

AFFORDABLE HOUSING SUPPLEMENTARY PLANNING DOCUMENT

ADVICE NOTE FOR DEVELOPERS
DRAFT FOR CONSULTATION

Response Form



Introduction

Please use this response form to inform us of your views on the Affordable Housing Supplementary Planning Document Advice Note for Developers consultation document. The consultation is open for comments until 28th January 2010.

What is this consultation about?

The purpose of this Supplementary Planning Document (SPD) is to provide greater detail on Policy AH1 in the Council's Affordable Housing Development Plan Document. The guidance is intended to be used in decision making relating to planning applications that include residential development.

The Affordable Housing Development Plan Document (DPD) was adopted by the Council on 8th December 2009. The DPD has been amended to take into account the binding recommendations of the Inspector who held the independent examination on 30th June 2009.

The DPD policy will apply to all applications for residential development, including mixed-use schemes that are registered on or after the date of the adoption of the 'Affordable Housing Supplementary Planning Document Advice Note for Developers'. The SPD is currently published for the purposes of consultation until 28th January 2010 and we have produced this form to facilitate responses.

This response form should be read in conjunction with the Affordable Housing Supplementary Planning Document Advice Note for Developers consultation document, which is available to view on the Council's website (below), the Town Hall Annexe and at all public libraries across Bournemouth.

www.bournemouth.gov.uk

Have your say...

About you...

Any written comments that you make will be made available for public inspection.

Your name
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To ensure that your comments are considered fully please indicate which paragraph in the consultation document you refer to.

Paragraph 1.2 and Appendix 1 Policy AH1

Comment Policy AH1 states that the Council will seek 40% affordable housing in order to achieve the Borough target based on the recommendations of the Three Dragons report, 'Affordable Housing Provision and Developer Contributions in Bournemouth and Poole' (July 2008). It is our contention that the evidence base from which the DPD was produced does not currently support an affordable housing target of 40% on individual sites. Consideration should be given to amending the SPD to reflect the current market downturn by proposing an interim lower achievable affordable housing target. This would ensure the delivery of housing overall is not impeded.

The Three Dragons report considered development to be viable based on a notional 0.25 Ha site where industrial values constitute the existing or alternative use value. However, Table 4, paragraph 4.42 of the Three Dragons report specifically mentions that 57% of dwellings given permission in the last 3 years had a previous residential use. None of the four residential to residential sites studied were viable with a 40% target. Only one of the sites proved viable at 35%, while only two sites at 30% proved viable. This was using market values which have since been depressed.

Paragraph 8.2.1 of the Three Dragons viability assessment indicates that the 40% target will not be viable in some of the weaker sub markets of the authority including Bournemouth Outer North and Bournemouth Northern District. The Affordable Housing SPD fails to mention this point. Given that open market values have fallen since the study was undertaken in July 2008 it is also likely that the 40% target is now unviable in the higher value areas in the Borough.

Recommendation: We are encouraged to see that the Council (through policy AH1) will have regard to the economics of provision and where 40% of affordable housing results in an unviable development a 'cascade' mechanism will operate whereby provision will be considered at reduced levels. However, we would recommend a more realistic interim target is set, recognising the market downturn. Given the likely possibility that the majority of sites will not achieve 40% affordable housing, it is crucial that the process of assessing and negotiating the viability of schemes is clear, transparent and consistent.

Paragraph Paragraph 8.19 - Uplift against existing use values

Comment Viability studies illustrate that a site will only come forward with an affordable housing contribution where the resulting overall site value exceeds the existing or alternative use of that site by some acceptable margin. Paragraph 8.19 indicates that the Council will factor in an acquisition cost (the price the developer has to pay for the land) at 15% more than the current use value. The Three Dragons report, paragraph 4.4.5 notes that Workshop discussions highlighted viability issues with 'residential to residential' development sites. Property owners typically expected a 20%/30% uplift on current market values to sell. However the Viability Study also noted that , 'given the high existing use value (as large detached home(s) in low density and established residential areas), to achieve a 20/30% uplift in value and deliver affordable housing will be problematic'. Meanwhile, the Affordable Housing Viability Study used a generic 20% benchmark value.

Recommendation: The setting of a realistic existing or alternative use benchmark is essential in the operation of a successful policy. Hence it is crucial that the views and opinions of land owners and developers are taken into account in proposing a suitable benchmark. Unfortunately, it appears that the views of stakeholders and the results of the viability analysis were not taken into account in drafting this draft SPD. The Council should set an uplift in land value which is higher than the 15% proposed and hence a flexible range of 20-30% should be adopted, but subject to the individual circumstances of the land owner.

Paragraph 8.16 - Profit

Comment The downturn in the housing market has had a significant impact on the level of risk that developers, house builders and their financial backers are prepared to accept. Difficulties in selling completed units and increased development costs have led many organisations to seek greater rates of return for the level of risk involved. Many developers in the current economic climate must make allowances for higher profit levels in order to secure development finance. Paragraph 8.16 of the Draft SPD states that 'as a starting point for all negotiations with the Council, the Council has worked on the basis of profit for developers of 15% of the gross development value and the Developer Appraisal Toolkit sets this as the default value'.

Recommendation: The SPD should set a benchmark developer profit of at least 20% of GDV. 15% is the same level of profit that Three Dragons used to assume for assessments carried out during the housing boom when risk was considered to be far lower than now. In the current market, lenders are demanding that developers show a higher rate of profit in order to compensate for the increased risk associated with housing development. The latest evidence we have is that lenders are now seeking profit margins in the order of 20-25% of GDV, significantly higher than those estimated in the viability study and required by the Draft SPD.

Paragraph Paragraph 4.3 - 4.7 - Commuted Payments

Comment The SPD should set a maximum level of developer subsidy and this should be equivalent of the difference between the unencumbered land value of the individual site and the land value encumbered with affordable housing, (where the economics of development do not compromise the ability of the developer to deliver this).

Paragraph 4.7 of the draft SPD states that the commuted sum should equal the residual value of the land with 100% market housing minus the residual value with 40% affordable housing. While this commuted sum formula does establish a maximum level of subsidy, it fails to take existing and alternative use values into account. Crucially, the methodology applied by the Viability Study compared residual land values to existing use values; the commuted sum formula does not.

Circular 05/05 states that developer contributions should be fairly and reasonably related in scale and kind to the development proposed, the principle of 'equivalence'. It is our contention that the developer subsidy should be equivalent whether provision is made on or off-site, or by way of a commuted sum.

Recommendation: It is recommended that the SPD includes the formula for calculating the developer subsidy above in order to provide clarity, certainty and effective provision and to avoid planning through appeal. In accordance with the principles set out in national policy, the following formula should be included in the SPD:

Commuted Sum = Residual land value (unencumbered) - residual land value (encumbered)
Encumbered value is assessed after establishing the viability of the scheme.

Paragraph 2.1 Tenure

Comment Whilst we are encouraged that the Council is aware of the role that intermediate housing can play in bridging the gap between social rented and open market accommodation, we are concerned that the guidance does not fully explore this role, as expected by PPS3 at paragraph 29.

Level supports the introduction of different tenures and a reduction in the 40% target in order to ensure scheme viability. Therefore in individual site negotiations the Council should adopt a flexible approach when interpreting the particular mix of tenures and sizes on sites to take account of the issues of sustainability, needs and viability. The 2008 Housing Market Assessment should also have been consulted when assessing tenure requirements in the district.

Paragraph 3.2.1 of the Three Dragons Report was based on a 70:30 split. Paragraph 2.3 of the SPD notes that the Council may agree in exceptional circumstances that developers can deliver affordable housing quotas through intermediate rented housing. Whilst we are encouraged to see that the Council is considering other forms of intermediate housing it is important to note that the Viability Study concentrates on the need for shared ownership products and fails to fully consider the need for other intermediate products such as intermediate rent (this tenure accounted for only 10% of the tested tenure mix) and shared equity. These tenures may adversely affect residual land value and viability yet they have not been properly tested.

Recommendation: In considering an appropriate tenure split, it is important to consider the nature of the development proposed, housing need at the time of the application and the availability of grant funding to be taken into account. As a consequence the mix and tenure of affordable development should be negotiated between the Council and developer, having regard to the needs of the district, viability, the development site specifics and the locality.

Paragraph Community Infrastructure Levy - Code for Sustainable Homes - Lifetime Homes

Comment The viability assessment has not properly accounted for the imposition of the Community Infrastructure levy. The assessment makes provision for £5000 (per unit) of extra S.106 costs, whilst this is more likely to be in the region of £15,000 as evidenced in Appendix 5 of the document. The Council's own evidence suggests that viability will be impinged upon by the imposition of CIL at these levels, particularly on residential to residential sites in moderately high and high value areas, making the provision of affordable housing unviable. This therefore does not properly assess the risks to delivery as required by PPS3.

During the examination of Poole Borough Council's Core Strategy the Inspector noted that the joint Affordable Housing Viability Study did not test the impact of Lifetimes Homes or Code for Sustainable Homes Standards.

A Report for the CLG "Cost Analysis of The Code for Sustainable Homes - Final Report" published in July 2008 illustrates the scale of additional build costs that apply.

Recommendation: An assessment of site viability should incorporate a full account of S106 costs, Lifetime Homes and other sustainability requirements. These costs should be assessed as part of a wider analysis before the Council considers the adoption of this SPD.

Paragraph Open Market Values

Comment The open market values assumed by the Affordable Housing Viability Study have been taken from the peak of the housing market and therefore are out of date. In addition, the Affordable Housing Viability Study added a new build premium on top of the values assumed, although there is no indication that Three Dragons has sought independent confirmation of these values.

The Council's supporting evidence base, the Three Dragons Affordable Housing Viability Study applied

specific values at the time of original assessment and does not reflect future property value increases or decreases. During the examination of Poole Borough's Core Strategy the Inspector stated, 'the viability exercise was conducted on the basis of a normal housing market and does not reflect current market conditions'. Meanwhile, Land Registry Data indicated that house prices have fallen by 16% in Bournemouth since the viability study was undertaken.

Recommendation: The Council should carry out an borough wide exercise to "future proof" its viability study. This will also be in keeping with PPS12 which addresses the flexibility of the plan in the face of changing circumstances. When carrying out development control viability assessments it is therefore essential to ensure proposed values are robust. Given the current cycle of the housing market it is clear that there may be insufficient value in the schemes to deliver the Council's proposed level of affordable housing provision.

Paragraph 5.1 - Grant Availability

Comment Paragraph 5.1 of the SPD states that developer contributions will normally be considered on the basis that social housing grant will not be available. Section 6 of the Three Dragon's report considers the interrelationship between grant and viability. It was demonstrated that grant can have a significant impact in making schemes viable and raising the residual value. Therefore the impact of grant is still an important consideration.

According to the Viability Study, grant can have a favourable impact in lower value areas at high density. In Bournemouth Outer North West, the impact of grant is to more than double the residual value. At lower density the impact at the same 40% affordable housing scenario is to increase residual values by 36%.

Grant availability alone was not enough to ensure that some of the case studies in the Three Dragon's report were viable at the Council's preferred percentage target of 40%. Particularly, in low density areas the figures suggest that the impact of grant will be less pronounced. Paragraph 6.13 notes that, 'A greater proportion of intermediate affordable housing at the expense of Social Rented housing will, all other things being equal, reduce the need for grant'. It is our contention that the same principle should be applied when dealing with a nil grant scheme.

Recommendation. Although an important consideration in the background viability report, the issue of grant availability has not been sufficiently dealt with by the Affordable Housing DPD. It would also appear that many of the case studies only become viable when grant is secured. Clearly, a 40% affordable housing target, to be implementable, could only be introduced when it can be proved that grant can be secured. In the event of no grant being available, the viability appraisal will therefore reflect much lower levels of affordable housing is likely to be achieved.

Paragraph 1.3 - House Types

Comment Level welcomes the fact that the sizes and forms of affordable housing should compare with the open market element of the schemes coming forward. This is important as it allows for site specific circumstances and housing need at the time of the application.

Where housing need is for a different size and type of unit, this may not necessary be best placed on-site. Where larger affordable units are required, the policy should allow a reduction in the overall percentage of affordable housing, or the policy will be contrary to PPS3 and the principle of equivalence.

Paragraph 8.2.6 of the Three Dragon's viability assessment states that when developers demonstrate to the Council's satisfaction that providing affordable housing in a particular scheme would not be viable the Council should adopt a cascade mechanism. The recommended alternative options seek to, 'vary the tenure mix of the affordable housing component and/ or the types of units provided (eg. more smaller units).

Recommendation: While we are encouraged to see that the SPD through Policy AH1 is flexible in terms of tenure, the cascade mechanisms should also relate to unit type as recommended by the Three Dragons Study.

Paragraph 6.1 Design, quality and sustainability standards

Comment The Council has stated its preference that affordable housing is distributed across the site and constructed in clusters. This should be caveated with recognition that some types of development, such as flatted development, are not suitable for this type of provision due to the differentiation of service charges and management between open market units and affordable units. In such instances it may be more appropriate to seek provision in a separate block or off-site through the provision of units or a commuted sum.

Paragraph 4.3.4 of the Three Dragons report also acknowledges that if a lower threshold were to be introduced, a scattered stock of shared ownership units was thought to be more likely to work than social rented homes. The draft SPD however fails to pick up on this point.

Recommendation: the text of the draft SPD should be amended to incorporate the above considerations.

Paragraph 3.2 - 3.4 and Section 8 - The Three Dragon's Toolkit

Comment Three Dragons is a reputable consultancy and its model is widely used. We accept the validity of the model but would like to express our concern about viability appraisals being limited to any one model and the fact that if the applicant wishes to carry out their own financial appraisal the Developer Appraisal Toolkit must be purchased from the Council. This is particularly the case, as the proposed viability model is not available for scrutiny, at the time of this consultation, thereby destroying the credibility of this consultation process.

Viability assessments are generally based on a residual land value assessment model such as that developed by the Three Dragons, the HCA's EAT model and the model developed by Level for local authorities including Wokingham Borough Council, Manchester City Council and Fareham Borough Council. Whilst the methodologies of each model differ slightly, the general principle remains that the value of development land is given by the total scheme revenue minus the total scheme costs.

The stipulation of the use of one model is neither transparent nor open for the developer, particularly as the cashflow of the Three Dragons model cannot be interrogated. The Council is limiting development appraisals to one model which will have to be updated and purchased annually. As an alternative to buying the model the Council offers that developers submit a pro-forma to the Council to carry out the financial appraisal. The developer then has little control over how the the inputs are utilised thus leading to distrust as to the outputs the model could provide.

There is also a concern about commercial confidentiality - the use of the viability model will involve the need to seek, store and use a significant amount of commercially sensitive information.

Although the Council may assure the developer that this information will be kept secure, their assurances of confidentiality may not be water tight as a number of circumstances may arise that

require the information to be put on public display, for example, if the application was to go to appeal the information would no longer be held securely as this process requires an examination in the public realm.

To avoid this conflict and to ensure that planning consents are not personal planning consents thereby meeting the principles of Circular 05/05. This is an approach which will become increasingly prevalent with the possible advent of Community Infrastructure Levy and is consistent with the toolkit used by the GLA and the model used by the Homes and Community Agency.

If the Council impose the use of one viability model, then again, this consultation process cannot be complete unless the model is made available for scrutiny before it is adopted. Indeed we do not accept the validity of all of the input assumptions utilised for the purposes of the Viability Study. The advantage of the Three Dragons model is its relative simplicity. It is possible to run an assessment of a site's viability with almost no data other than a schedule of units because the model comes ready loaded with default inputs for values and costs for many local authorities. This means that it is possible to run an appraisal very quickly. However, the model's strength is also its weakness. Because it is simple to run versions of the model based upon the default assumptions, it can be tempting to assume that the assumptions contained within it are valid, which may not be the case. In practice we have some concerns about the Council's intention to limit financial appraisals to the Three Dragon's model which we will briefly list:

LAND VALUES

As outlined already in this representation, the model used by the Three Dragons for policy setting purposes used industrial alternative use values based on Valuation Office Agency data from July 2008. As with all viability studies and for development control purposes (individual site appraisals), a view has to be taken as to a reasonable land value to apply.

The study uses industrial land values as well as residential values, but then ignores the findings against residential values, thus distorting the reports conclusions. The SPD, after further consultation, should propose a number of considerations when setting the benchmark land values, for example, utilising actual existing/alternative use values (with an uplift) or comparing the RLV/GDV relationship.

PHASING/ CASHFLOW

The Three Dragons model includes a page on cashflow allowing the user to input, for larger projects with a longer timeframe, how many unit sales it anticipates in each of the years of the development. However, although the date of sales can be specified, this is a blunt instrument which can work only in years (rather than the months or quarters which are more commonly used). Moreover, although the timing of receipts from sales can be altered, the timing of costs cannot be. The model simply pro-rates the costs and apportions them to different years according to the year in which the relevant units are sold.

Often, the reason that a viability appraisal is necessary is because of the existence of significant exceptional costs such as decontamination, non-affordable housing S106 contributions, or the presence of listed buildings on all or part of the site. Not only is it impossible to specify when these costs fall using the Three Dragons model, it is impossible to be certain where the model assumes they fall by default because the cashflow is opaque. Furthermore, schemes consisting of a single block of flats which must be completely finished before any units can be occupied cannot be distinguished from a development where the development proceeds at a rate determined by the sales rate.

FINANCE COSTS

The other flaw in the Three Dragons toolkit's treatment of finance costs is that it seems to make very little allowance for the cost of acquiring the land upon which the development is built. The User Manual tell us that land finance costs are assumed to be "rolled up" but it is impossible to determine with certainty the basis upon which this has been done because the model is entirely opaque. In fact, it would appear that no allowance at all is made for financing the acquisition of the land - an assumption which would obviously give highly misleading results. The fact that the second edition of the model now includes a separate box into which land financing costs may be input manually gives

weight to this assumption. However, the Three Dragons model gives no indication of the correct way to calculate such costs. Users wishing to reflect this element of costs would therefore need to construct their own cashflow for the land finance costs and put the output from that calculation into the box. The problem with this is that, without knowing how the Three Dragons toolkit treats all the other costs, it is impossible to know whether simply adding the two finance costs together will give the correct answer.

Stamp Duty/ Legal Fees

The Three Dragon's model compares the residual value generated by a development to the value that the land might generate in a variety of other uses - its current use, the value associated with any other planning permissions etc. However, any developer who wishes to acquire the site at, for example, the existing use value, must also pay stamp duty as well as legal fees and a number of other small costs. In both the other two models assessed here, allowances are made for these costs in within the development costs. With the Three Dragons model no such allowance is made. The only way to include them in the model is therefore to add them to the land value against which the scheme is appraised. This is not difficult to do but, because the user guidance notes do not prompt users to do it, it is often forgotten.

DEVELOPER PROFIT

The Three Dragons model assumes that any profit above an assumed 17% of GDV accruing from non-housing uses should be put into the pot and used to deliver more affordable housing if the scheme is below target. This may be acceptable in London, where the London Plan allows local authorities to seek affordable housing from such non-housing uses but, outside London, and in Bournemouth, there is no policy to support this principle.

BUILD COSTS

In relation to build costs, the Viability Study applied a standard rate for different development types. There is no information about the basis of these costs, what allowances have been made for external landscaping, hard- standing and internal roads. It is likely that these additional build costs will further impinging on the viability of schemes across the Borough and will affect the delivery of affordable housing.

Section 106 Costs

As previously noted the Viability Assessment makes provision for £5,000 of S.106 costs. However, on larger developments these costs are likely to be significantly more.

COMMUNITY INFRASTRUCTURE LEVY AND CODE FOR SUSTAINABLE HOMES

The Inspector at Poole Borough Council's examination of the Core Strategy noted the at the joint Affordable Housing Viability Study did not test the impact of Lifetimes Homes or Code for Sustainable Homes Standards. Code 3 of the Sustainable Homes standard could add at least 5% to the build costs and will a significant impact on viability.

Recommendation: The process of consultaltion on the draft SPD has been hugely undermined by the unavailability of the viability model which the Council propose to impose on developers. As such, the draft should not be formalised until a full and proper assessment of the model has been carried out and consultation feedback obtained. The use of other viability models should be allowed, particularly as many are free of charge.

The appraisal should be based upon agreed generic costs (e.g. BCIS) in order to protect commercially sensitive data and to ensure that the permission is attached to the land not the developer, thereby meeting the principles of Circular 05/05.

The viability of any scheme should remain generic and hence the Council should not need to take into account what the applicant has paid for the land and therefore the developer should not need to provide details of land purchase agreements, etc.

Thank you for taking your time to answer this consultation.

It is important to receive responses from a wide range of people, and your contribution is valuable. The closing date for responses is:

28th January 2010

If you need any advice or help completing this form then please contact a member of our team. For further advice and your responses please use the following contact details.

Replies to:

1. The Town Hall Annexe
2. Via post: *Planning Policy
Town Hall Annexe
St Stephen's Road
Bournemouth
BH2 6EA*
3. Email: *planning.policy@bournemouth.gov.uk*

About you... (these details will be treated in confidence)

To ensure that we are listening to the views of a broad section of people, it would be useful to have the following details. The information will not be linked back to individuals but will be used to generate general statistics.

Gender category:

- Male
- Female
- Prefer not to say

I am responding as:

(tick all that apply)

- A Bournemouth resident
- Someone who works in Bournemouth
- Someone who holidays/stays in Bournemouth
- Other, please specify _____

Which of these age groups do you fall into?

- Under 16 years
- 16–24 years
- 25–34 years
- 35–44 years
- 45–54 years
- 55–64 years
- 65+ years

Are you a parent or carer of any children?

- Yes
- No

If yes, are your children? (tick all that apply)

- Under 12 years
- 12–16 years

Do you have a long standing illness, disability or infirmity?

- Yes
- No

If yes, which of the following best describes your disability or illness?

- Physical impairment
- Learning difficulty
- Sensory impairment
- Mental health service user
- Long term or terminal illness
- None of these
- Prefer not to say

What ethnic group do you consider yourself to belong to?