

PROPOSED MAIN CHANGES TO DRAFT DEVELOPMENT MANAGEMENT POLICIES

RESPONSE ON BEHALF OF THE CUMBRIA HOUSE BUILDERS GROUP

17TH JULY 2017

Christopher Garner BA (Hons) BTP MRTPI

Garner Planning Associates Ltd. Registered No. 7416102 at Companies House, Cardiff

Stramongate House, 53 Stramongate Kendal, Cumbria LA9 4BH Tel: 01539 734365

 www.garnerplanning.co.uk

OPENING COMMENTS

A response was made in January 2017 by the Cumbria House Builders Group (CHBG) and the concerns set out in that submission remain. There have been no significant changes to the document. CHBG are of the view that the policies will stymie housing delivery.

At the time of writing, a Housing Land Position Report 2017 has not been issued but regardless of any uplift in housing completions compared to previous years, housing completions to date, compared to Core Strategy requirements, will remain disappointing. The intended introduction of a new set of lengthy and onerous planning policies will not assist in changing that position.

At the time of writing there is no Viability Study available and therefore SLDC could not have fully understood the financial implications of the policies before embarking on a consultation exercise in relation to proposed Main Changes.

Tracked changes to the previous draft would have made it easier to identify the changes.

DM1 GENERAL REQUIREMENTS

Alter the first sentence to say “Development proposals should, where appropriate and relevant, seek to address the following:-” See 2.1.2 below for the reasoning

For each bullet point delete “ensure” as the first word.

1. Second bullet point add to the end “where appropriate”.
 4. There is a requirement that the adequate and safe movement of pedestrians, cyclists and motor vehicles does not harm local and residential amenity or character of the area. Delete the words “in a manner that does not harm local and residential amenity or character of the area;”
The NPPF says permission should only be refused where the cumulative impacts are severe (paragraph 32).
 6. Should say “protection or enhancement”.
 7. Should say “protection or enhancement”.
 8. Delete the words “and enhancement”. This criteria and the wording of 2.1.6 and 2.1.7 will be interpreted by some that if you can see it from a National Park or AONB the development is not acceptable.
- 2.1.2 The explanation indicates that the elements of the policy may not be appropriate to all development proposals. In that case the policy should make that clear. Applicants should not be required to demonstrate why elements of the policy are not applicable or achievable, the policy should be appropriately worded to accommodate the fact that not all elements are applicable or achievable.
- 2.1.3 It is not clear what the difference is between “current needs” and “future identified needs”. Are they not both current identified needs?
It is not clear in what documentation these needs are to be identified.

2.1.4 “Developments must be supported by adequate infrastructure required to support the needs it may generate.” This could be put more simply but to be clear development should only support additional infrastructure where existing capacity cannot accommodate needs generated by the development. The wording should be amended to;- “Developments must provide additional infrastructure where existing infrastructure does not have adequate capacity.”

2.1.6 It is not correct to say that the surrounding landscape provides the impressive setting of an AONB or National Park. If that landscape was so impressive it would be within these areas.

2.1.7

Saved Local Plan Policies to be replaced – It is far too vague to say “Will replace many elements with current policies”, the actual policies need to be identified. If the planning authority do not know what they are, you cannot expect applicants to know.

DM2 DESIGN

Two and a half pages of policy does not provide useful guidance to those seeking to bring forward housing schemes. There are 33 bullet pointed criteria to be considered. A shorter and punchier policy supported by the intended Design Guidance would be preferable.

The “Significant weight” reference seem superfluous given the policy is to have development plan status. Where other policies do not have this wording it is probably not the intention that they have less weight.

The first sentence should read “The following design principles should be applied where relevant, appropriate, practicable, achievable and viable:-

All comments made in relation to the previous draft remain relevant.

9. There needs to be a justification for the provision of 15% of car park spaces having electric charging points. A housing development may have an average of 2.5 spaces per dwelling, so it would seem the requirement is that close to 40% of dwellings must have electric charging points whether there is demand or not. It would be preferable if this was not a policy requirement but developers will respond to demand for such provision as an optional extra. If the authority insist on such a policy it would be better if the policy related to dwelling units than car park spaces. Any additional costs will need to be considered in the forthcoming Viability Study.

The final sentence says “Council and other guidance including a forthcoming Design and Supplementary Planning Document will be used to determine the extent to which proposals meet these principles.” Other documents cannot be given development plan status. As indicated at the outset a shorter and punchier policy supported by Design Guidance would be preferable.

2.2.2 Indicates that there may be elements of the policy not relevant to all development proposal scenarios. That must be correct so the policy should make clear that the criterion are to be applied where relevant. The applicant should not be required to demonstrate parts of the policy are not applicable.

- 2.2.4 LVIA's and Design and Access Statements are not required for all applications, unless the Council is now saying that such documentation must be now be submitted for all applications.

DM3 HISTORIC ENVIRONMENT

10. The wording should be "preservation or enhancement" in accordance with Section 72 of the Listed Buildings Act 1990.

2.3.5 Should refer to "safeguard or enhance".

2.3.6 Should refer to "sustaining or enhancing"

2.3.9 The term "preservation or enhancement" is used. This is the correct term and should be reflected throughout the policy and Reasoned Justification.

DM4 GREEN INFRASTRUCTURE, OPEN SPACE, TREES AND LANDSCAPING

It is not entirely clear how a built development on a greenfield site can in fact result in a net green and blue infrastructure gain.

The first sentence should say "All development proposals should include green and blue infrastructure features..." if that is what the Council are seeking to secure.

Trees

It is not clear in what circumstance there is ever likely to the loss of 1ha of trees or the opportunity to replace those trees at a ratio of 30ha of trees. The first part of bullet point 2 should be deleted.

The appropriate ratio is not defined. It would be better to simply say "...will be required to provide replacement trees" and delete the following words and sentence.

Open Space Requirements – Quantity

It remains unclear why a commuted sum of £200 per bedroom is required where new open space is not required because accessibility standards are met. This is not consistent with the CIL Regulations which requires obligations to be necessary to make the development acceptable in planning terms and directly related to the development.

The CIL Regulations preclude the pooling of funding from five or more separate planning obligations. As worded this provision relates to all developments of whatever size, not just to schemes of over 10 dwellings, so there would appear to be a clear intent to pool funds from several schemes. SLDC does not have the resources to deal with the current level of S106 agreements let alone the significant increase in the number of agreements this requirement will generate.

In what documentation will the Council demonstrate “current evidence of local needs at the time of the application”?

Does this mean if there is no evidence of local needs there is no commuted sum? If there is no need for open space there can be no evidence of local needs, so the payment cannot be justified. This really is confusing.

The Viability Study should make reference to this sum.

DM6 FLOOD RISK MANAGEMENT AND SUSTAINABLE DRAINAGE SYSTEMS

It would be preferable if this policy was deleted in its entirety and national policy and guidance relied upon. As this request has already been made and the Council not taken up this suggestion, more detailed comments are made below as a second best option.

Location of Development – Avoiding areas of Flood Risk

The policy refers to “new development” but of course development can be in many different forms including Essential Infrastructure, Water Compatible and Less Vulnerable developments (see Tables 2 and 3 of the Technical Guidance to the NPPF). The policy forgets this and seems to create a policy that has just built development in mind.

Not all developments should be directed towards areas where the risk of flooding is low. The NPPF makes clear where development in areas of flooding is acceptable.

DM6 does not comply with the NPPF and this will cause confusion. It would be better if the policy read as follows:-

“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas of highest risk, but where necessary, making it safe without increasing flood risk elsewhere. Where necessary a Sequential Test and/or Exception Test will be applied in accordance with national planning policy.”

As currently worded there may be the suggestion that a Sequential Test is required for developments within Zone 1 and one must find the lowest flood risk site within Zone 1 i.e. at the top of a hill.

The three bullet points can only be relevant if the site is in Zone 2 or 3 but the policy does not say this. It is not clear why all new development should ensure there is capacity in the wider area to store floodwater. If the development is in Zone 1 and is unaffected by flood risk issues these requirements are not relevant.

Surface Water disposal

Planning policy should not be indicating who should undertake an assessment. Such assessments should indeed be undertaken by competent professionals whoever appoints them and to suggest that a consultant appointed by a developer is not independent is not correct. It is not clear who would meet the policy's requirements in this regard and who the Council consider is authorised to undertake such assessments.

As indicated in the January 2017 the requirements for documentation submission is extremely onerous and a significant amount of detail is being requested at pre-application, outline and full application stage. The Council appear to be simply taking the County Council's lead on this matter and repeating County Council draft policy that has not been consulted on. The Council have made no significant alterations since the previous draft so it the detailed comments made previously are not repeated in this submission.

DM8 TELECOMMUNICATIONS AND BROADBAND

This policy is not required and will delay and inhibit the delivery of housing. The planning policy should not go beyond Building Regulations requirements.

The policy sets out requirements but 2.8.5 indicates that schemes will be considered on a case by case basis. If that is the intention then the policy should say this.

The requirement is now for a Broadband Statement not a Connectivity Statement. The difference is not clear, but a Connectivity Statement is difficult obtain.

This could be extremely expensive where Superfast fibre broadband is not available.

The policy indicates that where the provision of high speed (superfast) is not available the development must be broadband ready through the installation of appropriate ducting and equipment, however providers will not use ducting installed by others so this will simply be a wasted installation.

The provision of Fibre to the Premises (FTTP) will only be provided by Openreach where the site is within reasonable distance Openreach's fibre network and build costs do not exceed their own service obligations. So the additional cost is for the developer to bear. More worryingly the policy requires the developer to rely upon action by a third party to lay the fibre, which is totally outside of the control of the developer.

The potential consequence of the policy is that there will be a planning condition precluding the occupation of dwellings until there is broadband connectivity that meets the requirements of the Council. This would be a significant risk for a developer as they may have houses completed but be experiencing delays in broadband connection outside their control.

- 2.8.1 Reference is made to the Council's recent survey work. This survey should be made available for consideration.

DM11 ACCESSIBLE AND ADAPTABLE HOMES

Concerns have previously been expressed regarding the data that supports the requirement for all houses to be M4(2) Category 2 : Accessible and Adaptable Dwellings. An Evidence Paper: Optional Housing Standards Update –June 2017 has been produced but this does not support the policy requirement for all dwellings to meet M4(2) standards and perhaps it is not intended to.

At 2.54 of the Evidence Paper the Council's position is simply it is "too problematic in methodological terms" to attempt to specify a proportion of homes so it would be sensible to require all homes to be of M4(2) standards. A more robust case is required.

The policy now adds a requirement that on sites of over 40 dwellings 5% of the dwellings must be M4(3) Category 3: Wheelchair user dwellings with the caveat that "If evidence at the time of a planning application indicates a different level of need then this element will be applied flexibly." This means the 5% requirement can go up and down based on revised evidence.

There is a lack of clarity in the Optional Housing Standards Update statistics to support the policy requirement. It is not clear how a 3.5 per 1,000 household requirement nationally results in a 5% requirement locally for new houses on schemes of over 40 houses (see 2.22 of the Evidence Paper).

It would seem the intention is to ensure that new houses compensate for suggested shortfalls in the existing stock but the Evidence Paper indicates that based on a 2011 household survey that 79.2% of older households (some clarity is required on this point) wish to continue to live in their current home with support (see Table at 2.25), so it is really unclear how the 5% requirement has been established.

A clear mathematical calculation should be provided which indicates the total number of households, the total number of households that are anticipated to require wheelchair standards and as a result the number of new dwellings that should provide such a standard.

The new SHMA has not yet been issued and at 2.27 of the Evidence Paper indicates this will calculate the need for specialist housing for older people. We await the issue of this document and may wish to comment further on any evidence for wheelchair user dwellings suggested in the SHMA.

- 4.1.3 The Reasoned Justification indicates that the Wheelchair user dwellings will be required on "larger housing developments in suitable locations". If that is the intention the policy should say this and confirm what are considered to be suitable locations e.g. by referring to the Core Strategy settlement hierarchy i.e. Principal and Key Service Centres.

The evidence the Council will use to apply the 5% flexibly will be the SHMA, local housing needs surveys, the Housing Register or other relevant sources, but of course such evidence is open to interpretation and there will be some uncertainty as to what developers will be required to provide at the time of the application.

- 4.1.4 The cost implications of this requirement will necessarily need to be taken into account in the Viability Study. Developers are price takers not price makers and the suggestion that one

simply adds the cost onto the price of a dwelling or the cost is not quite reality. It does of course assume that house purchasers demand such standards and will pay extra for them, which may not be a correct assumption.

The costs of this policy combined, with others, is to be considered in the context of a Viability Study. The CHBG will review the content of the Viability Study when completed and made available.

It is not clear where there are viability exceptions whether affordable housing or M4(2) or M4(3) takes priority.

EVIDENCE PAPER: OPTIONAL HOUSING STANDARDS JUNE 2017

Detailed comments have been made on the previous draft document and these comments remain valid. The updated version does not provide clear evidence for the policy requirements for M4(2) and M4(3).

Some commentary is provided above, but as a new SHMA is to be issued shortly and the Evidence Paper is to be revised, comments will be made on the revised document. It is hoped the revised document will provide a clear empirical basis for any proposed policy.