

CABINET

15 JULY 2016

CONSIDERATION OF THE REMOVAL OF PERMITTED DEVELOPMENT RIGHTS
FROM HOMES BUILT UNDER POLICY CP2

REPORT OF COUNCILLORS LEARNEY AND WEIR

RECENT REFERENCES:

None.

EXECUTIVE SUMMARY:

Under Council Procedure Rule 36, Councillor Learney has requested to place this report on the agenda for consideration.

RECOMMENDATIONS:

That Cabinet consider the points raised in the Report from Councillors Learney and Weir (attached as Appendix A).

BACKGROUND DOCUMENTS:

None.

APPENDICES:

Appendix A - Report by Cllrs Learney and Weir

Agenda item for cabinet

Consideration of the removal of Permitted Development Rights from homes built under Council Policy CP2.

Paper by Councillors Weir and Learney.

EXECUTIVE SUMMARY

Local Plan Part 1 policy CP2 - Housing Provision and Mix, is a cornerstone of Winchester City Council's inclusive and sustainable Housing Strategy which recognises that 'overall around 65% of new demand will be for 2 and 3 bed homes, to cater for small families, newly forming households and people looking to downsize'. The strategy also identifies the need to guard against any drift towards relative shortfall or excesses of supply of particular kinds of dwelling that reflect the short-term interests of developers rather than longer-term community interests.

There is evidence that developers are using Permitted Development Rights to circumvent policy CP2. If this is allowed to continue unchallenged there is a real risk that Winchester's housing strategy will be systematically undermined, the shortfall in new 2/3 bed homes will grow and Winchester will become progressively less inclusive and socially sustainable.

RECOMMENDATION

1. Cabinet reaffirms its support for, and takes measures to secure the effective application of, LPP1 Policy CP2.
2. Cabinet consider a general policy of the removal of Permitted Development Rights on 2/3 bed houses on any development where these are required to provide the housing mix needed to meet LPP1 Policy CP2

BACKGROUND

Council policy on Housing mix

Winchester City Council's policy on housing mix is set out in the Local Plan Part 1 Joint Core Strategy, approved in 2013.

The Council's priorities for housing and housing mix are aimed at ensuring "that everyone should have the opportunity to live in a high quality, well designed home, in sustainable, inclusive and mixed communities that they want to live in and which they can afford."

The Council assessed the housing needs and demands of the District and estimated "that overall around 65% of new demand will be for 2 and 3 bed homes, to cater for small families, newly forming households and people looking to downsize, while specifically in the affordable sector the levels are estimated to be between 60 and 80%."

The local plan also states that “It is important that the market is able to react to changes in economic circumstances and patterns of demand. However it is also important to guard against any drift towards relative shortfalls or excesses of supply of particular kinds of dwelling that reflect the short-term aspirations of developers rather than longer-term community interests”

Policy CP2 - Housing Provision and Mix

“New residential development should meet a range of community housing needs and deliver a wide choice of homes, with priority being given to the provision of new affordable housing.

Development should provide a range of dwelling types, tenures and sizes and, as appropriate to the site size, location and characteristics, this should include a mix of market homes for sale, affordable homes and homes attractive to the private rented sector, particularly on larger sites. Specialist forms of accommodation such as extra care housing for older persons and homes for those with disabilities and support needs should be provided, where appropriate, taking into account local housing needs.

A majority of homes should be in the form of 2 and 3 bed houses, unless local circumstances indicate an alternative approach should be taken, including where there is an imbalance of housing types and sizes in particular parts of the District.”

The Woolverston development

A recent high-profile redevelopment of a previous sheltered housing scheme on Bereweke Road Winchester has demonstrated the determination of developers to ride roughshod over Council planning policy.

Planning permission was granted for the redevelopment of HVHS Housing Group, Woolverston, Bereweke Road, Winchester in January 2014. In place of 45 flatlets (affordable rents) and 2 staff bungalows, a development of 11 dwellings providing a total of 46 bedrooms was approved. Additional information was also provided clarifying that the Council was not requesting contributions for affordable housing, open space and highways as the number of residential dwellings on the site was being reduced from 49 (sic) to 11.

The development was approved subject to, among others, the condition that it met LPP1 Policy CP2 Housing Provision and Mix. To comply with the policy, the permitted development included 2no 2 bed homes and 4no 3 bed homes.

In March 2014 an application in respect of the addition of dormers to units 1-6 was submitted to the Council for a Non Material Amendment (NMA) to the original permission. The NMA was rejected as the proposed amendments materially affected the external appearance of the development.

A new planning application to add habitable space and dormer windows to the 6no 2/3 bed houses was submitted in mid 2014. Planning Development Control Committee refused permission to add the extra windows and habitable space in October 2015 on the grounds that:

'The proposed development would be contrary to policy CP2 of the Winchester District Local Plan Part 1 - Joint Core Strategy in that the site would fail to provide a mix of dwelling sizes and no overriding justification has been put forward to support this approach. The development would therefore be detrimental to the amenities of the area by failing to reflect the need for smaller dwellings.'

It was also pointed out that 'had this application been permitted it would have been subject to the payment of Community Infrastructure Levy (CIL). The total amount that would have been due upon commencement of development is £47040.00.'

An application for a Lawful Development Certificate (LDC) under Section 192 of the Act (for the addition of dormers, the use of the roof spaces as flexible residential accommodation and the conversion works required to facilitate this) was submitted to the Council on 23 December 2014 and was refused on 25 February 2015 because the proposed use and operations were not capable of being instituted or begun at the time of the application.

Following this decision the developer appealed the earlier planning application to add dormer windows and flexible residential space to the six 2/3 bed homes.

The Inspector stated that the main issue was: 'Whether, in the light of the Policy CP2 of the Winchester District Local Plan Part 1 – Joint Core Strategy (LPP1), national guidance and other material considerations, the proposal would be detrimental to the housing priorities and amenities of the area by failing to reflect the need for smaller dwellings.'

The Inspector also noted: 'Although the accommodation has been labelled as flexible habitable floorspace, it is clear to me that this space is large enough to provide two additional bedrooms in each property and these would be served by permanent stairs and windows. This could result in all of the dwellings becoming 4/5 bedroom properties and would not be in compliance with Policy CP2 as it would fail to meet the housing needs of the area...overall I consider the proposal is contrary to the development plan.' The Inspector dismissed the appeal.

Despite this series of decisions supporting the application of CP2 on this development, the developer continued to market units 1-6 with dormer windows and additional habitable space. Once completed, and with building control certificates in place, the developer has started adding the dormer windows and, it is assumed, the habitable space, under Permitted Development Rights.

As a consequence a development site which has made no contributions to affordable housing, open space or highways, nor paid any CIL now comprises dwellings with capacity for 58 bedrooms – replacing 45 single bed flatlets and bungalows which previously served sections of the community with special housing needs. No provision has been made on this site to achieve the local plan aspirations to contribute to inclusive, sustainable community development.

There is now a substantial risk that other developers will follow this example and seek to bypass LPP1 Policy CP2 using Permitted Development Rights.

REMOVAL OF PERMITTED DEVELOPMENT RIGHTS

One measure available to the Council to preserve the required housing mix is to remove permitted development rights from homes in new developments

Several areas in Winchester were built with permitted development rights removed to preserve the original design features for example Harestock and Badger Farm. While this is a less common practice it is still a measure available to Councils.

Paragraph 206 of the National Planning Framework sets out that “Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.”

As compliance with policy CP2 is generally required in order to make developments acceptable in planning terms to the Council, measures to ensure continued compliance with that policy would be entirely reasonable. The experience of developments such as Woolverston demonstrates that action is necessary.