

EAST RIDING OF YORKSHIRE COUNCIL

Report to: The Cabinet
16 October 2007

Wards:

All wards

Interim Approach on Affordable Housing

Report of the Director of Corporate Policy and Strategy

A. Executive Summary

The Secretary of State has not allowed the Council to 'save' existing Local Plan policies on Affordable Housing. Immediate action is therefore required to put in place an interim approach for the provision of Affordable Housing as part of proposed residential development until policy or guidance can be agreed.

An approach is proposed which conforms to current published policy and guidance and balances the requirement to meet the high level of need for affordable housing in the East Riding without impacting too severely on the financial viability of residential development.

The approach will be reviewed in due course through policy in the emerging Local Development Framework Core Strategy and associated Supplementary Planning Documents.

B. Shared Priorities

A Well Managed Authority
Sustainable Communities and Transport
Safer and Stronger Communities

C. Portfolio

Policy, Performance and Partnerships
Cultural Services, Housing and Public Protection

D. Recommendation and Reason for Recommendation

It is recommended that:

- (a) the deletion by the Secretary of State of Local Plan policies S59 in the Boothferry Borough Local Plan, H5 in the East Yorkshire Borough Local Plan and H13 Holderness District Wide Local Plan on affordable housing be noted;

- (b) that the interim approach as set out in section 4 be agreed as the consistent basis for the provision of affordable housing as part of the determination of planning applications until an approach can be put in place through the Local Development Framework and/or a Supplementary Planning Document; and
- (c) a Supplementary Planning Document on Affordable Housing be prepared as soon as practicable.

1. Background

- 1.1 In March 2007 the Council had to submit to the Secretary of State lists of the various Local Plan policies that it wanted to save beyond 27 September 2007. The Government Office has now issued Directions for each Local Plan setting out those policies it has agreed can be saved. It has agreed that all the policies the Council submitted should be saved, except for affordable housing policies in Boothferry, East Yorkshire and Holderness Local Plans (policies S59, H5 and H13 respectively).
- 1.2 The Government Office has indicated that the affordable housing policy in the Beverley Borough Local Plan H16 can be saved because it mentions that the provision of affordable housing on windfall sites should be taken into account as a material consideration. It indicates that such material considerations include more recent national guidance and regional policy.
- 1.3 The Affordable Housing Supplementary Planning Guidance (July 2001), which sets out the details of provision as part of residential development, is dependent on the various affordable housing policies. The use of this Guidance in the implementation of policies S59, H5, H13 and H16 therefore also effectively lapses with the 'deletion' of these policies and the more recent guidance and policy.
- 1.4 It is therefore urgent for the Council to agree an interim approach on the requirement for affordable housing as part of the determination of planning applications after 27 September 2007 until an approach can be put in place through a Supplementary Planning Document.
- 1.5 The Secretary of State has confirmed that the policy in each of the 4 Local Plans dealing with proposals for wholly affordable housing on sites that would not otherwise be granted planning consent can still be saved.

2. Prevailing guidance on affordable housing

- 2.1 In the absence of the above Local Plan policies on affordable housing following the Secretary of State's Directions on Saved Policies, the basis for planning decisions on affordable housing is set out in Government guidance, the Regional Spatial Strategy (now part of the Development Plan) and the Joint Structure Plan.
- 2.2 Government guidance on affordable housing is set out in **PPS3**¹ and the associated good practice guidance². This includes guidance on when developers will be expected to provide affordable housing, which indicates that:
"the national indicative minimum site size threshold is 15 dwellings. However, Local Planning Authorities can set lower minimum thresholds, where viable and practicable, including in rural areas. This could include setting different proportions of affordable housing to be sought for a series of site-size

¹ Planning Policy Statement 3: Housing, Department of Communities and Local Government, 2006

² Delivering Affordable Housing, Department of Communities and Local Government, 2006

thresholds over the plan area. Local Planning Authorities will need to undertake an informed assessment of the economic viability of any thresholds and proportions of affordable housing proposed, including their likely impact upon overall levels of housing delivery and creating mixed communities. In particular, as the new definition of affordable housing excludes low cost market housing in deciding proportions of affordable housing to be sought in different circumstances, Local Planning Authorities should take account of the need to deliver low cost market housing as part of the overall housing mix.”

- 2.3 PPS3 also defines affordable housing as including “social rented ³ and intermediate ⁴ housing provided to specified eligible households whose needs are not met by the market”.
- 2.4 The prevailing regional policy on affordable housing is set out in policy H4 of **Regional Spatial Strategy** (RSS12), which states that:
- a) *Targets for the provision of affordable housing in each district (divided between local housing areas/settlements as necessary) should be developed through local housing needs assessments to common standards in consultation with housing authorities and other social and affordable housing providers.*
 - b) *Releases of land for housing in any area should take account of the need for different types and sizes of housing to meet all needs and be subject to delivery of an appropriate proportion of the affordable housing requirement for the area assessed under a).*
 - c) *In preparing development plans for high demand urban areas and accessible rural areas local authorities should consider whether there is evidence which would justify application of lower thresholds as set out in Circular 6/98 (i.e. down to developments of 15 dwellings or 0.5 ha), and if so include a justified policy accordingly.*
- 2.5 **Revised Regional Spatial Strategy** will replace the existing RSS policy H4 above and is nearing its publication. The Panel’s Report following the Examination was published in March 2007 and the Government Office published the “Proposed Changes” for consultation on 29 September 2007. The Secretary of State will publish the final revised Regional Spatial Strategy probably in Spring 2008. Whilst this revised version is not yet Development Plan policy, it can be regarded as carrying considerable weight given the advanced stage in its preparation.
- 2.6 Revised Regional Spatial Strategy policy H3 (as proposed to be changed) states that:
- “A. The Region needs to increase its provision of affordable housing. Plans, strategies, programmes and investment decisions should ensure the provision of affordable housing to address the needs of their local communities.*
- B. LDFs should set targets for the amount of affordable housing to be provided. Provisional estimates of the proportion of new housing that may need to be affordable are as follows:*
- *Over 40% in North Yorkshire districts and the East Riding of Yorkshire*
 - *30-40% in Kirklees, Leeds, Wakefield and Sheffield*
 - *Up to 30% in other parts of South and West Yorkshire, Hull, North Lincolnshire and North East Lincolnshire.”*
- 2.7 The supporting text to this policy acknowledges that it “*is likely that there will be considerable variety in what is required within districts. The figures will need to be reviewed in the light of findings from emerging strategic housing market assessments*”.

³ Defined as “Rented housing owned and managed by local authorities and registered social landlords, for which guideline target rents are determined through the national rent regime.”

⁴ Defined as “Housing at prices and rents above those of social rent, but below market price or rents, and which meet the criteria set out above. These can include shared equity products (eg HomeBuy), other low cost homes for sale and intermediate rent.

- 2.8 The **Joint Structure Plan** policy H6 remains part of the Development Plan (at least until a decision is made by the Secretary of State in mid-2008 on which Joint Structure Plan policies should be saved beyond June 2008). This policy states that:
‘New housing development should provide for a mix of housing types, sizes and tenures to meet the differing and changing housing needs of local communities. Local Development Frameworks should establish targets for the provision of affordable housing based on an assessment of local needs.’

3. Consideration of issues involved in an interim approach

- 3.1 It is necessary for Cabinet to agree as a matter of urgency an interim approach to the provision of affordable housing as part of residential development following the Secretary of State’s decisions on the ‘saved policies’. The need for the Council to address affordable housing is strongly supported in planning guidance and it is the principal way that additional affordable housing is secured in the East Riding.
- 3.2 Developers will require firm advice on how the Council intends to apply existing Government guidance and Development Plan policy in advance of new policy that will emerge in due course from the Local Development Framework. The Local Development Framework Core Strategy timetable has recently been agreed and it will not be adopted for three years. It is not practicable to accelerate this. However, it may be possible to prepare a Supplementary Planning Document based on policies in the Regional Spatial Strategy (to replace the superseded Supplementary Planning Guidance), but this would take around 9 months to produce.
- 3.3 Application of this existing Government guidance and existing/emerging policy will demand more than was expected under the existing Local Plan policies and Supplementary Planning Guidance. Such a new approach will deliver much needed additional affordable housing (last year only 52 affordable houses were secured from planning consents) and so be welcomed by many including the Government Office, Regional Assembly and Housing Corporation. These key partners have identified the Council’s existing policies as being unsatisfactory to meet identified local need and are looking to the Council to implement a more proactive approach in line with latest national and regional policy – this is undoubtedly the reason why the Secretary of State has declined to allow the Council to save the existing Local Plan policies. However, the additional burdens on development will be of significant concern to the house building industry, particularly in those parts of the East Riding with less buoyant market conditions.
- 3.4 One of the main concerns of the house building industry will be that the agreed interim approach is applied consistently in the Council’s decisions on all relevant developments. Any new approach will need to be soundly based on the existing guidance and policy set out in section 2 above in order to be robust.
- 3.5 Whilst any interim approach agreed now need not constrain that followed in a Supplementary Planning Document or the Local Development Framework, it should follow the direction that is likely to be taken in them. This is likely to include a reduction in the threshold and an increase in the proportion sought. If this direction is not adopted, the number of affordable houses secured will not be optimised against projected targets⁵.
- 3.6 Members will need to consider the following principal issues in deciding upon an interim approach on affordable housing:
- approach in the Beverley Borough Local Plan area
 - threshold(s)

⁵ The emerging Regional Spatial will set a target which would give a figure of 476 additional affordable houses per annum (compared with the affordable housing requirement indicated in the most recent survey of 1445)

- proportion of affordable housing to be provided
- tenure
- financial viability

These are set out in turn below.

Beverley Borough Local Plan area

3.7 Whilst policy H16 of the Beverley Local Plan is still officially saved, it is clear from discussions with the Government Office that they expect the policy to be looked at in the context of the more up to date guidance in PPS3 and RSS12. They would expect that the provisions in this guidance and policy, such as on thresholds and types of affordable housing, should effectively supersede that set out in the policy. It is therefore proposed that the interim approach apply to the whole of the East Riding.

Thresholds

3.8 The threshold(s) at which residential development should be expected to include an element of affordable housing is indicated in PPS3 as 15 dwellings. Whilst this threshold is lower than those in the existing Local Plan policies, it is now well established in recent policy.

3.9 However, authorities are also invited by the PPS3 to justify lower thresholds where viable and practicable, including in rural areas. This is of particular relevance to the East Riding which is identified in revised Regional Spatial Strategy as an area that should achieve a high level of affordable housing provision to meet its high level of need for affordable housing, as demonstrated in evidence, including the Council's Housing Needs/Market Assessment⁶.

3.10 Other authorities have successfully introduced lower thresholds for rural settlements in areas of higher housing need. Hambleton for instance has introduced a threshold of 2 dwellings in rural settlements and some (such as Harrogate) expect every new house in some rural areas to make a contribution to affordable housing (by way of a commuted sum on single house developments).

3.11 It is important that 'safeguards' are added to the threshold to prevent the thresholds being avoided by deliberately manipulating the numbers and/or by submitting separate planning applications for the same site.

3.12 It is proposed that the following thresholds be applied in the East Riding:

- 15 dwellings or 0.5 hectares in the defined Sub-regional Urban Area, Principal Towns and Towns as defined in the adopted Joint Structure Plan (see Appendix 1 for list)
- 5 dwellings or 0.15 hectares in the proposed 'Market Villages' as set out in the Preferred Options version of the Smaller Settlements Development Plan Document (see Appendix 1 for list)
- 3 dwellings or 0.1 hectares elsewhere

Proportions

3.13 The extent of the affordability problem in the East Riding is far greater than when the proportions set out in the existing Supplementary Planning Guidance were developed and this has been set out in various evidence, including the recent Housing Needs/Market Assessment. The revised Regional Spatial Strategy includes a challenging 40% affordable housing target for the whole of the East Riding. The Council did make specific representations to the

⁶ East Riding of Yorkshire Housing Needs and Market Assessment, May 2007.

Examination that this was too high (a proposed target of between 30% and 39% was suggested). However, the Government Office's response to the Panel's report was published on 27 September 2007 and it has confirmed that over 40% proportion of new housing may need to be affordable. This policy is now at its final stage before its expected publication in Spring 2008 and must be given considerable weight in considering planning applications.

- 3.14 Although it might be possible to require more than 40% in some places in the East Riding, this might require further justification, which would take some time to complete. At the same time, whilst the 40% target set out in revised Regional Spatial Strategy would be justifiable in some parts of the East Riding, there is concern that such a proportion would not be viable in some areas where market conditions are less buoyant and/or where there are other requirements as part of the site's development (e.g. abnormal development costs). However, the basis of any variable proportion below 40% would also require further justification.
- 3.15 Government guidance acknowledges that affordable housing requirements should take account of such viability considerations. It is therefore proposed the interim approach includes 'standard' requirement for a 40% proportion of affordable housing. However, any developer could submit information to the Council where it is contended that the 40% proportion of affordable housing would make the development unviable (see paragraph 3.18 below).

Tenure of provision

- 3.16 The greatest housing need in the East Riding is for those persons who are only able to rent – that is why the Council's existing Supplementary Planning Guidance has expressed a strong preference for affordable housing to be provided in the form of social rented housing. However, PPS3 has made it clear that planning authorities should deliver a mix of affordable housing to meet local needs. The Council's recent Housing Needs and Market Assessment indicated that, in broad terms for the East Riding as a whole, the breakdown of tenures required to meet affordable housing need was $\frac{2}{3}$ social rented and $\frac{1}{3}$ intermediate.
- 3.17 It is therefore proposed that the interim approach include a 'standard' requirement for provision of affordable housing in the form of $\frac{2}{3}$ social rented and $\frac{1}{3}$ intermediate, unless those needs indicate an alternative balance. The type of intermediate provision should meet local housing needs.

Financial viability

- 3.18 It is recognised that the proportion of affordable housing being suggested (40%) is likely to cause some house builders to contend the requirement will make the development unviable, particularly in some parts of the East Riding. Whilst the intention is that the additional financial burden from the increased requirement for affordable housing will be reflected in the price paid for the land, it may be that land prices in some parts of the East Riding are not such as to withstand that increased requirement.
- 3.19 It is therefore proposed that the interim approach should include a provision that any development can be subject to a financial viability assessment when the developer alleges that the affordable housing requirement will make the development unviable. In these circumstances, the developer will be required to submit certain information and a separate fee to the Council to test the developer's contention. This approach is adopted by a number of other authorities. This can mean that in justifiable instances the proportion may be reduced to a level which is financially viable for developers. The same financial justification model would be applied consistently so that all such cases were treated on a common basis when a developer wished to contest the affordable housing requirement.

3.20 In order to meet performance indicators for the determination of planning applications, it is important that any negotiations over the provision of affordable housing are completed in a timely manner. This will include matters that will need to be completed before an application can be validated (e.g. the provision by an applicant of any information to support a reduction in the proportion of affordable housing to be provided) and matters that will need to be dealt with before a notice of decision can be issued (e.g discussions over the type of intermediate provision and the completion of an associated legal agreement). Where such matters are not completed within the agreed timescales, then officers will refuse applications under the scheme of delegated powers.

4. The proposed Interim Approach on the Provision of Affordable Housing

4.1 It is proposed that the following interim approach be agreed as the consistent basis for the consideration of provision of affordable housing as part of the determination of planning applications until a until an approach can be put in place through a Supplementary Planning Document and/or the Local Development Framework :

“Housing development of:

- 15 or more dwellings (or sites of 0.5ha or more) or part thereof within the development limits of Cottingham, Anlaby, Willerby, Kirk Ella, Hessle, Beverley, Bridlington, Goole, Driffield, Elloughton/Brough, Hedon, Hornsea, Howden, Market Weighton, Pocklington, Snaith and Withernsea
 - 5 or more dwellings (or sites of 0.15ha or more) or part thereof within the development limits of Aldbrough, Beeford, Brandesburton, Bubwith, Easington, Gilberdyke, Holme on Spalding Moor, Hutton Cranswick, Keyingham, Kilham, Leconfield, Leven, Melbourne, Middleton on the Wolds, Nafferton, Newport, North Cave, North Ferriby, North Frodingham, Patrington, Rawcliffe, Roos, Skirlaugh, Skipsea, South Cave, Stamford Bridge, Wetwang and Wilberfoss,
 - 3 or more dwellings (or sites of 0.1ha or more) or part thereof elsewhere
- must make provision for an element of housing which is kept in perpetuity as accessible and affordable to those unable to compete in the general housing market.

The Council will seek to achieve a 40% proportion of affordable housing, with $\frac{2}{3}$ in the form of social rented and $\frac{1}{3}$ in a suitable form of intermediate tenure.

Reflecting these targets as a guide, the proportion and tenure balance of affordable housing required on individual sites will be determined, taking into account viability and the economics of provision. The Council will work with the private sector and Registered Social Landlords to achieve the required level of affordable housing.”

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Background Papers

1. Planning and Compulsory Purchase Act 2004 and Associated Regulations
2. Letters from Government Office on Saved Policies, 17 September 2007
3. Smaller Settlements Development Plan Document – Preferred Options, October 2006
4. Supplementary Planning Guidance on Affordable Housing, July 2001
5. Existing Local Plans for the Beverley, Boothferry, East Yorkshire and Holderness areas.

List of settlements as defined in the adopted Joint Structure Plan, June 2005:

Sub-regional Urban Area (DS1) - Cottingham, Anlaby, Willerby, Kirk Ella, Hessle,

Principal Towns (DS2) - Beverley, Bridlington, Goole,

Towns (DS3) - Drifffield, Elloughton/Brough, Hedon, Hornsea, Howden, Market Weighton, Pocklington, Snaith and Withernsea

List of settlements identified as Preferred 'Market Villages' in the Smaller Settlements Development Plan Document, October 2006 (settlements to be treated as DS4 in the adopted Joint Structure Plan):

Aldbrough, Beeford, Brandesburton, Bubwith, Easington, Gilberdyke, Holme on Spalding Moor, Hutton Cranswick, Keyingham, Kilham, Leconfield, Leven, Melbourne, Middleton on the Wolds, Nafferton, Newport, North Cave, North Ferriby, North Frodingham, Patrington, Rawcliffe, Roos, Skipsea, Skirlaugh, South Cave, Stamford Bridge, Wetwang and Wilberfoss.