GARNER PLANNING
TOWN PLANNING AND DEVELOPMENT

DRAFT DEVELOPMENT MANAGEMENT POLICIES: RESPONSE ON BEHALF OF THE CUMBRIA HOUSE BUILDERS GROUP

5Th January 2017

OPENING COMMENTS

South Lakeland District Council set housing requirements, in the adopted Core Strategy, significantly above past housing completion rates. Following the adoption of the Core Strategy, the authority then put considerable effort into adopting a Land Allocations document identifying housing sites intended, in part, to deliver the authority's housing ambitions. It is disappointing that those housing ambitions are not being delivered and as at 31st March 2016 housing delivery is less than 54% of the intended target from the beginning of the plan period. The degree of shortfall is beyond the 10% acceptable range referred to in the Core Strategy's Appendix 1 Monitoring and Implementation Framework (paragraph 5.1).

Whilst SLDC and CHBG may disagree on the cause of the shortfall, there will be agreement that the significant shortfall in housing provision needs addressing. At this point in time the combined effects of a 35% affordable housing requirement and the Community Infrastructure Levy on housing delivery are not yet fully apparent, but it is the CHBG's concern that further prescriptive policy will not encourage increased housing provision. More bureaucracy never assists delivery.

SLDC consider part of the problem for housing delivery has been the limited number of house building companies operating in the South Lakeland area and a desire to encourage new companies to invest in the area. Again the degree of policy prescription in the draft Development Management document is unlikely to encourage those new companies to come to South Lakeland. For larger volume housebuilding companies, if the policy requirements mean that their standard house designs cannot be used, they are likely to be discouraged from investing in South Lakeland.

The unintended consequence of the cumulative impact of the proposed new set of policies is likely to be reduced levels of affordable housing provision.

1.1.1 The policies are worded extremely prescriptively and good schemes, which must balance many issues, will be refused planning permission if they do not comply with all the new set of policies as interpreted by the planning authority. This may frustrate the delivery of innovative and creative housing schemes. With this in mind more flexibility is sought in relation to policy wording throughout the document.

Central Government has recognised the difficulties for smaller house building companies. The only organisations that could possibly address the complexity of planning policies, that this document intends to introduce, are larger companies.

1.1.6 It is agreed that Planning Practice Guidance is a relevant document and this will be referred later in this submission.

1.6.1 The initial viability appraisal by SLDC should be made available for consideration and be open to scrutiny. The Development Management document cannot progress until the viability implications are understood. It is surprising that the approach has not been to undertake a full viability assessment taking into account the implications of the policies for residential development along with existing policy requirements, such as 35% affordable housing and the CIL rate of £55 per sq. m of residential floorspace.
It is not clear what a "modest" impact on development viability is considered to be. Any impact on development viability inhibits housing delivery. One must of course be mindful that affordable housing is the balancing policy where if there is any viability issue and therefore it is the affordable housing provision that must be reduced to achieve viability. Given the planning authority's aspirations for affordable housing delivery one must be careful not to increase development costs without understanding the inevitable implications for affordable housing delivery.

Policy DM1- General Requirements for all development

2. Delete the words "and as far as possible should enhance its surroundings" – these will be words that will be used to counter every residential proposal.
3. Delete – it is not clear what "an inclusive design and layout" is. Saying a scheme must be "accessible for all" is ambiguous – it could mean physically able to move around the development or it could mean the price of property.
5. The National Planning Policy Framework (NPPF) indicates that "Development should only be prevented or refused where the residual cumulative impacts of development are severe." (32). This part of the policy goes beyond the NPPF. Not every scheme can create new pedestrian and cycle movements. For many any new vehicular movements "cause unacceptable traffic generation" simply because new residents' cars may inconvenience existing resident's use of their car.
6. The planning authority needs to clarify what an unacceptable level of pollution and disturbance are. This element of the policy will be referred to in many objections to housing developments, so all parties need to understand the thresholds being applied.
7. Not all ecological networks can be protected. The NPPF sets out the appropriate approach to aiming to conserve and preserve biodiversity allowing for mitigation (118). The policy should reflect national policy and allow for appropriate mitigation.
8. The policies are not intended to relate to the National Park areas and therefore these references should be deleted. For some any built development that can be seen from the National Park is unacceptable. It is not clear how development outside the National Park can enhance the National Park.
9. It is not clear how the planning authority will determine whether or not a development will result in adverse cumulative effects. The point should either be deleted or the measure should be explained.

Simply saying DM1 will replace many elements within current policies is too vague. It needs to be clear what policies the planning authority will be applying when planning applications come forward. Further clarity is required as to which policies are to be replaced by Policy DM1.

Policy DM2 – Achieving High Quality Design

The policy can be widely interpreted and therefore does not provide useful guidance to those bringing forward housing schemes.

The policy starts by saying significant weight is to be given to the design principles set out in the policy and then those design principles say "Development proposals must respond appropriately to…" There is a contradiction. The word "should" is preferable to "must".

The onerous requirements of this policy will stymie many well designed housing schemes that need to balance many issues. It is not clear that any development could meet the 2.5 pages of text to this policy. Every issue is sacred except for needs of the people who need new housing.

Every policy point needs to be on the basis of 'where appropriate, practicable, achievable and viable'.

A shorter and punchier policy would be better, supported by a Design Guidance document to provide clarity for such issues as acceptable space standards between dwellings.

1. Some places do not have any local distinctiveness so such local distinctiveness can be difficult to reinforce.
   Existing built and natural features that create a positive contribution should be maintained **where appropriate and practicable.** Many housing development will be on greenfields so clearly not all natural features or views into, over or out of a site can be maintained. There is no need for a transition between built up areas and the open countryside. Mitigation will be a key part of any development.
2. It is not clear what an inclusive design and layout is.
3. Accessible for all – means what?
4. The provision of security measures for each dwelling is not appropriate.
5. Major developments are presumably schemes of 10 dwellings or more. Each of these must have character areas. The threshold here should be 50 dwellings.
6. Is the intention to confirm what are considered appropriate separation distances?
7. Not all buildings can be orientated to optimise energy efficiency, solar gain and maximise daylight levels – if they were you would have a very inefficient use of land.
8. Some places simply do not have materials, colour or local vernacular worth repeating.
9. This is the first "wherever possible" bullet point. All bullet pointed requirements should have the caveat referred to above i.e. where appropriate, practicable, achievable and viable'.
10. Delete "avoids" and insert "minimises".

2.2.2 The policy is very long as it is. Perhaps it would be better to have a shorter and punchier planning policy and put your detailed items for consideration in separate Design Guidance.

Policy DM3-Historic Environment

There is no reference within the policy to the level of significance of an asset. As currently worded all assets are to be treated equally. The policy should include wording which relates to the level of detail required being proportionate to the significance of the asset as required by the NPPF (paragraph 128).

The policy should refer to paragraph 132 of the NPPF which relates to the level of weight afforded to an asset being variable depending on the importance of the asset.

Conservation Areas

1. The wording should be "preservation **or** enhancement" in accordance with Section 72 of the Listed Buildings Act 1990. The words "including its setting and any views within into or out of the Area" should be deleted.
2. Should refer to "**any** identified significance".

Archaeology

It is not clear what test will be applied to determine whether or not preservation of remains in situ is possible or not.

Policy DM4 Green Infrastructure and Open Space

Trees
Not all trees require protection. Some trees are of poor quality or are unsafe. Removal and replacement may be better options in these circumstances.

Open Space /Green Infrastructure Requirements – Quantity
How does one determine if an area is deficient in terms of accessibility standards?
Where are the accessibility standards defined?
What robust evidence supports the accessibility standards?
Should the accessibility standards not be the determining factor for open space requirements not development size?
How are "Larger Developments" defined?
What justification is there for large development to provide open space if the accessibility standards are met? If standards are met then it would not be consistent with the CIL Regulations to require additional open space as such space would not be fairly related to the development.

It is not clear if one is to apply these requirements to those types of space where there is deficiency. So for example there is access to Parks and Gardens so you only consider the other three elements.

It is estimated that the requirements mean that 30% of any site is to be set aside for open space/green infrastructure. There will be other non-developable areas. This needs to be viability tested.

The extent of the various requirements will impact on the numbers of houses that can be delivered on all large housing sites. This in turn must impact on the number of affordable houses to be delivered.

For a scheme of 15 dwellings there will be the following requirements:-
Parks & Gardens – 1.4ha x (15/100) = 0.21ha
Play Areas - 0.05ha x (15/100) =0. 0075 ha
Allotments - 0.08ha x (15/100) = 0.012ha
Civic Space - 0.015ha x (15/100) =0.00225 ha

Clearly some of the areas generated are too small to create usable space but it would appear the policy intent is that you combine these elements to create a usable space even where there might not be deficiency for one item.

What is Civic Space?

Is there really a demand for allotments at every site location? Most new houses will have gardens, people can grow vegetables in their garden if they so choose, so the allotments themselves would not necessarily be for those living on the new development. Allotments by their nature can be a little ramshackle and will therefore have a negative impact on the housing development.

If accessibility standards are met and open space is not required why would there be a commuted sum payable at £200 or £250 per bed space? This is not justified and cannot be a requirement that is fairly and reasonably related to the development itself.

It is not clear when £200 will be asked for and when £250 will be asked for. If the policy refers to a maximum of £250, the request will always be for £250 per bed space.

The commuted sum requirements need to be justified and viability tested.

Planning officers' approach is to now require that all POS, including play areas, will no longer be adopted by SLDC. It is not clear if this is a matter that has a Council resolution or it is a policy made by officers. Either way there has not been any consultation with developers on the matter and the Development Management document is silent on this.

House builders would prefer local authority adoption because local residents, in the context of the alternative management company approach, are particularly concerned about the insurance liability of open space including children's play equipment. Further there is often an issue for residents paying for on-going maintenance of open space seeking to discourage local residents from outside the development using the open space and play equipment.

Where there is more than one developer on site and therefore more than one management company, but only one shared play area, the management company issues can be difficult to resolve.

The reference to urban greening and the measures such as living/green walls and roofs and roof gardens needs to refer to "could" not "should".

DM5 Rights of Way and other routes providing pedestrian and cycle access

The words “must support” appears should be replaced by “should seek to support”. It is not always practical for new developments to provide access to sustainable forms of transport and promote active travel.

DM6 Surface Water disposal, Foul Water disposal and treatment, watercourses, flood defences and consideration of wider land drainage interests

This policy should be deleted in its entirety. It is sufficient for this matter to be dealt with in County Council guidance documentation.

The requirements relate to single dwellings as well as large schemes. The requirements are onerous for large and small developments.

A significant amount of unnecessary detail is being requested at outline and full applications stage.

At Pre-App stage you do not need:-

- A flood risk assessment; or
- Drainage Strategy and layout plan.

At outline application stage you do not need:-

- A drainage strategy and sketch layout for all schemes regardless of size;
- Preliminary layout drawings;
- Hydraulic calculations;
- Landscape proposals – it is a reserved matter if you choose it to be;
- Ground investigation reports; or
- Evidence of third party agreements etc.

These requirements will effectively limit the number of outline applications for small sites.

At reserved matters stage you do not need:-

- Detailed landscaping proposals;
- Discharge agreements; or
- Development Management & Construction Phasing Plan.

At full application stage and reserved matters stage you do not need:-

- Evidence of third party agreements etc.;
- Maintenance programme;
- Detailed landscaping proposals;
- Discharge agreements; or
- Development Management & Construction Phasing Plan.

The policy requires detail of matters when the layout is not yet agreed. These issues can be dealt with as planning conditions where they are planning related.

DM7 Addressing Pollution and Contamination Impact

If development is to be located where exposure to pollution and contamination is negligible then this would rule out redevelopment of previously developed land or site near to previously developed land. The first sentence should be deleted.

The indirect effects of pollution were used by objectors to all the housing allocations in and around Kendal on the basis that there was an AQMA in Kendal. All additional traffic movements were considered to be unacceptable. If no new traffic movements are acceptable because they introduce additional sources of pollution then no new housing developments are acceptable around Kendal. This is extremely onerous and excessive and contrary to the provisions of the DPDs.

What does air quality neutral in terms of emissions at source mean? New developments result in new vehicle movements does that mean a scheme is not air quality neutral?

The policy says "All development must be at least air quality neutral" but at 2.7.4 it says "All new development should aim to be air quality neutral." Which is it?

It is not clear how you make a scheme air quality neutral but when this is clarified there will no doubt be cost and viability issues associate with achieving this standard.

Can the policy or the explanation to the policy make clear when air quality assessments will be required rather than simply say dependant on location, type and scale of the proposal?

What are "noisy sports" that would generate the need for noise assessments? Football?

"Neighbour noise" requires mitigation, but surely noise generated by residents, acting reasonably, cannot be considered a noise requiring limitation and mitigation?

The full implementation of remediation measures for a whole site is not required prior to occupation of part of a development. In certain instances this would be extremely onerous and impact on viability.

Reference to the Council's Planning Application validation checklist should not be made in policy giving the checklist a statutory status.

DM8 High Speed Broadband for New Developments

This policy is not required.

Has there been any dialogue with BT on this matter?

It is for the applicant to demonstrate how future occupiers will be provided with sufficient digital connectivity. It is not clear what sufficient digital connectivity means but if it cannot be provided then planning permission will be refused presumably.

The policy introduces cost and delay.

A Connectivity Statement is not easy to obtain from Openreach.

If you install appropriate ducting and equipment Openreach will not use it as they will not use third party ducting.

The policy requires the provision of ducting and equipment but the explanations says at 2.8.5 it could be provided in some cases. Which is it?

Policy DM9 Parking Provision, new and loss of car parks

What are the County Council guidelines that are being referred to?

If parking provision standards are to be considered on a case by case basis using Cumbria County Council published guidelines to be used flexibly, is there really a need for a policy?

What is the minimum standard for disabled parking spaces?

There are numerous factors that will be taken into account in determining car parking standards but how does an applicant know what these are when designing a scheme? We need to know that information at the outset not find out what the planning authority are considering when determining a planning application.

Does a low emission vehicle need less car parking space than a higher emission vehicle?

Policy DM11 Accessible and Adaptable Homes

The justification for requiring all dwellings to be M4 (2): Category 2 – Accessible and Adaptable Dwellings is set out the Evidence Paper: Optional Housing Standards is largely based on South Lakeland's ageing population. To this one must add those of working age and children that need accessible or adaptable homes. No comprehensive information is provided as to what this means in terms of the percentage of South Lakeland's population.

Appendix 1 does not tell us the total number of persons in the District but the Core Strategy says this is about 105,000. This figure will include areas within the National Parks, in different planning authority areas.

Appendix 1 does tell us that:-

- Total population aged 65 and over with a limiting long term illness whose day-to-day activities are limited a little is **6841** in 2014;
- Total population aged 18-64 predicted to have a moderate physical disability **5052;**
- Total population aged 18-64 predicted to have a serious physical disability **1,578;**
- No statistic is given of children with a disability in the Appendix but the text tells us this is 6% of children but we do not know how many children there are.

Excluding children, because of lack of information, the number of people that may have some need for an enhanced standard is (6841+5052+1578) i.e. 13,471 which represents very roughly **12%** of the population and even this includes persons whose day to day activities are limited a little and persons with a moderate physical disability require adaptable or accessible homes.

There is evidence of an ageing population. It is estimated that by 2039 **37%** of the population will be over 65. It is later stated that 45% of such persons have mobility and disability issues. It is not clear if this is a national or South Lakeland statistic but even applying this figure 45% of

37% suggests **16%** of the population need accessible or adaptable homes based on age and disability.

Appendix 1- Data Collection indicates that **18.8%** of the District's population said they had a limiting health problem or disability. The District includes areas outside the planning authority's area and includes areas in the National Parks. This appears to be the most robust statistic, but of course we do not know whether this percentage of population's needs would be met by the suggested enhanced standard or indeed if the limiting health problem necessarily translates into a need for an accessible and adaptable home.

Table E4 sets out the housing options of older people. This is based on a 2011 household survey. The number of responses is more than double the number of valid respondents and the total % of housesholds is more than 200%. Clearly respondents were expressing more than one choice. How many choices each respondent made is not explained. It is not clear from the statistics, as is concluded at paragraph 23, that the majority of people want to continue living in their current home but that would not be a surprising finding. Further it is not clear that the second most popular option was to consider buying a property on the open market. There are 6 rental categories which suggests that renting a property was more popular than buying a property on the open market.

It is suggested that the table provides evidence "that there is a need to increase the proportion of accessible and adaptable dwellings in the private sector". It does not do this and most certainly does not provide evidence of a need for 100% of new build homes to be Accessible or Adaptable, which is the leap then made to the draft policy requirement.

The planning authority has not put forward robust and credible evidence that justifies a 100% accessible or adaptable home requirement or established the proportion of new dwellings where such enhanced standard would be appropriate. Further empirical evidence is required before progressing with this policy. At the present time imperfect statistics perhaps suggest a justification for in the order of 15% of dwellings being accessible and adaptable, but this needs proper testing and even at this level there will be a need to consider particular site constraints.

Planning Practice Guidance says: - *"…They (*the local planning authority) *should clearly state in their Local Plan <u>what proportion</u> of new dwellings should comply with the requirements…"* (Paragraph 008 Reference ID 56-008-20160519). The clear expectation is that where there is evidence of a need then a proportion, not 100%, of dwellings will have enhanced accessibility or adaptability standards. A more appropriate way forward would be to establish the percentage of homes where persons may require Accessible and Adaptable Dwellings and to apply that percentage to newly built homes on schemes above a certain minimum threshold, to houses of a certain size and type, in appropriate locations and always, subject to a comprehensive viability assessment of the policy in the context of other policy requirements.

Assuming, after an appropriate viability assessment, the planning authority are to progress on the basis of a proportion of new homes being to enhanced accessibility or adaptability standards, the planning authority might wish to consider the factors referred to in Planning Practice Guidance, as discussed below.

Size –the standard should apply only to a proportion of dwellings that are 3 bed+ properties only which have a larger footprint and therefore more ground floor spaces rather than making 1 and 2 bed properties larger.

Location – apply the standard to new dwellings within Principal and Key Service Centres which are better served by local facilities and public transport.

Type – apply the standard to bungalows, retirement homes, sheltered homes or care homes and percentage of 3+ new build homes.

There is a significant cost to M4 (2): Category 2 – Accessible and Adaptable Dwellings. Whilst SLDC have estimated the build cost for each dwelling, one does need to understand that the implication is there will be a need for more larger dwellings (if the standard is to relate to all dwellings), this means a lower density and a higher Community Infrastructure Levy which has overall viability implications. Further, it is a requirement of M4 (2) for there to be "step-free access to the dwelling and to any associated parking space and communal facilities". To achieve this on for all dwellings could require significant works to alter plot levels. This may not be desirable in many circumstances and may be impractical in others. The costs will be significant.

In assessing the financial implications the authority assumes that the features of a home that ensure the dwellings are accessible and adaptable are features that increase the sales value. For many the enhanced standard may discourage purchasers particularly for smaller houses where a downstairs toilet is at the expense of kitchen or living space, so one cannot assume that sales values simply compensate for the increased build cost. One should assume a neutral position on sales values. For affordable dwellings one cannot of course secure increased sales values as the sales price is set by SLDC. If the intention is to increase affordable sales prices the DPD should make reference to this.

The planning authority must put forward a comprehensive viability assessment taking into account all the implications of various policy requirements that impact on cost and site densities, including the land take implications. That viability needs to be put forward for proper scrutiny.

Optional standards are intended to apply to new build homes not conversions and any policy needs to be make this clear.

DM12 Self-Build and Custom Build Housing

SLDC's Housing Monitoring Report 2016 shows a significant number of small sites with planning permission (634 dwellings on 433 small sites). These are available to self-builders and custom builders if they wish to acquire those sites.

Developers will not embrace self-build or custom build housing on their developments with any enthusiasm. Apart from contractual difficulties, potential new house purchase customers may be discouraged from purchasing because of concerns and uncertainty of the nature of the self-build dwellings and the timing of delivery. This has an impact on both viability and deliverability. There are also practical concerns over start and finish of construction, the provision of services and health and safety management issues.

All the new proposed requirements set out in the draft Development Management document will only add to the complexity and difficulty for self-builders in bringing forward new housing.

The best assistance the planning authority can provide to self-builders is to increase affordable housing thresholds, as the threshold of three or more dwellings outside Principal and Key Service Centres means a self-build scheme of more than two dwellings is not practical or viable.

DM13 Housing Development in Small Villages and Hamlets

Housing completions in the small villages and hamlets have to 31st March 2016 been 64% of the housing completion aspirations of planning authority to that same date, as set out in the Core Strategy. In this respect these settlements are the least worst performing settlements in the hierarchy (the others being Principal, Key and Local Service Centres).

If development is to now be limited to those small villages and hamlets that are a minimum of 10 dwellings and with services, or good access to services, then clearly not many small villages and hamlets will qualify. As a result the number of housing completions coming forward is likely to fall over time and that is no doubt the intention of the policy. Looking forward then, appropriate compensatory housing provision will need to be found in or on the edge of other settlements to meet housing requirements.

The largest small villages and hamlets scheme granted consent and currently under construction is at Greenside Farm, Hincaster (23 dwellings). This scheme would not pass the tests of the new policy despite the scheme being an appropriate development on the edge of a hamlet.

It would be useful for it to be made clear what services a village or hamlet should have to qualify as a settlement where new development would be acceptable and what "good access to services" means. It is not clear what distance constitutes good access and whether or not good access means public transport only which would perhaps rule out most small villages and hamlets.

Whilst self-build and custom build dwellings are encouraged, the affordable housing threshold of 3 dwellings will preclude anything but schemes of one or two dwellings for such groups. There is little interest from housing associations in providing affordable housing in the small villages and hamlets, so CS6.3 is counterproductive.

DM14 Rural Exception Sites

1. If clear evidence of local support is required schemes such as the 100% affordable housing scheme at Haggs Lane, Cartmel would not come forward.
5. You do not need evidence of viability of a 100% affordable housing scheme. If it is not viable it will not progress.

Starter Homes

It is agreed that the Regulations are required before Starter Homes can form part of the affordable housing provision.

Affordable Housing in Designated Rural Areas

The CS6.3 policy, requiring 35% affordable housing on schemes of 3 dwellings or more outside Principal and Key Service Centres, is not working.

The lower threshold of 3 dwellings, rather than 9 dwellings, has delivered just 2 affordable dwellings since the Core Strategy was adopted in October 2010. This was on a scheme at Levens where the total net new dwellings was 7 dwellings.

Whilst the planning authority resist adopting the 5 dwelling threshold referred to in Planning Practice Guidance, the only effect is that schemes for 3,4 or 5 dwellings do not forward in Local Service Centres or the small villages and hamlets.

The planning authority has an adopted interim position so there is no prospect of a review of the thresholds until the Development Management DPD progresses further. The Core Strategy Appendix 1 Monitoring and Implementation Framework refers to obstacles and constraints to housing delivery; the low affordable housing threshold is such an obstacle and constraint and it is time for a review of policy in this regard.