



Report of the Director of City Development

Executive Board

Date: 11 February 2011

Subject: Draft Interim Affordable Housing Policy 2011

Electoral Wards Affected:

All

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call In

Not Eligible for Call In
(Details contained in the re

EXECUTIVE SUMMARY

1. It is considered that there is a need to introduce an Interim Affordable Housing Policy to replace the current Informal policy introduced in July 2008. This reflects the findings of the Economic Viability Assessment (EVA) (the final draft EVA has recently been published) which provides an up to date assessment of what affordable housing can be delivered in the current market.

2. The Interim Policy, once adopted will replace current policy which comprises both the Informal Policy 2008 and the total % targets in the Affordable Housing Supplementary Planning Guidance (SPG) Annex. The remainder of the SPG (including the Annex) is unaffected.

3. The intention is that the Interim policy will apply until replaced by the formal Local Development Framework policies within the Core Strategy and Affordable Housing Supplementary Planning Document (SPD).

4. The Draft Interim Policy proposes amendments to the total percentage of affordable housing targets to be sought across Leeds as follows:

Outer area/rural north – change from 30% to 35% affordable housing target

Outer suburbs – change from 30% to 15% affordable housing target

Inner Suburbs – change from 30% to 15% affordable housing target

Inner Areas – change from 15% to 5% affordable housing target

City Centre – change from 15% to 5% affordable housing target

5. It is recommended that Executive Board approve a 4 week public consultation period on the Draft Interim Affordable Housing Policy.

1.0 Purpose of this Report

1.1 To inform members of the outcome of an Economic Viability Assessment (EVA) to test the viability of implementing affordable housing targets across Leeds.

1.2 That a Draft Interim Affordable Housing Policy (appended to this report) which is informed by the EVA, be approved for public consultation.

2.0 Background Information

2.1 Current affordable housing policy comprises both the Informal Affordable Housing Policy approved by Executive Board in July 2008 and Supplementary Planning Guidance (SPG) February 2003 and SPG Annex July 2005, revision April 2010. The table below summarises current policy:

Housing Market Zone	Total affordable housing required	Proportion of social rented required	Proportion of submarket/intermediate required
Outer area/rural north	30%*	50%	50%
Outer suburbs	30%*	50%	50%
Inner suburbs	30%*	40%	60%
Inner areas	15%	0%	100%
City Centre	15%	40%	60%

* 30% is the Informal Policy requirement (in the SPG the figure is 25%). All other aspects of the SPG are unchanged and remain. Any application for planning permission for 15 residential units or more is subject to the requirement to provide affordable housing in accordance with policy. The SPG Annex is revised each April solely to update the Affordability Benchmarks (the price per sq m for affordable housing). (See Appendix 1 for map of existing housing market zones).

2.2 The SPG policy was based on information on housing need at the time (“Assessment of Need for Affordable Housing” early results prior to final publication in November 2003). The informal policy 2008 was introduced because of the need to be in conformity with the Regional Spatial Strategy (RSS) policy H4 which suggested 30-40% affordable housing across Leeds, and the updated need assessment contained within Leeds Strategic Housing Market Assessment 2007 which identified a need for 1889 affordable dwellings per annum over a 15 year period.

2.3 Affordable housing policies should reflect up to date and sound evidence, one aspect of which is viability modelling, to demonstrate that proposed affordable housing targets are achievable, as required by paragraph 29 of PPS3 Housing (2006 and revised June 2010). This provides that ‘an informed assessment of the

economic viability of any thresholds and proportions of affordable housing proposed is carried out' (PPS3 Housing).

- 2.4 A 2008 Court of Appeal decision involving Persimmon Homes (North East) Ltd and Blyth Valley Borough Council made it clear that an informed assessment of the economic viability of local authority targets for affordable housing is a crucial feature of planning policy guidance. By failing to carry out such an assessment and by seeking to rely upon an earlier housing needs survey, Blyth had failed to comply with the policy and its target was therefore unlawful. With this in mind it is worth noting that Leeds' SPG policies (which predated the Court of Appeal decision) were not tested against viability criteria.
- 2.5 A Draft Affordable Housing Supplementary Planning Document (SPD) was produced in 2008 and Leeds City Council undertook formal consultation on the Draft Affordable Housing SPD and accompanying Sustainability Appraisal 29th September – 7th November 2008. A Report of Viability Testing (September 2008) provided evidence for the draft policy. However, the SPD has not progressed to adoption due to the fact that more work has been carried out on viability testing of various affordable targets in response to representations made in the public consultation period. The SPD will be revised and redrafted to take account of this. In addition, in response to representations made on the Core Strategy Preferred Option 2009, it has been agreed that production of the SPD will be aligned with that of the Core Strategy to allow full consideration of affordable housing issues and representations at examination in public of the Core Strategy. Due to this, adoption of a final SPD will not be before 2012.
- 2.6 DTZ were commissioned to carry out the further more detailed remodelling work, to revise and update the viability testing report produced in 2008 (ie. the initial work was done prior to the recession and therefore did not account for the decline in the housing market). A Final Draft Economic Viability Assessment (EVA) has been produced for the Council by DTZ consultants and tests the viability of providing a range of affordable housing targets in three different scenarios – the 'baseline' position (or market in a recession), the height of the market (ie. when not in recession) and the midpoint between the two extremes. See appendix 2 for summary of findings/report conclusions.
- 2.7 The DTZ work concluded that in the current depressed market any provision of affordable housing in the City Centre or Inner Area (see map at Appendix 3) will have a negative impact on scheme viability. Between 15 and 40% affordable housing can be achieved in the Golden Triangle Area (GTA), depending on the value of locations within the GTA), and up to 15% in high value areas within the Outer Area.
- 2.8 When the housing market fully recovers (equivalent to the height of the market position), higher percentages of affordable housing may be delivered - (40% – 50% in the Golden Triangle Area, 5% – 35% in the Outer Area and 15% in the Inner Areas). However, any provision in the city centre will still have a negative impact on scheme viability.
- 2.9 It should be noted that the suggested Interim Policy includes targets which are based on, but do not exactly reflect the proportion of affordable housing associated with the outcome of the strategic modelling in the EVA in the baseline scenario ie. current/recession market conditions. In this context it is worth referring to Wakefield Council's recent experience with their affordable housing policy in their Core

Strategy. In 2008 their EVA concluded that, having regard to the prevailing market conditions, there was little scope to deliver any affordable housing but that a range of affordable housing up to 30% could be delivered and that any delivery had to be flexible and have built in trigger-points that enabled further delivery as the market improved. A developer challenged the approach adopted by the Council to affordable housing in the courts arguing that the Council had set its affordable housing too high (30%) and had not accounted for the fact that in the current recession affordable housing undermines viability. The challenge ultimately failed as the Court of Appeal was satisfied that the correct interpretation of Wakefield's policy was that it did not contain a mandatory requirement for affordable housing. A 30 per cent target was a realistic aspiration in favourable conditions. The judgment confirms that Councils are in a position to set affordable housing targets that may be difficult to achieve in less favourable market conditions provided there is flexibility built into the policy to allow for site specific negotiations relating to the level of affordable housing based on assessments of viability.

- 2.10 With this in mind the DTZ work represents strategic modelling only and there will still be sites within areas tested where different levels of affordable housing can be achieved in practice. In these circumstances a full financial viability appraisal should be submitted to demonstrate what affordable housing provision is appropriate having regard to scheme viability. It should also be noted that where strategic modelling suggests that the provision of affordable housing will result in development that is unviable, this does not preclude the delivery of affordable housing. For example, it is possible to agree a reduction in other S106 contributions in return for the provision of affordable housing.
- 2.11 A Draft Interim Affordable Housing Policy has been prepared in the light of the DTZ technical report, in advance of the Core Strategy and Affordable Housing Supplementary Planning Document (SPD) (as these are not anticipated before 2012), to reflect this most recent, up to date evidence.
- 2.12 The draft policy proposes a reduction in affordable housing targets in all but the outer area/rural north where a 5% increase in the target sought is proposed. See the Annex to this report for full details.
- 2.13 It should be noted that the interim policy only proposes new targets for the percentages of affordable dwellings in response to the Economic Viability Assessment (EVA); all other aspects of the existing Supplementary Planning Guidance (SPG) remain unchanged. In other words, the existing tenure splits, threshold, policy on pro-rata provision, integration of affordable housing throughout a site and policy on commuted sums or off-site provision remain unchanged.
- 2.14 In respect of commuted sums, current policy, nationally and locally is for a presumption that affordable housing should be provided on the application site (reflecting government aims to create mixed, sustainable communities). However, paragraph 5.2 of the SPG allows for off-site provision or a commuted sum (solely to be used for affordable housing) in exceptional cases where the Council and a developer agree that this would be preferable. Each application which involves such a proposal would therefore be considered on its individual merits and the Council would have to be satisfied of the reasons for doing so. There would need to be a clear benefit and justification for off site provision or a commuted sum in preference to the presumption for on site provision. The clear benefit and justification would include a comparison of what would have been achieved on the application site and what would be achieved off site, not only in terms of number of units, but tenure, size of units etc. Production of the Council's Core Strategy and

Affordable Housing Supplementary Planning Document will provide an opportunity to further review the existing policy in this respect.

- 2.15 The draft policy has also been screened to assess whether it should be subject to Strategic Environmental Assessment. See Appendix 4. We are currently awaiting comments from the statutory bodies consulted (Natural England, English Heritage and the Environment Agency).

3.0 Legal and Resource Implications

- 3.1 There may be resource implications in that if we maintain current affordable housing targets in current policy which are unviable for the majority of developers/applications, then the number of individual viability appraisals submitted may increase and/or developers would be likely to challenge the need to provide affordable housing.

4.0 Conclusions

- 4.1 Since the start of the recession, house building in Leeds has been severely affected. The table below gives figures from the Affordable Housing Team (Environment & Neighbourhoods) on the number of affordable units delivered through the planning system (via S106 legal agreements) for three time periods. The figures illustrate a vast reduction in the number of affordable houses which have been secured in recent years, in the current depressed market compared with 2007/8, the height of the market.

Year	Total number of affordable units delivered via the planning system
2007/08	213
2009/10	99
2010/11 (up to end of 3 rd quarter)	14

- 4.2 Whilst the need for affordable housing remains acute it is necessary to set targets which are likely to be deliverable, which encourage housebuilding and in particular do not stifle the development of brownfield sites in inner areas. The draft policy incorporates affordable housing targets which reflect market conditions in particular areas of Leeds.

5.0 Recommendations

- 5.1 It is recommended that Executive Board:
- i) approve the publication of a Draft Interim Affordable Housing Policy (appended to this report) (which has been informed by the Economic Viability Assessment);
 - ii) agree to carrying out a four week public consultation on the draft policy;

- iii) report back to Executive Board with the outcomes from the public consultation exercise along with any further recommendations for changes to the draft policy.

Background Papers

The Annex to this report is the Draft Interim Affordable Housing Policy 2011.

Appendix 2 summarises the conclusions from the DTZ Economic Viability Assessment report, which have informed the draft policy.

Annex

DRAFT INTERIM AFFORDABLE HOUSING POLICY 2011

BACKGROUND AND CURRENT POLICY

Current affordable housing policy comprises both the Informal Housing Policy and Supplementary Planning Guidance (SPG) (the SPG, Feb 2003 and SPG Annex July 2005, revision April 2010).

The table below summarises current affordable housing targets:

Housing Market Zone	Total affordable housing required	Proportion of social rented required	Proportion of submarket/intermediate required
Outer area/rural north	30%*	50%	50%
Outer suburbs	30%*	50%	50%
Inner suburbs	30%*	40%	60%
Inner areas	15%	0%	100%
City Centre	15%	40%	60%

* 30% is the Informal Policy requirement (in the SPG the figure is 25%). All other aspects of the SPG are unchanged.

Any application for planning permission for 15 residential units or more has to provide affordable housing in accordance with policy.

The Informal Policy was introduced through decision by Executive Board, in July 2008, in advance of a formal Supplementary Planning Document (SPD) because of the need to be in conformity with the Regional Spatial Strategy (RSS) policy H4 which suggested 30-40% affordable housing across Leeds, and Leeds Strategic Housing Market Assessment 2007 which indicates a massive need for affordable housing (1889 dwellings per annum over a 15 year period).

All other aspects of the SPG are unchanged and remain.

The SPG Annex is revised each April solely to update the Affordability Benchmarks (the price per sq m for affordable housing).

Proposed future policy: Affordable Housing Supplementary Planning Document (SPD)

The SPD, once formally adopted, will replace the existing SPG and Informal Policy.

A Draft Affordable Housing SPD was produced in 2008 and Leeds City Council undertook formal consultation on the Draft Affordable Housing SPD and accompanying Sustainability Appraisal 29th September – 7th November 2008.

It has not progressed to adoption as yet, due to the fact that more work has been carried out on viability testing of various affordable targets and in addition, in response to representations made on the Core Strategy Preferred Option 2009, it has been agreed that

production of the SPD will be aligned with that of the Core Strategy to allow full consideration of affordable housing issues and representations at examination in public of the Core Strategy. Due to this, adoption of a final SPD will not be before 2012.

Viability Testing

In the public consultation on the Draft SPD, the Council received several comments on the Report of Viability Testing 2008, which was produced as evidence to support the proposed affordable housing targets and threshold. However, the production of the Draft SPD and viability testing were carried out prior to the current downturn in the housing market. Government guidance requires that 'an informed assessment of the economic viability of any thresholds and proportions of affordable housing proposed is carried out' (PPS3 Housing, June 2010).

It was therefore decided to carry out further work on the viability testing to ensure that the evidence is robust. Consultation was carried out on a set of assumptions to be included within the remodelling exercise (closing date 27th March 2009). However, due to resource constraints DTZ consultants took over this work. There was further consultation on the revised assumptions to go into the remodelling exercise (closing date 8 January 2010). DTZ's final draft report was made publicly available in January 2011.

Now that the Economic Viability Assessment (EVA) report is completed and published the SPD will be redrafted and go out for a further period of public consultation. The redrafted Affordable Housing SPD will also consider other evidence including the Strategic Housing Market Assessment Update due to be published in February 2011.

The need for an interim policy

It is considered that there is a need to introduce an interim affordable housing policy to replace the current Informal policy introduced in July 2008 in advance of the Draft SPD being published. The reason for this is that the findings of the Economic Viability Appraisal provide an up to date assessment of what affordable housing can be delivered in the current market.

SUGGESTED INTERIM AFFORDABLE HOUSING POLICY

Only new targets are proposed (see table below); all other aspects of existing SPG policy remain unchanged. In other words, the existing tenure splits, threshold, policy on pro-rata provision, integration throughout a site etc remain unchanged. The policy as a whole will be reviewed and updated as necessary through the Core Strategy and a revised Affordable Housing SPD.

The interim policy 2010/11 proposes to amend the total affordable housing targets sought as indicated in the table below:

Existing Housing market zone as in SPG	SPG policy	Informal Policy July 2008	Proposed new Interim Policy 2011
Outer area/rural north	25%	30%	35%
Outer suburbs	25%	30%	15%
Inner Suburbs	25%	30%	15%
Inner Areas	15%	15%	5%
City Centre	15%	15%	5%

Appendix 1 shows the existing housing market zones.

The proposed new percentage targets can be compared against the DTZ report findings which are in Appendix 2. In terms of the higher value outer areas, the new interim targets represent a percentage of affordable housing considered to be appropriate taking into account scheme viability in these areas during the “baseline” (current) period. Affordable housing will be sought in the lower value inner areas and city centre despite the outcome of the DTZ report. This is because the DTZ findings represent the worst case scenario modelling for affordable housing provision - for example they assume that all other section 106 obligations will be delivered in full. In practice, it has been possible to secure affordable housing provision on schemes in these areas during the worst months of the recession. It should also be noted that the interim policy will maintain the option for developers to submit viability appraisals for individual schemes which seek to justify a reduced percentage of affordable housing based on the viability of individual schemes.

The Interim Policy, once adopted will replace the Informal Policy 2008 and the total % targets in the SPG Annex, but everything else in the SPG (including the SPG Annex) is not affected by the proposed changes. It will apply until replaced by the formal Local Development Framework policies within the Core Strategy and Affordable Housing SPD.

The viability assessment undertaken to develop these targets factored in the other obligations that can properly be sought by the Council. This was a device for modelling purposes and does not imply that these other obligations are of greater importance than affordable housing. Consequently, in making decisions on individual planning applications, it may be deemed appropriate to seek an enhanced contribution to affordable housing and reduced contributions in other respects.