Issue 4
Sub matter: Affordable Housing

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Bath and North East Somerset Council: Core Strategy Examination

Written Statement: Issue 4
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11.3 Is policy CP9 justified in seeking an average of 35% affordable housing on developments of 10 dwellings and more? Given the range of market values across the district is a single % figure the most appropriate approach?

<u>The target of 35% affordable housing is not justified on sites of 10 or more dwellings, or half a hectare. It is not founded on a robust evidence base that assumes that landowners areas key to the delivery of the core strategy will sell their land at sub-market prices and does not accurately reflect the true costs of construction (Code for Sustainable Homes) looking ahead.</u>

We note from the first Viability Assessment, June 2010 (CD4/H8) that a target of 35% affordable housing (which is the policy for major developments) at 40 dph in the lowest value areas of Keynsham and Salford, Midsomer Norton, Radstock, Paulton and Peasedown (paragraph 6.5) would generate a residual land value of about £610,000 (paragraph 6.4).

The viability of the targets in the assessment relies upon an assumption that all landowners will be willing to sell their sites for a particular price. In the areas crucial for the delivery of the plan, the report assumes that a figure of circa £600k is sufficient to induce owners to sell. This cannot be assumed.

Using the data supplied on page 55 of the report, this indicates that the average sales value of homes in Norton, Radstock, Paulton and Peasedown is £193,750. If we round this up to £200,000 per unit for the sake of simplicity, and assume development at a density of 40dph, as the report does, then this would generate a gross development value of £8m (£200k x 40). Giving a landowner just 7.6% of the share of the gross development value of the scheme, which is what £610k represents, will not incentivise him to sell. He will want nearer 50%. Without this, he will not bring forward his land for development.

It should also be noted that scepticism has been expressed about the sales values modelled in the Ark 4 Viability Validation Study (paragraph 3.2.3 of CD4/H9). This report suggests lower values in areas 5 and 6 that are key to delivery of the housing numbers of the plan (between 8 and 12% lower on Norton, Radstock, Paulton, Peasedown.

Such low levels of return will not induce landowners to sell. Professor Michael Ball has previously advised Government that the uplift for the land owner should be well above 50% of the overall development value (*The Housebuilding Industry: promoting a recovery in housing supply*). Discussing residual site value appraisal models, Professor Ball remarked:

"What is more, there is a danger that such models are justification for a near de facto 100 per cent tax on land value uplift in s106 negotiations. If they are to be used, guidance should be offered on maximum estimated land value uptakes and they should fall well below 50 per cent of a model's estimated development gain for reasons of limited accuracy, developer risk, and *to enable realistic returns to landowners* and to developer entrepreneurship and innovation" (italics added). (See page 103 of the report)

Ball also concluded that "100% development uplift capture may sound like a good idea to a financially stretched local authority but their aims are more likely to be achieved at much lower capture rates." (page 104). He added: "The sum of CIL [Community Infrastructure Levy] and s106 (including affordable housing) should not be such as to deter development from actually taking place."

We would also draw attention to the independent advice commissioned by the Planning Inspectorate in the case of the examination of Barking and Dagenham's Core Strategy where there were significant concerns regarding the Council's approach to the viability of its affordable housing target. The Council had also assumed that development viability depended upon whether sites could achieve a marginal increase above existing use value.

The subsequent report for the Planning Inspectorate concluded that ultimately it was the landowner who determines whether any development takes place because:

"The landlord's bottom line will be achieving a residual land value that sufficiently exceeds existing use value to make development worthwhile."

Therefore, to ensure that sites will be brought forward for development, and to incentivise land owners, any affordable housing target set (and additional policy requirements to be delivered through planning gain) must err on the side of caution. They should not be set right up to the margins of viability.

We would remind the Council that relying on land owners to sell their land for prices much lower than its development potential would also be contrary to the principle the Government has articulated recently in the *Planning for Growth* Ministerial Statement. This refers to the need for development plans to be prepared that take account of *'relevant economic signals such as land prices'*.

Paragraph 39 of the draft NPPF also advises local authorities to ensure viability is taken into account by assessing the cost of any requirements likely to be applied to development. This is necessary to ensure *"acceptable returns* *to a willing land owner and willing developer to enable development to be deliverable."*

Deliverability

It is very important to bear in mind that the vast majority of the Council's projected housing development is earmarked for the lower value areas. The litmus test for the policy therefore is whether the Affordable Housing target is viable for these crucial areas to ensure that the Core Strategy is deliverable from its date of adoption.

There is no point is adopting a policy if it renders the plan undeliverable and the Core Strategy must be deliverable at the point at which it is adopted. The draft NPPF attaches importance to the deliverability of local plans. Paragraph 39 of the draft NPPF states:

> To enable a plan to be deliverable, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, local standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and on-site mitigation, provide acceptable returns to a willing land owner and willing developer to enable the development to be deliverable.

The draft NPPF defines 'deliverable' in a footnote (see footnote 5, page 30):

> To be considered deliverable, sites should at the point of adoption of the Local Plan be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable i.e. that it would provide acceptable returns to a willing landowner and a willing developer based on current values and taking account of all likely infrastructure, standards and other costs.

Since the reasoning behind the introduction of the plan-led system in 1991 was to ensure that the plan provided some certainty and that its policies would be deliverable in most circumstances (making the process for securing planning permission largely a technicality) it is incumbent upon the local authority to show that its policies are deliverable in most instances and not to try and resolve the problem of viability each time a fresh application is submitted.

Given that the Council is focusing most of its new housing delivery in these settlements (Policy DW1), the affordable housing target has the potential to derail delivery of the plan.

The impact of the Code for Sustainable Homes

The viability modelling has assumed Code level 3. Yet the Council's own policy CP2 expects all developments to comply with the full Code 4 from 2013 and Code 6 from 2016. The most recent cost estimates for building to the Code have been set out in the DCLG report entitled *Cost of Building to the Code for Sustainable Homes: updated cost review* (August 2011). The costs in the Viability Assessment use outdated information (the DCLG 2008 report) and consequently underestimate the impact of the Code.

The updated report calculates that the extra cost of building to Code 6 (see page 12, table 2 of the DCLG 2011 report) add between 45% to 53% on the 2006 Part L baseline when modelling against a range of different development scenarios (high density, low density, greenfield, urban). The costs vary between an additional £28,440 per unit at the lower end to £38,293 per unit at the highest.

It should be noted that Part L alone accounts for 80% of the cost of the Code. This represents a very significant increase in construction costs and may have a profound impact on viability when other regulatory and policy demands are factored-in. Since the Government's Zero Carbon Homes programme is non-negotiable the higher costs of building to Part L must be properly reflected in the viability assessment as this will definitely apply over the plan period.

The cost of delivering the other components of the Code should also be reflected as this is proposed council core strategy policy. The Three Dragons viability report acknowledges the greater impact on residuals of specifying Code 4 (let alone Codes 5 or 6) in the weak market areas (paragraph 3.43). As the Three Dragons report acknowledges, at the bottom end of the market, the *"impacts are more significant and will be likely to make other forms of land use much more competitive to housing"* (paragraph 3.43).

Since compliance with the Code is draft policy, and because the cost of building to Code 6 will apply for the substantive life of the plan (ten years), the cost of doing so must be factored into the viability assessment. Unless these costs are properly reflected in the viability assessment then there is a significant risk that the affordable housing target is unrealistic, unachievable and will render the plan undeliverable. The report does not provide a reliable indicator of what is a viable affordable housing target.

A final point is that the Council's viability study and the resulting policy has not taken into account the requirement of PPS3, paragraph 29, to consider the impact of affordable housing requirements on the ability to deliver low cost market housing. We are concerned that the affordable housing targets proposed depend for viability upon keeping market housing as expensive as possible. This, consequently, excludes the possibility of developers providing low cost market housing in the district for those who need it.

11.4 Is policy CP9 justified in seeking an average of 17.5% affordable housing on developments of fewer than 10 dwellings?

Since developments of fewer than 15 dwellings tend not to have a decisive impact on the social mix of the area, Government policy to date, as set out in PPS3, has advised that affordable housing contributions should not be sought from schemes. The question is whether lowering the threshold will impede delivery.

According to the viability report (CD4/H8), developments of less than 10 dwellings have tended to account for a substantial element of past supply (39% according to table 4.1 on page 27).

The Viability assessment considers the viability. In case study A the report makes the mistake of assuming that developers will be involved in such schemes, buying the land of a willing homeowner. However, this ignores the fact that such developments are often built by the homeowner himself for a family member, so they will absorb the costs of construction (labour and materials) themselves, so there is no residual land value or profit as such.

Case study D – 8 units on a 0.125 ha site shows that a 20% affordable housing will generate a residual land value of only £200k in Keynsham and Saltford. Yet the potential gross development value (total income) of a development of eight homes at, say, an average selling price of £200,000 (see the costs quoted on page 11 of the Ark Housing Consultancy Report – CD4/H9) would be £1.6m. £200k of this would represent only 12.5% of the total development value of the scheme. This is most unlikely to prove sufficiently attractive an incentive to landowners, especially once the higher costs of the Code are factored in which will reduce the residual values further still. Indeed the impact of the Code would plunge the scheme into negative value if the DCLG, August 2011 costs are factored in.

Given the potential impact on viability, we would submit that applying a target of 17.5% to schemes of 10 or fewer units has not been justified and could places the housing objectives of the plan at severe risk.

Commuted sums

The use of payments in lieu has not been sufficiently justified. This would not contribute to the creation of mixed and balanced communities. This suggests that the purpose of the affordable housing target is to capture value, not the creation of mixed communities. If a substantial proportion of all supply is coming forward on small sites that have up until now not been required to contribute to affordable housing then the council should plan and allocate larger sites.

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