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28 February 2020

WCN053/nf

Dear Sirs,

**DRAFT AFFORDABLE HOUSING SPD  
Representations on behalf of East Devon New Community  
partners**

I write on behalf of the East Devon New Community partners in relation to the above guidance. In so doing, I note that the Draft SPD is intended to provide guidance in relation to the affordable housing policies of the East Devon Local Plan and also, if and when adopted, the Cranbrook DPD (Footnote 1).

In relation to the Cranbrook DPD, EDNCp have made a number of representations regarding the soundness of Draft Policy CB11 on affordable housing. Modifications made to that policy as part of the examination process may result in the Affordable Housing SPD being out of date and in need of modification.

**Under what circumstances might a lower amount of  
affordable housing be acceptable**

The SPD properly references Policy 34 of the Local Plan and the circumstances where lower levels of affordable housing might be provided. These relate to viability or, alternatively, where the target is “not otherwise appropriate”.

The SPD should be clear that this applies also to the relevant Policy (CB11) of the Cranbrook DPD in the event of that being adopted.

With regard to such circumstances, para 3.12 indicates that it is for the applicant to justify where such other specific circumstances might apply to warrant a “lower than policy” provision of affordable housing. One example is given relating to C2 uses.

EDNCp sought in the previous round of consultation, a reference to the other circumstances where lower than target provision may be justified. In this regard EDNCp welcome the inclusion of the additional two sentences in para 4.2 but are concerned that this does not address the additional point made which was in relation to the overall target of affordable housing as well as the mix.

EDNCp request that the last two sentences of 4.2 also be added to 3.12 having been tweaked to refer to the housing mix but also the housing target.

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Furthermore, it would be factually correct and helpful to acknowledge in para 3.12 that the work undertaken by the Council's Viability consultants has indicated that the scale of infrastructure costs and burden in the Cranbrook expansion areas means that 25% will not be sustainable at Cranbrook. The provision of significant community benefits – is already referenced in Strategy 34 and CB11 – as justification for varying the amount (as well as mix) of affordable housing.

In addition, para 3.70 of the Cranbrook DPD references the relevance of a diversified mix of housing which might in some circumstances (specifically at Cranbrook) warrant a reduced scale of provision in the interest of helping *“balance the community, social diversity and the sustainability that is enjoyed by current and future residents”*. Such circumstances should also be set out in para 3.12 of the SPD.

### **Overage Clause**

The SPD seeks to impose an overage clause where a lower than policy level of affordable housing is provided. EDNCp objected to the reference to an overage clause, on the basis that such a clause is not an effective basis for delivery and contradicts the national policy intention that viability assessment should be conducted primarily at the Development Plan stage. A key benefit of doing so is that certainty is provided to all parties. This includes the developer who is required to purchase the development land and requires as much certainty to do so. It is not possible to factor in additional overage clauses once land has been purchased from the owner even without the further complication of the land with permission being sold on to housebuilders. Any attempt to do so can only add to the risks attached to the development and to the viability.

Reopening viability at a later stage is inevitably complex and will lead to delay - frustrating completely the objective of the Plan to assist and speed up the delivery of development and affordable housing in East Devon.

Equally there is no provision for a downward adjustment of affordable housing provision in the event that profits do not match expectations.

EDNCp note EDDC's response that such a requirement is spelt out not in the SPD but in the Local Plan (Strategy 34).

In adding detail to that policy nevertheless, the lack of an effective means to assess profitability post implementation further undermines the policy position. This should be recognised in the text.

In the case of Cranbrook it is accepted in the DPD and the viability evidence accompanying it that a target of 25% is NOT achievable. It is not therefore a robust or sound target in the case of Cranbrook and therefore it is not appropriate or sustainable to require overage in the circumstances where it is acknowledged at the outset that there is a viability issue. Again this should be recognised in the text.

The SPD should not set out a blanket obligation. Any intent to seek an overage clause should be in exceptional circumstances only. Strategy 34 does not require overage in all circumstances. It indicates that the Council will seek overage in certain circumstances. The circumstances set out above are examples of where it is not appropriate to expect an overage clause and this position should be reflected in the guidance.

### **Tenure Mix**

Policy Strategy 34 and CB11 set a target of 70% social and affordable rented accommodation within the affordable housing provided on a particular site, the remainder to be intermediate or other affordable housing tenures (for instance low cost market or starter homes). This is a target and not a requirement. As such, the need to justify an alternative mix will not be simply related to viability but could include a range of circumstances.

EDNCp welcome the reference in para 4.2 to negotiation of an alternative tenure mix – and the extension of the reference in the Draft version to include the final two sentences.

However para 4.2 retains the reference to periods of depressed markets. Given the issues over the viability of the Cranbrook expansion areas and indeed other areas, periods of

depressed markets are not likely to be the only circumstances when a revised mix might be considered appropriate.

The base mix in Cranbrook differs and was agreed to be appropriate to Cranbrook in the light of a broad range of factors.

A further key factor will be the mechanisms for delivery - primarily the registered providers - and the business, institutional and financial constraints imposed upon them at the appropriate time.

Of relevance also - particularly in the light of the Cranbrook DPD and representations relating to viability of the DPD proposals and section 106 expectation - is the effect and potential benefit of a variation in the affordable tenure mix in releasing potential contributions towards other social or section 106 infrastructure.

Similarly, there are positive reasons to adopt a different mix in appropriate circumstances. Para 4.5 of the SPD refers to the more recent promotion of other products within the definition of affordable housing and the absence of evidence of need for such products in the East Devon context.

Simply put, additional circumstances where a variation in the target mix may well be acceptable or appropriate should be set out. The additional sentences greatly assist but are insufficient. Circumstances where the mix might vary should additionally be referenced to include the following: to meet a need for a broad range of affordable products, to support the delivery of additional units than would otherwise be achieved (this might still not meet the policy target); to ensure diversification or secure wider community or other sustainability objectives.; more up to date evidence of local need. The reference to depressed markets is unnecessary and constraining. The last sentence of Para 4.5 does not reflect the flexibility required in delivering an appropriate range of tenures – and should be deleted. New forms of affordable housing should be positively encouraged.

In addition, it should be recognised in the SPD that such considerations may well justify an alternative affordable housing mix without the necessity of viability evidence. The third sentence of para 4.2 therefore should not presume viability evidence in all circumstances but “in appropriate circumstances related to viability, the Council will require viability evidence...”.

### **What Type and Size of Affordable Housing is sought in East Devon?**

Paragraphs 4.8-4.10 of the SPD set out guidance in relation to the size of affordable housing units that might be expected in developments in East Devon. For both rent and shared housing the guidance offered is that need comprises 50% (1bed); 40% (2bed); 10% (3-4 bed).

The evidence to support that offered as the 2014 SHMAA and subsequently the Devon Home Choice registrations data.

What the SPD does not say is that the Council will negotiate the mix of affordable housing properties having regard to evidence of need but without any obligation to mirror the evidence of need set out in the SPD.

The evidence in the SHMAA is dated and partially contradicted by the Devon Home Choice data. While the SPD references 90% 1 and 2 bed - the Devon Home choice data is 79%.

Moreover the SHMAA itself is clear that the arithmetical scale of need is only one factor to be taken into account in agreeing a mix. Referring to the long waiting lists for one bedroom properties the SHMAA notes that:

*13.9.3 Many applicants are younger households unlikely to be offered a property. Some are older households registering either to meet current need or as insurance for a future potential need.*

*13.9.4 These factors are important in judging future delivery to meet priorities rather than arithmetic scale of recorded need.*

Nor does the SHMAA envisage a level of precision in the mix possibly implied in paras 4.8 and 9 of the SPD. Instead the SHMAA in 13.9.5 talks of a target for 1 and 2 bed dwellings (a combined target that therefore offers some flexibility and responsiveness in individual circumstances)

The role of the SPD is to provide guidance in relation adopted Local Plan policy not create new policy. Hence reference to 70% social and affordable rent replicates development plan policies.

Guidance in relation to property sizes is however in effect new policy as the mix articulated in the SPD is not reflected in Strategy 34 or CB11. It has not therefore been examined in relation to viability or any other factors as the NPPF expects at the plan making stage.

Further it might be the case that there may be reasons for not reinforcing further a mix within a community that is already skewed towards smaller units.

For each of the reasons set out above EDNCp, a mix should not be imposed whether in guidance or policy. To reinforce the point, the SPD should set out the expectation that a mix of house sizes in relation the affordable elements of a development, will be agreed having regard to need but also taking account of a range of additional factors relating to the particular development - including deliverability and social and community balance. This should be a change to the SPD wording.

On the issue of needing to have regard to factors particular to each (strategic) development the agreed mix of dwellings of affordable housing units in Phase 3 of the Cranbrook development is 9% 1 bed, 46% 2bed, 45% 3 and 4 bed. The mix is agreed to be the appropriate response on the basis of the specific circumstances at Cranbrook and varies considerably from that offered in the SPD. This reinforces the need for the SPD to avoid the specification of a particular mix to apply across East Devon as a target or a policy created in the SPD. It also reinforces the need for the SPD to be explicit that the mix of affordable housing will in all cases (in particular all strategy sites) be a matter for negotiation in the light of all relevant factors.

There is a strong weight of consultation objection to the levels of prescription in the SPD regarding bedroom size. The bedroom size mix should be deleted. Alternatively the bedroom mix should be set out as an indicative figure with mix to be negotiated in the light of overall need, deliverability, and site and development specific circumstances.

Flexibility should also be introduced in respect of pepper potting and cluster size which must be determined having regard to the specific circumstances of the development and delivery model.

Flexibility will also be necessary in the phasing of delivery of affordable housing relative to market housing. While flexibility is implied in para 5.11, para 5.10 appears to suggest a more prescriptive approach (and the provisions in the bullet points in para 5.10 should be deleted). No evidence base is offered to support the phasing provision advanced.

## **CONCLUSION**

For the reasons set out above, a number of specific clarifications/additions should be included within the SPD.

In outline these include:

- para 3.13 of the SPD be expanded to set out explicitly additional examples of circumstances (as has happened partially in para 4.2) where it might be acceptable to reduce the scale of affordable housing, to include:
  - additional development costs associated with particular sites (including but not limited to, brownfields sites);
  - the provision of significant community benefits; and
  - in the interest of helping *“balance the community, social diversity and the sustainability that is enjoyed by current and future residents”*.

Para 4.2 should be clarified by setting out additional circumstances where a variation in the target mix may well be acceptable or appropriate:

- to meet a need for a broad range of affordable products;
- to support the delivery of additional units than would otherwise be achieved (this might still not meet the policy target);
- to ensure diversification or secure wider community or other sustainability objectives;
- to recognise the prevailing institutional and financial context within which registered providers are operating; and
- to reflect more up to date evidence of local need.

In addition, it should be recognised in the SPD that such considerations may well justify an alternative affordable housing mix without the necessity of viability evidence. The third sentence of para 4.2 therefore should not presume viability evidence in all circumstances but "in appropriate circumstances related to viability, the Council will require viability evidence...".

A mix of unit sizes should not be imposed. policy. To reinforce the point, a new sentence of paragraph (after 4.9) should set out the expectation that a mix of house sizes in relation the affordable elements of a development, will be agreed having regard to need but also taking account of a range of additional factors relating to the particular development - including deliverability and social and community balance. It will be a matter of negotiation and agreement.

The SPD should remove the obligation to agree an overage clause in the first instance. Equally the SPD should not set out a blanket obligation. Any intent to seek an overage clause should be in exceptional circumstances only.

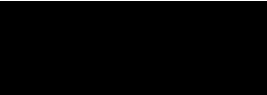
The phasing provisions in para 5.10 should be deleted to avoid an inflexible and unevidenced approach.

The above clarifications and additions are set out in relation to the existing document.

In addition it is apparent that there are very specific and different issues relating to Cranbrook (and perhaps other strategic sites) which may well lead to different approaches being more appropriate to those set out across the District. This is already recognised in terms of the scale of affordable housing provision and will also relate to tenure split and unit size. Some of those considerations will relate to viability, others will relate to very different factors such as social and community building and the delivery mechanisms available for affordable housing and infrastructure. The SPD should be amended to include a paragraph setting out the need for a specific response to recognise the wider issues relating to affordable - not a prescriptive solution - but a recognition that tenure and mix will need to be negotiated to reflect a rather different range of factors that most sites in East Devon.

I trust that the representations set out above are helpful and will be reflected in the final version of the SPD. I am of course more than happy to discuss or develop the points made.

Yours sincerely,



NICHOLAS FREER  
CHAIRMAN

