SOUTH OXFORDSHIRE DISTRICT COUNCIL

AFFORDABLE HOUSING VIABILITY STUDY: ADDENDUM CONSIDERING AFFORDABLE RENT

Does the report have significant implications for the soundness or otherwise of CS policy CSH3, particularly points 1 and 2?

1. The case for a 40% affordable housing target has still not been demonstrated.

2. The revised appraisal that takes into account the potential of the Government’s new Affordable Rent model shows that the policy requirement for 40% affordable housing is still unviable in most locations in the district especially on previously developed land that has a high to medium existing use value. The target becomes more viable only when agricultural land is sold at existing use value or with 75% Affordable Rent.

3. The modelling should be treated with extreme caution since it appears to assume that owners will sell their land at existing use values, forsaking any potential uplift in development value.

Some preliminary observations:

4. We note the reluctance of the Council to adopt different affordable housing targets in different areas in case this results in market distortion (section 1.1). We are not sure what this means but we presume that the Council is saying that while there is the potential to provide a greater number of affordable homes in higher value areas, it does not wish to do so. If this is case, we feel this position ought to be stated more clearly in the Core Strategy.

Implications for soundness

5. The Core Strategy policy CSH3 proposes a 40% affordable housing target with a split of 75% social rent and 25% shared ownership. Notwithstanding our concerns about the evidence supporting this, the report now maintains that it is possible for the Council to achieve a 40% affordable housing target by providing 75% Affordable Rent and 25% shared ownership on sites of medium and high value existing use (i.e. Previously Developed Land) when sales values exceed £3,498 per square metre. A tenure split of 75% Social Rent and 25% shared ownership can only be achieved on sites with low value uses (agricultural land or sites in community use by which we assume is meant public-ownership).
6. Whatever the outcome of the debate regarding what might be an achievable proportion of affordable housing, it will require the Core Strategy Policy CSH3 to be changed to reflect the inclusion of Affordable Rent in the mix. This will also require the Council to re-consult on its Core Strategy and conduct a new Sustainability Appraisal.

**Deliverability**

7. It is very important to bear in mind that the vast majority of the Council’s projected housing development is earmarked for the lower value areas of A and B, and not Area D (Henley). The litmus test is therefore whether the Affordable Housing target is viable for these crucial areas to ensure that the Core Strategy is deliverable from its date of adoption.

8. There is no point in adopting a policy if it renders the plan undeliverable and the Core Strategy must be deliverable at the point at which it is adopted. The draft NPPF attaches importance to the deliverability of local plans. Paragraph 39 of the draft NPPF states:

To enable a plan to be deliverable, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, local standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and on-site mitigation, provide acceptable returns to a willing land owner and willing developer to enable the development to be deliverable.

The draft NPPF defines ‘deliverable’ in a footnote (see footnote 5, page 30):

To be considered deliverable, sites should at the point of adoption of the Local Plan be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable i.e. that it would provide acceptable returns to a willing landowner and a willing developer based on current values and taking account of all likely infrastructure, standards and other costs.

9. Since the reasoning behind the introduction of the plan-led system in 1991 was to ensure that the plan provided some certainty and that its policies would be deliverable in most circumstances (making the process for securing planning permission largely a technicality) it is incumbent upon the local authority to show that its policies are deliverable in most instances and not to try and resolve the problem of viability each time a fresh application is submitted.

10. A further final point is that the Council’s viability study and the resulting policy has not taken into account the requirement of PPS3, paragraph 29, to consider the impact of affordable housing requirements on the ability to deliver low cost market housing. We are concerned that the
affordable housing targets proposed depend for viability upon keeping market housing as expensive as possible. This, consequently, excludes the possibility of developers providing low cost market housing in the district for those who need it.

The Viability Appraisal: the deliverability of the 40% target factoring in Affordable Rent

11. The revised appraisal, which takes into account the potential of the new Affordable Rent model, shows that the policy requirement of 40% affordable housing remains unviable on previously developed land that has a high to medium existing use value. It becomes more viable on sites with a low existing use value when 75% Affordable Rent is modelled.

12. The following is the HBF’s summary of the results of the BNP Paribas report:

Table 3.1.1 – land with high existing use values

13. Table 3.1.1 shows that 40% affordable housing on sites with high existing use value and irrespective of the tenure mix is, is unviable in Value Areas A, B and C.

14. The target remains unviable even when a lower developer profit of 15% and a lower s106 package of £5,000 is assumed.

15. Development in Areas A, B and C is all clearly unviable at 75% social rent.

16. Developments in Value Area C only edge into the zone of viability at 75% Affordable Rent and with a low s106 package. Even then the table indicates that viability is marginal. Once a higher s106 package of £15,000 per unit is factored-in, then development becomes unviable in Value Area C.

17. The table shows that development only becomes viable when 75% Affordable Rent is modelled-in, but only then at sales values in excess of those that are experienced across the district (see the Conclusions to the report). The peak value in the district is £4,844 per square metre. This has serious implications for housing delivery in the higher value areas.

18. Needless to say, 75% social rent is unviable in all circumstances except when the construction of the most expensive of homes is involved (developments costing upwards of £6,189 per square metre). Developments at such high specifications are unlikely to manifest themselves to any significant degree.

Table 3.1.2 – land with medium existing use value
19. Assuming that sites can be acquired at medium existing use values the results show that the target of 40% affordable housing is generally unviable in Value Areas A, B, and C irrespective of tenure mix.

20. Development in Value Areas A and B is still marginal even when the low s106 package is factored-in. Development in these areas is unviable at 75% Social Rent.

21. Area C edges into viability only when 75% Affordable Rent is modelled.

22. Development in Value Area D (the highest value area) is viable only with 75% Affordable Rent. It is only marginally viable at 75% Social Rent. Values above £4,844 per square metre must be discounted.

23. It is also important to bear in mind that the earlier viability report by BNP Paribus noted that there was no evidence that more affordable housing could be secured from industrial sites than residential sites, because any reduction in value for industrial sites reflects the higher remediation costs associated with preparing these sites for residential development.

Table 3.1.3 – land with a low existing use value – community use

24. Development on sites with a low existing use values owned by the community tends to be viable in Value Areas A and B but only at 75% Affordable Rent. When 75% Social Rent is factored-in, then viability is marginal in areas A and B, even when a lower affordable housing percentage is modelled.

25. Area C could sustain a 50% target at 75% Affordable Rent. However, development viability becomes marginal at these levels once 75% Social Rent is factored-in.

26. Viability is good in Value Area D with 50% affordable housing.

27. Viability is clearly better on low existing use community sites, but we reiterate our earlier question regarding how much of the projected land supply is earmarked to come forward on land that is currently owned by the community? Will such sites make a significant contribution to the land supply for the first ten years of the plan?

28. This results do not conclusively support the report’s finding that 40% affordable housing is viable on sites of low existing community value at 75% Social Rent. The results show that these sites are unviable at 40% affordable housing, and are still marginal with lower percentages of affordable housing factored-in.

Table 3.1.4 – low existing use value – agricultural
29. Viability is strong except in Value Area A when 75% Social Rent and the higher s106 package is modelled-in. Given that Didcot falls into Value Area A, and is earmarked to provide most of the District’s housing needs to encourage delivery in this location and provide 75% Social Rent it will be important to ensure that the s106 package rises no higher than £5k.

**Summary**

30. The case for a District-wide 40% affordable housing target has not been proven conclusively.

31. The above analysis does not support the conclusion reached in the BNP Paribus Study that the policy of 40% affordable housing is deliverable across the District. The policy is demonstrably unviable on sites with high existing use values irrespective of tenure mix or value area.

32. The target is generally unviable on high and medium existing use value sites in Value Areas A and B when either 75% Social Rent or Affordable Rent is modelled.

33. A policy of 40% affordable housing with 75% Social Rent is unviable on community sites with a low existing use in Value Areas A and B. It only becomes viable when 75% Affordable Rent is modelled-in. Will the community (the Council or other public body) be prepared to sell its sites at existing use value? How will the Council guarantee this?

34. Viability is better on sites with agricultural sites in all value areas but not when 75% Social Rent is modelled-in together with a high s106 package.

35. Furthermore, the report states that 75% Affordable Rent is achievable on high and medium existing use value sites so long as sales values exceed £3,498 per square metre. The report, however, shows that sales values above this level cannot be achieved in Value Areas A and B.

36. The report also notes that if 75% Social Rent is sought on high and medium sites, then sales would need to exceed £4,844 per square metre. But as the report notes, this exceeds the sales values throughout the District.

37. Furthermore, all the modelling depends upon sites exchanging hands at their existing use value (ignoring the owner’s expectation of an uplift that reflects their land’s development potential).

38. In order to ensure that the Core Strategy is deliverable, especially in Value Areas A and B where the majority of house building is earmarked
to occur, a lower District-wide affordable housing target will need to be set and for other s106 costs not to exceed £5k per unit.

The problem with existing use values

39. The viability of the targets in the assessment relies upon an assumption that all landowners will be willing to sell their sites at existing use values. This cannot be assumed.

40. Such low levels of return will not induce landowners to sell. Professor Michael Ball has previously advised Government that the uplift for the land owner should be well above 50% of the overall development value (The Housebuilding Industry: promoting a recovery in housing supply). Discussing residual site value appraisal models, Professor Ball remarked:

“What is more, there is a danger that such models are justification for a near de facto 100 per cent tax on land value uplift in s106 negotiations. If they are to be used, guidance should be offered on maximum estimated land value uptakes and they should fall well below 50 per cent of a model’s estimated development gain for reasons of limited accuracy, developer risk, and to enable realistic returns to landowners and to develop entrepreneurship and innovation” (italics added). (See page 103 of the report)

41. Ball also concluded that “100% development uplift capture may sound like a good idea to a financially stretched local authority but their aims are more likely to be achieved at much lower capture rates.” (page 104). He added: “The sum of CIL [Community Infrastructure Levy] and s106 (including affordable housing) should not be such as to deter development from actually taking place.”

42. Similar warnings were made by Kate Barker in her review of the planning system for Government in 2004. Barker considered the four largely unsuccessful post-war attempts at development gains taxation (Review of Housing Supply; delivering stability: securing our future housing needs. HM Treasury, March 2004) and concluded:

“These are important lessons for policy makers. Any tax on the uplift in land values must have credibility, relative simplicity and be perceived as reasonable, or landowners may withhold land in the expectation of policy change, or engage in elaborate strategies to avoid paying.” (italics added)

43. Kate Barker repeatedly warned against excessive taxation of land value uplift. Discussing her proposal for a Planning-gain Supplement (PGS), Barker said:

“If applied at a sensible rate, landowners could still enjoy significant potential development gain and thus land sales can still profitably proceed” (italics added).

44. In Recommendation 26, Barker said that the tax rate for the PGS

“should not be set so high as to discourage development”. (The CIL replaced Barker’s proposed PGS.)
45. We would also draw attention to the independent advice commissioned by the Planning Inspectorate in the case of the examination of Barking and Dagenham’s Core Strategy where there were significant concerns regarding the Council’s approach to the viability of its affordable housing target. The Council had also assumed that development viability depended upon whether sites could achieve a marginal increase above existing use value.

46. The subsequent report for the Planning Inspectorate concluded that ultimately it was the landowner who determines whether any development takes place because:

“The landlord’s bottom line will be achieving a residual land value that sufficiently exceeds existing use value to make development worthwhile.”

47. Therefore, to ensure that sites will be brought forward for development, and to incentivise land owners, any affordable housing target set (and additional policy requirements to be delivered through planning gain) must err on the side of caution. They should not be set right up to the margins of viability.

48. We would remind the Council that relying on land owners to sell their land for prices much lower than its development potential would also be contrary to the principle the Government has articulated recently in the Planning for Growth Ministerial Statement. This refers to the need for development plans to be prepared that take account of ‘relevant economic signals such as land prices’.

49. Paragraph 39 of the draft NPPF also advises local authorities to ensure viability is taken into account by assessing the cost of any requirements likely to be applied to development. This is necessary to ensure “acceptable returns to a willing land owner and willing developer to enable development to be deliverable.”