

# CHESHIRE EAST COUNCIL

## Cabinet

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**Date of Meeting:** 2 April 2012  
**Report of:** Strategic Planning & Housing Manager  
**Subject/Title:** Interim Policy on the Release of Housing Land  
**Portfolio Holder:** Cllrs David Brown & Rachel Bailey

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### **1.0 Report Summary**

1.1 This report sets out proposed changes to the Interim Policy on the release of housing land. It sets out the context in terms of housing supply, the reasons for amending the policy and the proposed consultation process.

### **2.0 Recommendations**

2.1 That the comments of the Strategic Planning Board on 21 March be noted

2.2 That the Draft Policy set out in Appendix 2 be approved for Consultation

2.3 That the approval of the wording of the accompanying consultation document be delegated to the Portfolio Holder for Performance & Capacity

### **3.0 Reasons for Recommendations**

3.1 To ensure the Council takes necessary steps to improve housing supply.

### **4.0 Wards Affected**

4.1 All

### **5.0 Local Ward Members**

5.1 All

### **6.0 Policy Implications**

6.1 The report clarifies the Council's policy approach to this subject

### **7.0 Financial Implications**

7.1 If the Council is unable to demonstrate a 5 year supply of housing and then subsequently refuses planning applications for housing it may be vulnerable to costs awards at appeal. This is especially so where it cannot adequately

substantiate a reason for refusal or is otherwise found to be unreasonable. The effective management of housing land supply is a means of mitigating this risk.

## **8.0 Legal Implications**

- 8.1 The Interim Planning Policy does not have the status of the Development Plan or a Supplementary Planning Document (SPD) – and should not be confused with either. The Development Plan has a particular status in terms of s.38 of the Act for the determination of Planning Applications – similarly SPD's also have a formal legal status
- 8.2 The Interim Policy does not have the same recognition in law – and so it is important that the correct weight is attributed to it. The Policy follows the principles of the Sustainable Community Strategy, which will be a key influence on the emerging Local Plan. It also conforms with the priorities of the waning Regional Plan. It will be subject to consultation, formal appraisal and will be approved by full Council. Accordingly the Policy is a material consideration in the determination of planning applications.

## **9.0 Risk Management Implications**

- 9.1 If the Council fails to provide sufficient housing over a long and sustained period of time then it risks increasing house prices, stifling economic growth and eroding choice and balance in the housing stock.
- 9.2 In the shorter term if the Council fails to demonstrate a 5 year supply of housing land it is vulnerable to losing appeals on residential planning applications. Consequently housing may end up being built in locations which the Council and local community consider unsuitable.

## **10.0 Housing Supply**

- 10.1 On 24 February 2011 the Council approved an Interim Planning Policy for the release of Housing land. At the Council meeting on 13 October 2011 an effort was made to get the policy rescinded. In accordance with the constitution the matter was remitted to the Strategic Planning Board for consideration. At the meeting of the Board on 21 December it was agreed that the interim Policy be retained but that revisions to it be considered. This report now considers these possible amendments.
- 10.2 The annual target for housing in Cheshire East has been set as 1150 homes per year – a figure reflecting that agreed in the Regional Spatial Strategy, During 2010 it became apparent that the Council would not be able to demonstrate a five year supply of housing land as required by PPS3. Accordingly the Interim Planning Policy for releasing housing land was created to enable the shortfall in housing land to be addressed, ahead of the forthcoming Local Plan.
- 10.3 The need for a mechanism to address housing supply is as relevant today as it was in 2010. The 2011 Strategic Housing land Availability

Assessment (SHLAA) has been the subject of intensive scrutiny and debate via the Housing Market Partnership. The latest version now adopts a methodology for calculating housing land supply based on that advocated by the Home Builders Federation. Employing the approach promoted by this industry body, Cheshire East has an estimated housing land supply of 3.9 years

- 10.4 National Guidance in PPS3 advises Local Authorities to ensure a 5 year supply of 'deliverable' sites – and a further 5-10 year supply of 'developable' housing sites. To meet the 'deliverable' definition sites must be:
- Be available – the site is available now
  - Be suitable – the site offers a suitable location for development now and would contribute to the creation of sustainable mixed communities
  - Be achievable – there is a reasonable prospect that housing will be delivered on the site within 5 years.

Paragraph 71 of PPS3 indicates that where a Council can't demonstrate a 5 year supply of deliverable housing sites they should 'consider favourably' planning applications for housing – having regard to the advice of the PPS including that of paragraph 69.

- 10.5 Paragraph 69 sets out the considerations that Councils should take account of in determining residential applications. These are:
- Achieving high quality housing.
  - Ensuring developments achieve a good mix of housing reflecting the accommodation requirements of specific groups, in particular, families and older people.
  - The suitability of a site for housing, including its environmental sustainability.
  - Using land effectively and efficiently
  - Ensuring the proposed development is in line with planning for housing objectives, reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives eg addressing housing market renewal issues
- 10.6 The lack of a five year housing supply means that the Council should take proactive steps to manage the situation. The first reason for this is that a good supply of housing is beneficial to economic prosperity, ensures a healthy housing market and provides a decent choice of housing for future generations to enjoy. A further reason is that without a five year supply of deliverable housing sites, the Council remains vulnerable on appeal to speculative housing proposals – including those schemes which do not enjoy the support of the local community.
- 10.7 This latter point has been reinforced at a recent appeal case in nearby Cheshire West & Chester. At this Appeal on the edge of Cuddington

planning permission was granted for housing outside the village boundary – with a full award of costs against the planning authority. One of the key criticisms levelled at the Council was that they had not taken sufficient steps to manage the supply of housing land and improve the deficit against the 5 year supply.

- 10.8 Current Policy on housing land supply is enshrined with Planning Policy Statement 3. However this will soon be replaced by the new National Planning Policy Framework (NPPF), which is expected to be published very shortly. The draft document was subject to considerable national debate – and so it is hard to predict the extent of changes that will be made from this initial version. Never the less, the tone of the document was inherently supportive of growth – and of housing in particular and this might reasonably be expected to continue. The draft NPPF included a requirement to provide an extra 20% flexibility allowance on top of the five year supply of deliverable sites. Whatever detailed wording is included within the final document it seems likely that it will continue to support housing growth.
- 10.9 Consequently, with current and future trends in mind, there are sound reasons for continuing to manage and improve housing supply via the mechanism of an Interim Planning Policy.

## **11 The Operation of the Interim Planning Policy.**

- 11.1 The Interim Planning Policy has been operating successfully since its adoption and is leading to an increase in the supply of housing land. Developers have submitted planning applications on a number of sites adjacent to the settlement boundary of Crewe. Some of these planning applications have already been considered and approved by the Strategic Planning Board – and thus far some 1150 additional homes (effectively a years supply) have been resolved to be approved as a result of the policy. In addition there are planning applications that have also come forward as part of mixed use developments in Alsager and Tytherington, Macclesfield. These are yet to be determined.
- 11.2 Initial indications suggest that the Interim Housing Land Release Policy is less likely on its own to provide a basis for refusing applications in other locations but is never the less helpful in demonstrating how supply will be met. Thus far we have avoided significant sporadic developments being granted on appeal, contrary to the wishes of the Council and local people.
- 11.3 Never the less its evident that the Council needs to carefully manage housing supply until the Core Strategy is adopted. The current timetable indicates that the Final Draft Strategy will need to be approved by Council in November 2012 and be the subject of consultation in February 2013. Final adoption is programmed for December 2013.
- 11.4 In recent months further planning applications have been made on sites outside of the urban area of towns other than Crewe – and it is known that

more applications are on the way. These applications range considerably in scale and nature. At present the Interim Policy does not deal directly with this kind of development – leading to potential difficulties in decision making.

## **12 Proposed amendments**

- 12.1 Experience of operating the policy over the past year leads directly to the issue of what changes, if any, should be made to it. For the most part we consider that the Interim Policy is working – and so accordingly substantial change is not warranted. The main thrust of the policy, directing development towards Crewe remains as relevant now as it did 12 months ago. Not only is Crewe the focus of the (now waning) Regional Plan and its regeneration a key objective of the current Sustainable Community strategy – but the ‘All Change for Crewe’ programme has moved on apace in recent months. Consequently we propose that Crewe remains the principal location for substantial land release and that there is correspondingly no change in this regard
- 12.2 However by reflecting on the operation of the policy – and looking ahead there are two areas which do potentially merit amendment.

### Employment areas

- 12.3 At present the policy excludes any housing on any areas allocated as employment land within the Crewe & Nantwich Local Plan. At face value this approach is entirely sensible – it recognises that for the creation of a sustainable town there needs to be economic development – and the two must be mutually supportive. Accordingly it is appropriate to keep housing and employment development clearly apart.
- 12.4 Unfortunately the reality of development within a property recession is more complex than this clear divide would suggest. There are a number of major employment development sites in the Crewe Area which have lain undeveloped for many years. As a consequence whilst the sizeable acreage of employment land promises many jobs in future – that promise remains illusory – and critically, it has done so even through periods of property boom and more generous public spending in the 1990’s and 2000’s.
- 12.5 If key Employment sites are to come forward and be developed in the near future, it is possible that higher value uses such as housing may need to be introduced to make the development viable and contribute to necessary infrastructure costs. This will not be appropriate in all cases and on all sites. It should only be permitted where the housing is subordinate to the main objective of securing employment development. However in some cases the introduction of housing may assist the bringing forward of undeveloped land for business and industry – and at the same time contributing to housing supply. Accordingly it is proposed that the policy be amended to reflect this potential.

- 12.6 As with all mixed use developments the layout, design and balance of uses will be important, along the site specific considerations. In particular care will be needed to ensure that neighbouring uses are compatible.

#### Development in Other towns

- 12.7 A further key consideration is the extent to which the Council should actively promote residential development on the periphery of towns other than Crewe. As part of the Local Plan it is likely that Greenfield allocations will need to be made in other towns to meet the housing needs of the Borough over the next 20 years. Given that is the case it is reasonable to examine if a more permissive approach should be taken in towns apart from Crewe.
- 12.8 Whilst such an approach could widen supply by opening up new opportunities in other areas, our overall view is that it should be treated with caution. The emphasis on Crewe is well founded within the Regional Plan, the Sustainable Community Strategy and other Council initiatives. This underpins the emphasis given to the town in the interim policy. However outside of Crewe the approach is less straightforward.
- 12.9 The next priority in terms of the spatial hierarchy is Macclesfield. This is identified in the Community strategy as a priority for revitalization – and complementary initiatives are underway in the town to support this aim. However any development on the outskirts of the town would almost certainly conflict with green belt policy – as the green belt boundary is drawn very tightly around the settlement. Review of Green Belt is a matter properly to be considered as part of the development plan process and so it should not form part of an interim policy.
- 12.10 The same issue applies with many of the other ‘sustainable towns’ in the north of the Borough. Most are heavily constrained by green belt. Elsewhere the picture is also far from clear cut. The Community Strategy suggests that each of the sustainable town should develop in such a way that reinforces their distinctiveness. Each are very different – with a variety of development issues in each of them. This makes a generic, criteria based policy almost impossible. It is not for nothing that the UK planning system relies extensively on development plans for the proper identification of sites.
- 12.11 There is a further problem that arises with smaller towns – in that the major ad hoc release of a major housing site at this juncture genuinely risks pre-empting the future development strategy that properly belongs in the Local Plan. Four Towns already have emerging town Strategies and others will follow in the next few months. Each will be used to contribute to the forthcoming Core Strategy and site allocations sections of the new Local Plan.

12.12 All of these factors therefore point away from an approach that would allow large housing sites in towns outside of Crewe. However that is not to say that all housing should therefore be ruled out in all circumstances. A policy which permitted certain smaller sites would not create the same degree of the problems outlined above. Furthermore it is small sites which often can be developed quickly and without major infrastructure requirements. Consequently they provide a good opportunity to maintain the critical 'pipeline' of supply whilst the larger strategic development questions are resolved via the Local Plan.

12.13 As a result we recommend that the Council broadens the Interim policy to allow modest developments on the edges of towns outside of Crewe. To avoid damage to the development plan process or undue harm to the countryside and settings of settlement the policy needs to be drafted with care. It is suggested that the following key principles be adopted for any potential site

- It is small scale
- It will not prejudice key strategic decisions about a town
- It is not within the green belt
- It minimises the impact on the countryside
- It is in a sustainable location

With these safeguards, smaller sites on the edge of other towns can usefully contribute to housing supply , but without damaging the Council's overall approach to development or the emerging Local Plan.

12.14 The current Interim Policy is attached at Appendix 1 and the recommended new version is set out in Appendix 2.

### **13.0 Next steps**

13.1 If the recommended amendments are approved, the new policy will be published for consultation. The policy will be accompanied by supporting text – and its recommended that this be approved by the Portfolio holder once the Policy itself has been finalized and approved.

13.2 Following consultation further amendments will be considered in the light of comments received. The final policy will then be placed before a meeting of full Council for approval.

13.3 Given the advancing Local Plan process the Interim Policy will inevitably be short lived; however given the need to maintain housing supply it is still considered to be a useful planning tool for the coming year.

### **14.0 Access to Information**

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

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**APPENDICES:**

**APPENDIX 1 EXISTING INTERIM POLICY ON THE RELEASE OF HOUSING LAND**

**APPENDIX 2 PROPOSED INTERIM POLICY ON THE RELEASE OF HOUSING LAND**

## APPENDIX 1 – INTERIM POLICY ON THE RELEASE OF HOUSING LAND

### Interim Planning Policy on the Release of Housing Land

When it is demonstrated through the Annual Monitoring Report that there is not a five year supply of housing land as defined by PPS3, subject to other saved policies of the relevant Local Plan being satisfied, residential development will be permitted in the following locations:

1. Adjacent to the settlement boundary of Crewe provided that the site:
  - is well related to the built framework of the settlement;
  - is not within the Green Gap;
  - is not within an allocated employment area;
  - is not within an area safeguarded for the operational needs of Leighton Hospital;
  - is capable of being fully developed within five years of the granting of outline planning permission;
  - delivers development that improves the supply, choice and quality of housing in Crewe; and
  - supports the delivery of the Council's overall vision and objectives for Crewe.
2. As part of mixed developments in town centres and regeneration areas to support the provision of employment, town centre and community uses.

Housing developments and its infrastructure on greenfield sites permitted under this policy will be required to demonstrate that they will not impact on the designated or candidate European Sites (Special Areas of Conservation; Special Protection Areas; Ramsar Sites and Offshore Marine Sites) protected under the European Habitats Directives 92/43/EEC or the Conservation of Habitats and Species Regulations 2010 and to deliver:

- a minimum of 35% affordable housing in accordance with the Interim Planning Statement on Affordable Housing;
- open space and / or community facilities in accordance with the relevant saved Local Plan policy
- improvements to the strategic and local highway network, public transport, and pedestrian and cycle routes; and
- a high quality designed development to Code for Sustainable Homes Level 4 or higher and Building for Life Silver standard or higher.

Subject to the assessment of the economic viability of the scheme, housing development on mixed use redevelopment sites permitted under this policy will be expected to deliver:

- a minimum of 30% affordable housing in accordance with the Interim Planning Statement on Affordable Housing;
- employment, town centre and / or community uses within the site; and
- a high quality design to Code for Sustainable Homes Level 3 or higher and Building for Life Silver standard.

## APPENDIX 2 PROPOSED INTERIM POLICY ON THE RELEASE OF HOUSING LAND

### Interim Planning Policy on the Release of Housing Land

When it is demonstrated through the Annual Monitoring Report that there is not a five year supply of housing land as defined by National Policy, subject to other saved policies of the relevant Local Plan being satisfied, residential development will be permitted in the following locations:

1. Adjacent to the settlement boundary of Crewe provided that the site:
  - is well related to the built framework of the settlement;
  - is not within the Green Gap;
  - is not within an allocated employment area – unless the housing is clearly shown to be necessary to bring forward the employment area;
  - is not within an area safeguarded for the operational needs of Leighton Hospital;
  - is capable of being fully developed within five years of the granting of full or outline planning permission;
  - delivers development that improves the supply, choice and quality of housing in Crewe; and
  - supports the delivery of the Council's overall vision and objectives for Crewe.
2. As part of mixed developments in town centres and regeneration areas to support the provision of employment, town centre and community uses.
3. Adjacent to the settlement boundary of Macclesfield and the nine Key Service Centres (Alsager, Congleton, Handforth, Knutsford, Middlewich, Nantwich, Poynton, Sandbach and Wilmslow), provided that the applicant can demonstrate that the site meets all of the following criteria:
  - is not within the Green Belt or the Green Gap;
  - is very closely related to the existing built framework of the settlement;
  - is self contained within clear 'defensible'<sup>1</sup> boundaries;
  - is accessible by walking to a wide range of local services<sup>1</sup>;
  - is capable of being fully developed within 5 years of the granting of full or outline permission;
  - provides homes that improve the overall choice, quality and supply of housing within the relevant town;
  - is less than 1 hectare in size or has a capacity for no more than 30 net additional dwellings;
  - that the density of the site is appropriate to its location, and is no less than 20 dwellings per hectare;
  - does not represent the subdivision of a larger site; and
  - that it will not pre-empt or prejudice the future scale and direction of development within the individual town.

<sup>1</sup> A defensible boundary would be defined as: an existing built development, a public road, a watercourse, a railway line, a substantial hedgerow or an area of woodland.

<sup>1</sup> At least 5 of the following: a shop selling food and fresh groceries (500m); Post box (500m); Playground/ amenity area (500m); Post office (1000m); Bank or cash point machine (1,000m); Pharmacy (1,000m); Primary school (1,000m); Medical Centre (1000m); Leisure facilities (1,000m); Local meeting place / community centre (1,000m); Public house (1000m); Public park or village green (1,000m); Child care facility (nursery or creche) (1,000m)

Housing developments and its infrastructure on greenfield sites permitted under this policy will be required to demonstrate that they will not impact on the designated or candidate European Sites (Special Areas of Conservation; Special Protection Areas; Ramsar Sites and Offshore Marine Sites) protected under the European Habitats Directives 92/43/EEC or the Conservation of Habitats and Species Regulations 2010 and to deliver:

- a minimum of 35% affordable housing;
- open space and / or community facilities in accordance with the relevant saved Local Plan policy;
- improvements to the strategic and local highway network, public transport, and pedestrian and cycle routes;
- a high quality designed development to Code for Sustainable Homes Level 4 or higher; and
- Building for Life Silver standard or higher.

Subject to the assessment of the economic viability of the scheme, housing development on brownfield sites and town centre mixed development sites permitted under this policy will be expected to deliver:

- a minimum of 30% affordable housing in accordance with the Interim Planning Statement on Affordable Housing; and
  - a high quality designed development to Code for Sustainable Homes Level 3 or higher and Building for Life Silver standard or higher; and
- town centre mixed development sites will also be expected to deliver:
- employment, town centre and / or community uses within the site.