentially reduce affordable housing delivery.

Risk Management Implications

None identified.

Financial Implications

£82,878 has currently been agreed with applicants for affordable housing provision from single dwelling schemes but will not be received if schemes are not implemented. Schemes are less likely to be implemented if the procedure requiring a contribution has been removed. Up to £1,157,342 is currently in negotiation from single dwelling schemes and will not be received if the procedure is changed. Additional costs arising from the 2 appeal cases may be incurred.

Legal and Human Rights Implications

Counsel's opinion is being sought on legal implications.

Conclusions

The Council is being challenged as to the legality of the procedure of requiring commuted sums from single dwelling developments. This practice may be delaying schemes from coming forward in rural areas. However, removing the procedure will affect the delivery of affordable housing in rural areas and will result in financial costs to the Council.

Recommendations

Cabinet is recommended to consider alternative options 1 and 2, having regard to Counsel opinion.

Cabinet is recommended additionally to:

1. Reaffirm its commitment to meeting rural housing needs within the district through the operation of the Council's housing and planning policies;
2. Consider at a future date a revised and updated Affordable Housing Supplementary Planning Guidance to guide the implementation of current affordable housing policies before a full scale review of the policies is achieved in the forthcoming Core Strategy.

Background Papers

File Ref: Affordable Housing

File Location: Planning Policy and Conservation Services

Key Decision Box

| | |
|--------------------------------------|---|
| Statement of reason for key decision | May involve reduction in Council expenditure of £100,000 or more. Significance to the locality in terms of the implementation of planning policy. |
| Options considered and rejected | Continued operation of procedures without review. |
| Date of implementation | 11 September 2007 |