

# **CHESHIRE EAST COUNCIL**

## **REPORT TO: CABINET**

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**Date of Meeting:** 14 February 2011  
**Report of:** Strategic Director - Places  
**Subject/Title:** Interim Planning Statement on Affordable Housing  
**Portfolio Holder:** Cllrs David Brown/Jamie Macrae

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### **1.0 Report Summary**

- 1.1 The Cabinet approved the draft Interim Planning Statement on Affordable Housing on 20<sup>th</sup> September 2010. This report considers the responses that have been received to the consultation that took place and proposes revisions to the draft Statement in the light of comments made.
- 1.2 The report has been considered by Strategic Planning Board on 26 January and their recommendations have been included in the report. The report has been considered by Environment and Scrutiny Committee on 8 February. Their recommendations will be reported to Cabinet at the meeting.

### **2.0 Decision Requested**

- 2.1 That Cabinet recommends that Council adopts the Interim Planning Statement on Affordable Housing as set out in Appendix 2 and agrees that it be used in the determination of planning applications.

### **3.0 Reasons for Recommendations**

- 3.1 To ensure that the Council has up to date planning guidance on affordable housing pending the adoption of a new Council wide policy in the Local Development Framework.

### **4.0 Wards Affected**

- 4.1 All wards

### **5.0 Local Ward Members**

- 5.1 All members

### **6.0 Policy Implications including – Carbon Reduction – Health**

- 6.1 The Interim Planning Statement on Affordable Housing provides guidance on the delivery of policies on affordable housing. New housing is required to achieve high levels of energy efficiency and provide healthy living conditions.

### **7.0 Financial Implications (Authorised by the Borough Treasurer)**

7.1 There are no operational financial implications of this statement as any change in officer time in negotiating schemes and S106 agreements will be managed within existing budgets.

7.2 Paragraph 2.13 of the Interim Planning Statement on Affordable Housing recognises that the requirements will result in a cost to the developer. This in turn will impact on the value of any land that the Council sells for housing.

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

8.1 The Town and Country Planning Act requires that in dealing with a planning application the authority shall have regard to the provisions of the development plan and all other material considerations. It will be argued that as this policy has gone through the consultation procedure, and following adoption, it should be given substantial weight by members and inspectors in deciding individual applications and appeals.

## **9.0 Risk Management**

9.1 The 2010 Strategic Housing Market Assessment has demonstrated the continuing high level of demand for affordable housing throughout the Borough that warrants an increase in the target for the amount of affordable housing to be provided on development sites. Without the introduction of the Interim Housing Policy on Affordable Housing, a lower level of affordable housing would be provided.

## **10.0 Background and Options**

10.1 The Council has inherited three different planning policies for affordable housing in the Local Plans of the predecessor district authorities. The Crewe and Nantwich and Congleton Borough Local Plans both seek a minimum target of 30% affordable housing on allocated and windfall sites. The Macclesfield Borough Local Plan requires a minimum of 25%. Differences exist in the threshold at which the affordable housing requirement is applied. The Macclesfield Local Plan does not contain a rural exceptions policy whereas the other two Local Plans do, albeit with slightly different wording

10.2 The three current Local Plans recognise that there may be instances when the level of affordable housing provided on individual sites might be influenced by economic viability issues. However, over the past 12 to 18 months, there has been an increasing number of occasions when developers have sought to provide a significantly lower level of affordable housing on sites due to viability issues which have been brought into sharper focus due to the down turn in the UK housing market. There is a lack of a clear framework for evaluating viability issues for individual planning applications.

10.3 An Interim Planning Statement on Affordable Housing was produced therefore to address these issues. The Planning Statement is intended to provide updated guidance on affordable housing provision, with particular reference to the determination of planning applications where there is an affordable housing requirement and to ensure consistency of approach in negotiating the

provision of affordable housing. The Interim Planning Statement on Affordable Housing also addresses the increasing number of issues surrounding development economics and the viability of providing affordable housing.

- 10.4 Members will recall that at the Cabinet meeting on 20<sup>th</sup> September 2010 it was agreed that, subject to the endorsement of the document by the Strategic Planning Board, a draft Interim Planning Statement on Affordable Housing was approved for consultation purposes, and agreed that it be treated as a material consideration in the determination of planning applications pending the adoption of the finalised document in such a format as may be appropriate following the consultation process.
- 10.5 The document was subsequently endorsed by the Strategic Planning Board at its meeting on 6<sup>th</sup> October 2010 and was subject to public consultation between 8<sup>th</sup> November and 17<sup>th</sup> December 2010. Notification of the consultation was sent to all town and parish councils, statutory consultees, organisations, businesses and individuals registered on the LDF database. A press release was issued and publicity given on the Council's website. The document was made available for inspection at the Council offices and libraries and on the Council's website.
- 10.6 During the consultation period 233 representations were received from 39 respondents. A full report of consultation setting out full details of the comments received can be viewed on [www.cheshireeast.gov.uk/ldf](http://www.cheshireeast.gov.uk/ldf)
- 10.7 Appendix 1 contains a summary of the consultation responses and the Council's comments to them with recommendations for revisions to the Interim Planning Statement, where appropriate. It is also proposed to amend the document to refer to the Regional Spatial Strategy for the North West which has now been reinstated as part of the Development Plan and other minor typographical errors. Once Regional Spatial Strategies have been revoked as part of the Localism Bill, references contained in the Interim Planning Policy Statement on the Release of Housing Land will no longer apply and will be removed.
- 10.8 A copy of the Interim Planning Statement on Affordable Housing incorporating these amendments is contained in Appendix 2.
- 10.9 The revised Interim Planning Statement on Affordable Housing will be used in the determination of planning applications and appeals. The Policy will remain in force until such time as new affordable housing policies are in place through the Local Development Framework Core Strategy and Site Allocations and Policies Documents. The effectiveness of the Policy will be kept under review as part of the Local Development Framework Annual Monitoring Report.

## **11.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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## Interim Planning Statement on Affordable Housing

### Responses to comments received during consultation

COMMENT	RESPONSE AND RECOMMENDATION
<p>A number of respondents have argued that the Council is endeavouring to introduce targets for affordable and low cost housing through the IPS whereas they should be included in the Local Development Framework. Paragraph 6.1 of PPS12 states that SPDs should not be prepared to avoid the need for examination. The requirement for low cost market housing is a new policy to Crewe and Nantwich and Macclesfield and Macclesfield Local Plan requires 25% affordable housing.</p>	<p>Whilst the establishment of an affordable housing policy for Cheshire East will be undertaken as part of the Local Development Framework, the Core Strategy is unlikely to be adopted until the end of 2013. It is important, in the light of new evidence of affordable housing need across the Borough which has emerged in the Strategic Housing Market Assessment, that interim policy is put in place as soon as possible to provide a consistent approach to achieving affordable housing through the planning process.</p> <p><b>Recommendation 1: No Change</b></p>
<p>The targets for affordable housing have not been fully tested for their impact on viability and practicality of housing development as required by PPS 3 and PPS 12.</p>	<p>As part of the work carried out on the Strategic Housing Market Assessment, a robust assessment of the viability of affordable housing targets was undertaken. The assessment indicated that a 35% target was a viable policy option. The viability assessment was agreed by the Housing Market Partnership. The interim policy statement seeks a 30% target only which is considered should generally have no impact upon the viability of development schemes.</p> <p><b>Recommendation 2: No Change</b></p>
<p>The expression of the target of 30% affordable housing as a target implies that the Council may seek a higher proportion of affordable housing on a particular scheme and that the burden of demonstrating why this is not possible will be placed on developers. The Council should therefore state that the affordable housing requirement will be 30% subject to viability and other considerations.</p>	<p>The targets for affordable housing in the three existing adopted local plans are expressed differently; Congleton as a minimum, Crewe and Nantwich as a maximum and Macclesfield unqualified. In order to achieve consistency and certainty for developers it would preferable that the target in the IPS should be expressed as a minimum target of 30%.</p> <p><b>Recommendation 3: No Change</b></p>
<p>The contribution to affordable housing on all sites of three or more dwellings or 0.2 acres in size in settlements of less than 3,000 population is unviable.</p>	<p>The need for affordable housing in our smaller rural communities is significant and all opportunities to provide affordable housing should be utilised. The interim policy statement provides for flexibility in individual cases where it can be satisfactorily demonstrated that viability is an issue.</p>

<p>The Council cannot specify the size, type, tenure and price of market housing. This would be contrary to PPS3. The requirement for 25% low cost market housing is therefore unacceptable.</p>	<p><b>Recommendation 4: No Change</b></p> <p>The Strategic Housing Market assessment provides evidence that not only is there a substantial need for affordable homes but that there is a need for smaller market housing to meet the needs of first time buyers across the Borough . it is reasonable therefore for the interim policy to endeavour to secure this across the Borough and not solely in the former Congleton Borough where such a policy has been successfully operated for a number of years.</p> <p><b>Recommendation 5: No Change</b></p>
<p>There is no basis in policy or viability to require the Code for Sustainable Homes standards to be applied to affordable homes if there is no grant available. The Government has cancelled the proposed requirement for the Homes and Communities Agency for affordable dwellings to be built to Level 4 of these standards.</p>	<p>In the light of the Government's decision to cancel the proposed move to Level 4 of the Code for Sustainable Homes in respect of the Homes and Communities Agency funding regime, it would be unduly onerous for the Council to require this standard. It is recommended therefore that Level 3 should be minimum requirement although we would encourage Level 4 wherever possible.</p> <p><b>Recommendation 6: Revise Para 4.9 to read “affordable homes..... should achieve at least Level 3 of the Code for Sustainable Homes (2007) and will be expected to achieve at least Level 4 by 2013.”</b></p>
<p>The requirement for the affordable units in a development to be provided not later than the sale or let of 50% of the open market housing is unreasonable because the sale of market houses helps to finance the cost of the affordable units and because this would preclude the ‘pepper potting’ of the affordable units throughout the development which the Council requires.</p>	<p>It is accepted that the requirement for all affordable units to be provided prior to 50% of the open market housing being completed can act against ‘pepper potting’ of affordable homes throughout a scheme. It is would be appropriate therefore for the document to be amended to require all affordable units to be provided prior to 80 % of open market housing in schemes with a high degree of ‘pepper potting’.</p> <p><b>Recommendation 7: Revise paras 4.10 and 5.3 to refer to all affordable units to be provided prior to 80 % of open market housing in schemes with a high degree of ‘pepper potting’</b></p> <p><b>Add the following at the end of paras 4.10</b></p> <p><i>“However, in schemes that provide for a phased delivery and a high degree of ‘pepper potting’ of affordable homes, the maximum proportion of open market homes that may be completed before the provision of all affordable units may be</i></p>

	<p><b><i>increased to 80%”</i></b></p> <p><b>Revise para 5.3 to read</b></p> <p><b><i>“the Council will expect that the provision of affordable housing element will be phased in accordance with Para 4.10 of this Statement”.</i></b></p> <p><b>Delete “available and ready for occupation before 50% of the market housing is sold”.</b></p>
<p>The requirement for affordable housing to remain so in perpetuity is unacceptable to lenders at present and represents a significant obstacle to delivery of affordable housing.</p>	<p>The requirement for affordable housing to remain so in perpetuity is enshrined in the adopted local plan policies for the three predecessor authorities and should remain the baseline position. The document should however refer to occasions where the discount in Discounted Housing for sale may be purchased and the subsidy to be recycled. This should only be allowed at the discretion of the Council.</p> <p><b>Recommendation 8: Add the following at the end of para 2.6 to refer to the possibility of the discount to be purchased and the subsidy to be recycled but only in exceptional circumstances and at the discretion of the Council.</b></p> <p><b><i>“At the discretion of the Council and in exceptional circumstances there may be occasions when it would be appropriate to allow for the discount”</i></b></p>
<p>The Homes and Communities Agency has no mechanism for entering into partnership with non Registered Social Landlords.</p>	<p>Agreed</p> <p><b>Recommendation 9: Amend Paras 2.3 and 2.13 to delete reference to bodies other than RSL’s entering into partnerships with the Homes and Communities Agency.</b></p>
<p>The document should refer to key worker eligibility for affordable housing</p>	<p>Agreed</p> <p><b>Recommendation 10: Add the following to the end of para 2.9.</b></p> <p><b><i>“In addition an applicant may be eligible if he/she is a key worker and contributes to the local community.”</i></b></p>
<p>Rural exception schemes should accord with the Council’s strategic priorities</p>	<p>Agreed</p> <p><b>Recommendation 11: Add the following as the penultimate sentence in para 3.10:</b></p> <p><b><i>“In addition the provision needs to meet the strategic priorities of the Council in relation to the development of affordable</i></b></p>

	<p><b>housing in rural areas. These will be contained in the Housing Strategy for Cheshire East which is due to be published in spring 2011”.</b></p>
<p>All rural exception sites should be in sustainable locations.</p>	<p>Agreed, rural exceptions sites should not be developed in isolated locations, but should be located close to villages.</p> <p><b>Recommendation 12: Revise para 4.1 to clarify this:</b></p> <p><b>“All affordable housing should be located on sites <i>which contribute to the creation of mixed and sustainable urban and rural communities</i>”</b></p>
<p>Improvements to the section on New Build Homebuy are proposed to ensure that it better reflects current Government legislation</p>	<p><b>Recommendation 13: Revise paragraph 2.4 as follows</b></p> <p>.....Additional shares can be purchased which will enable a resident to increase their equity share in the property <b><i>and in many cases buy the final share and own the whole home.</i></b> <b><i>However,</i></b> in 2009 the Government introduced new legislation whereby most of the rural parts of Cheshire East Council became ‘Designated Protected Areas’ whereby new affordable shared ownership dwellings in these areas would be subject to requirement that owners are either not able to acquire more than 80% equity in a property or if they acquire 100% equity, it has to be sold back to the RSL to retain as affordable housing in perpetuity. <b><i>When staircasing has taken place the additional payments will be recycled and used for affordable housing in Cheshire East.</i></b> The Council normally expect all schemes to <b><i>be transferred to</i></b> and managed by a RSL although consideration will be given to other suitable providers. In such cases legal restrictions on eligibility and rental levels will be necessary (see Section 5).</p>