

Decision by Portfolio Holder



Report reference: PAG-009-2017/18

Date of report: 21 December 2017

**Epping Forest
District Council**

Portfolio: Planning and Governance

Author: Alan Hall, Director of Communities (Ext 4004)

Democratic Services: Jackie Leither

Subject: Guidance Note to Planning Applicants on the Submission of Viability and Financial Appraisals for Affordable Housing

Decision:

That, following pre-scrutiny by the Governance Select Committee and the subsequent public consultation exercise, the final version of the "Guidance Note to Planning Applicants on the Submission of Viability and Financial Appraisals for Affordable Housing", attached as Appendix 1, be agreed and included as a document to be provided through the Council's Planning Checklist.

ADVISORY NOTICE: <i>A Portfolio Holder may not take a decision on a matter on which he/she has declared a Pecuniary interest. A Portfolio Holder with a non-pecuniary interest must declare that interest when exercising delegated powers.</i>	
I have read and approve/ do not approve (delete as appropriate) the above decision:	
Comments/further action required:	
Signed: Cllr J Philip	Date: 22 nd December 2017
<i>Non-pecuniary interest declared by Portfolio Holder/ conflict of non-pecuniary interest declared by any other consulted Cabinet Member:</i> N/A	<i>Dispensation granted by Standards Committee:</i> Yes/No or n/a N/A
Office use only: Call-in period begins: 5 th January 2018	Expiry of Call-in period: 11 th January 2018

***After completion, one copy of this pro forma should be returned to
Democratic Services IMMEDIATELY***

Reason for decision

There is an absence of detailed formal planning guidance for the preparation of viability/financial appraisals at the national level. The Guidance: provides planning applicants with greater clarity and guidance on the application of planning policy; informs applicants of the Council's approach to assessing and validating Viability/Finance Appraisals; and helps minimise delays in determining planning applications.

**Initialed as original copy by
Portfolio Holder:**

Options considered and rejected

- (a) Not having any local Guidance for planning applicants; and
- (b) Providing different local Guidance.

Background Report

1. The Council has a number of policies, contained within its Regulation 19 submission version of the Local Plan and other supporting documents, relating to the provision of affordable housing on new developments within the District, which are in accord with the National Planning Policy Framework (NPPF).

2. The submission version of the Local Plan reflects the NPPF's requirements that, if it would be unviable for a development to fully comply with the Council's affordable housing policies and requirements, the Council would accept either a lower amount of affordable housing and/or a different tenure mix - subject to the applicant providing a detailed Viability Appraisal, with adequate and appropriate supporting evidence.

3. Similarly, the Local Plan submission version also recognises that there may be exceptional circumstances that would justify the payment of a financial contribution to the Council for use towards the provision of affordable housing on another site in the District, in lieu of on-site provision. However, this is subject to the applicant providing a detailed Financial Appraisal assessing the difference in anticipated property sales values, other income, construction costs and other costs (including a reasonable developer's profit) between a development with all the dwellings being provided as market housing and a development with the required affordable housing provision on site.

4. Officers have identified a significant increase in the numbers of planning applications that are being submitted for residential development, where applicants assert that it would be unviable to provide the required 40% affordable housing, and providing a Viability Appraisal purportedly backing up this assertion.

5. In such cases, the Council's affordable housing consultants are appointed to review the Viability Appraisal in detail, at the applicant's cost, and to provide the Council with a detailed report on their findings, a copy of which is also provided to the applicant. The report comments on each of the applicant's assumptions within their Viability Appraisal, and advises the Council on whether or not they are of the view that the Appraisal can be validated as being acceptable and sound, and identifies any areas where individual assumptions or evidence cannot be validated or supported.

6. If the Council's consultants cannot recommend that the Viability Appraisal should be validated/accepted, they provide the Council with their own view of the level of affordable housing or financial contribution that would be viable and appropriate to meet the Council's Local Plan affordable housing policies. If the applicant's affordable housing proposals are not acceptable, it usually results in a recommendation to the relevant Area Plans Sub-Committee that the application should be refused on the basis of insufficient affordable housing provision/contribution.

7. Despite the increasing relevance of viability in planning and its complexity, there is an absence of detailed formal planning guidance on this issue at the national level. Various industry guidance documents are available, but no single document satisfactorily addresses all aspects of the viability process. Regrettably, the Council often receives Viability/Financial Appraisals that:

- Contain assumptions that are unsupported by robust evidence;
- Include development values that are under-stated and/or development costs that are over-stated, resulting in an artificially pessimistic outcome; and/or
- Seek to limit planning obligations in order to generate excess profits for a developer and/or landowner above a reasonable level of return that is required for the development to proceed.

8. Therefore, in order to:

- Provide applicants with greater clarity and guidance on the application of planning policy;
- Inform applicants of the Council's approach to assessing and validating Viability/Finance Appraisals; and
- Help minimise delays in determining planning applications;

a "Guidance Note to Planning Applicants on the Submission of Viability and Financial Appraisals for Affordable Housing" has been produced by the Director of Communities, that explains:

- The national planning policies; and
- The Council's requirements for the submission of Viability Appraisals and Financial Appraisals by applicants;

where either:

- The applicant is of the view that it would be unviable for a development to provide the expected amount and/or tenure of affordable housing – where a Viability Appraisal needs to be provided by the applicant; or
- The Council has accepted that there are exceptional circumstances that justify a financial contribution towards the provision of affordable housing on another site in the District, in lieu of on-site provision – where a Financial Appraisal needs to be provided by the applicant.

9. A draft version of the Guidance was considered by the Governance Select Committee on 31st January 2017 and approved for public consultation via the Council's website. Only one consultee responded to the subsequent consultation process, although the consultee made a number of constructive comments.

10. The final version of the Guidance is attached as Appendix 1 to this report, which takes account of the comments received from the consultation exercise. Appendix 2 provides a Schedule of the comments received, together with officers' comments on each one.

11. It is proposed that the Guidance is approved and included as a document to be provided through the Council's Planning Checklist.

Resource Implications

None.

Legal and Governance Implications

The Guidance complies with, and complements, the National Planning Policy Framework's (NPPF's) Planning Policy Guidance (PPG) on Viability.

Safer, Cleaner and Greener Implications

None

Consultation Undertaken

A public consultation exercise was undertaken via the Council's website during Summer 2017.

Background Papers

None.

Risk Management

The provision of the Guidance to planning applicants should reduce the risk of incorrect or inappropriate levels of affordable housing being provided on development sites by developers, or financial contributions in lieu of on-site affordable housing provision being received by the Council.

Equality Analysis

The Equality Act 2010 requires that the Public Sector Equality Duty is actively applied in decision-making. This means that the equality information provided to accompany this report is essential reading for all members involved in the consideration of this report. The equality information is provided at Appendix 3 to the report.