



**Name of meeting: Economy and Neighbourhoods Scrutiny Panel**

**Date: 28 February 2023**

**Title of report: Affordable Housing and Housing Mix Supplementary Planning Guidance (SPD) (Post Consultation update)**

**Purpose of report:**

- To note the outcomes of the public consultation on the Affordable Housing and Housing Mix SPD and the draft council response to key issues.
- To note the Cabinet date for a decision on the adoption of this SPD (14 March 2023).

<b>Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	N/A - this is a Scrutiny report
<b>Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)</u>?</b>	N/A - see above
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	N/A
<b>Date signed off by <u>Strategic Director &amp; name</u></b>  <b>Is it also signed off by the Service Director for Finance?</b>  <b>Is it also signed off by the Service Director for Legal Governance and Commissioning?</b>	Edward Highfield (Service Director -Skills and Regeneration) on behalf of David Shepherd (Strategic Director - Growth and Regeneration): 14 February 2023  Eamonn Croston (Service Director - Finance) 14 February 2023  Julie Muscroft (Service Director - Legal, Governance and Commissioning): 16 February 2023
<b>Cabinet member</b> <a href="http://www.kirklees.gov.uk/you-kmc/kmc-howcouncilworks/cabinet/cabinet.asp">portfoliohttp://www.kirklees.gov.uk/you-kmc/kmc-howcouncilworks/cabinet/cabinet.asp</a>	Cllr Graham Turner  Cllr Cathy Scott

**Electoral wards affected: All**

**Ward councillors consulted:**

Since the consultation, the following briefings have occurred:

- 17 January 2023 - Regeneration Portfolio Holder (Cllr Turner) and Housing and Democracy Portfolio Holder (Cllr Cathy Scott)
- 2 February 2023 – Briefing with the Overview and Scrutiny Management Committee lead member (Cllr Smaje)
- 14 February 2023 – Briefing with the Economy and Neighbourhoods Scrutiny Panel chair (Cllr Hussain)

**Public or private:** Public

**Has GDPR been considered?**

The SPD does not contain any personal data. The storage of information received in relation to the consultation on this document is in accordance with the Planning Policy Privacy Notice which can be viewed on the council's website.

## **1. Summary**

The draft SPD provides guidance on the implementation of the Kirklees Local Plan ‘Housing Mix and Affordable Housing’ Policy (LP11) (Appendix 1) which seeks to ensure provision of affordable housing in new housing developments and ensure that the housing mix (bedroom numbers) meets local needs. This Supplementary Planning Document (SPD) will be used as a material planning consideration for housing planning applications including seeking to ensure a mix of new homes to meet local needs and when securing affordable housing as part of the determination of planning applications. It will replace guidance set out in the Council’s Interim Affordable Housing Policy (approved by the Cabinet on 14<sup>th</sup> January 2020) and SPD2 (Affordable Housing) which was adopted in 2008.

A presentation on the broad approach within this SPD was taken to the Economy and Neighbourhood Scrutiny Panel on 30<sup>th</sup> August 2022. Comments received at the Scrutiny session included:

- Space for working from home – this has been considered and was also raised during the public consultation. This report explains a proposed change to the document to improve flexibility
- Affordable housing definition – the definition of affordable housing is set out in the National Planning Policy Framework and this was explained at the session
- How affordable housing can be secured in perpetuity – as explained at the session, most affordable housing products do remain in perpetuity and this is secured through Section 106 agreements as part of the original planning permission.
- Viability issues – as explained at the Scrutiny session, Local Plan policy LP11 allows applicants to submit viability evidence (in accordance with the National Planning Policy Framework) which will then be independently verified

It was requested that the Scrutiny Panel be updated with the outcome of the consultation and this report therefore provides an update.

The consultation took place for 6 weeks (20<sup>th</sup> September to 1<sup>st</sup> November 2022) and the main comments raised related to the validity of housing needs and viability evidence, the need to consider whether enforcing one bedroom properties was appropriate, the approach to Transfer Values and whether the SPD is seeking to introduce policies rather than guidance. Following the consultation some changes have been made, specifically relating to the one bedroom issue (which is explained in more detail in this report) but also to add further clarification to a number of the sections.

Following the public consultation, the decision on the adoption of the SPD will be a Cabinet decision programmed for the 14 March 2023. Prior to adoption of the SPD, the council will also publish a Statement of Consultation providing a summary of the main issues raised and how these issues have been addressed in the SPD.

## **2. Information required to take a decision**

The Public consultation took place for 6 weeks (20<sup>th</sup> September to 1<sup>st</sup> November 2022)<sup>1</sup>. Prior to adoption of the SPD, a Statement of Consultation must be produced stating who the council consulted, a summary of main issues and how they were addressed. The comments received on the consultation documents can be viewed on the council's website<sup>2</sup>.

There were 71 comments received from 19 consultees, this is in line with the number of comments received during other SPD consultations. A summary of the key issues and proposed responses are set out in table 1. Many comments received were supportive of the SPD but this report focuses more on the changes requested through the consultation and associated risks.

The Affordable Housing and Housing Mix SPD has proactively responded to comments received during the consultation to make appropriate improvements to the document. The main change proposed merges the requirement for one and two bedroom houses into a single category for the purposes of the housing mix required in each sub-area<sup>3</sup>. This simplifies the system and provides flexibility so that more two bedroom properties can be provided to respond to market demand and increasing desire for flexible space to be used as a working from home office. It is, however, important not to prevent the provision of one bedroom properties therefore an appropriate solution was to merge the one and two bedroom categories together. This also addresses a point raised by the Scrutiny Panel about flexibility to enable home working.

Where consultation comments queried the use of the needs information the council has clarified with our consultants (who also wrote the Local Plan needs evidence) and they remain confident that the information used is consistent with that examined through the Local Plan process and remains fit for purpose. There have been further minor amendments to ensure the guidance is fully consistent with national guidance in relation to housing for older people, and further minor clarification points.

Table 1: Summary of the key issues proposed council response:

<b>Summary of main issues</b>	<b>Proposed council response</b>
<b>Evidence Base Out-of-Date</b> Objection to a prescribed affordable housing mix which is based on out-of-date housing needs evidence (in the 2016 SHMA and 2015 Household Survey) and does not reflect current market demand.	No proposed change - the evidence base for this approach is consistent with the evidence examined through the Local Plan process and our consultants have confirmed it remains appropriate for the purposes of this document.

<sup>1</sup> <https://www.kirklees.gov.uk/beta/planning-policy/affordable-housing-and-housing-mix-spd-consultation.aspx>

<sup>2</sup> Affordable Housing and Housing Mix Draft SPD - Details - Keystone (objective.co.uk)

<sup>3</sup> For example, XX% of 1 or 2 bedrooms, XX% 3 bedroom, XX% 4 bedroom properties

<b>Summary of main issues</b>	<b>Proposed council response</b>
<p><b>Viability</b>  The Section 106 costs of £1,000 per plot, indicated in the viability assessments evidence base, are considered extremely low. These would typically be a minimum of £4,500 per plot.  The viability assessments should therefore be updated to reflect this.</p>	No proposed change - the viability of the proposed housing mix tables has been tested by the council's consultants (Align Property Partners) this confirmed that approach taken in the SPD is appropriate. This work used assumptions and benchmark costs for S106 that were determined through the Local Plan/CIL Examinations.
<p><b>Transfer Values</b>  Objection to the imposition of fixed transfer values. This ignores site specific factors, such as market location and build quality. Transfer values need to be flexible and not rigidly defined.  The values should be kept up to date and reviewed regularly, e.g., every 12 months.</p>	No proposed change - The transfer values have been derived through a Transfer Values Study undertaken by the council's consultants (Align Property Partners) and factors such as market area and build quality were included in the appraisal.  The transfer values have been fixed to provide certainty to Registered Providers and Developers, with a commitment to review the transfer values periodically already stated in the SPD which should overcome concerns raised that these need to be updated regularly.
<p><b>Housing Mix: One-Bedroom Accommodation</b>  Concerns that the requirements for one-bedroom units is highly disproportionate, particularly for rented housing, compared to intermediate tenure. Such large proportions are not desirable or viable.</p>	Proposed minor change - the SPD still retains the percentages required for 3 and 4 bedroom properties on housing sites by sub-area but merges together the requirement for 1 and 2 bedroom properties. This is to provide flexibility and improved viability not to provide 1 bedroom properties depending on the circumstances whilst also ensuring developers wishing to provide 1 bedroom properties as part of the housing mix can still do so.
<p><b>Nationally Described Space Standards</b>  It should be clear that it is not a requirement to comply with the Nationally Described Space Standards (NDSS) given there is no adopted NDSS policy.</p>	No proposed change - the council is aware that it is not able to introduce the NDSS through guidance so this will need to be considered through the next update to the Local Plan. However the SPD recognises the NDSS as best practice to ensure that new homes are able to meet basic lifestyle needs and that new development should aim to meet these standards. The council will consider adopting a policy to enforce Nationally Described Space Standards in the future in accordance with evidence, and in the meantime will seek to ensure high quality living environments through the application of Local Plan policy LP24 (Design).

Summary of main issues	Proposed council response
<p><b>Nationally Described Space Standards</b></p> <p>The aim to meet the Nationally Described Space Standards is not sufficiently robust and should be strengthened.</p>	<p>No proposed change - the council is aware that it is not able to introduce the NDSS through guidance so this will need to be considered through the next update to the Local Plan. However the SPD recognises the NDSS as best practice to ensure that new homes are able to meet basic lifestyle needs and that new development should aim to meet these standards.</p> <p>The council will consider adopting such a policy to enforce Nationally Described Space Standards in the future in accordance with evidence, and in the meantime will seek to ensure high quality living environments through the application of Local Plan policy LP24 (Design).</p>
<p><b>Specialist Accommodation</b></p> <p>The SPD should be strengthened to make it clear that certain specialist housing schemes, such as those meeting the needs of older and disabled people, should be exempt from providing the required housing mix.</p> <p>Provision of suitable housing and care to meet the needs of older people should be a priority in the SPD.</p>	<p>Proposed minor change - The SPD already sets out in table 2 and the supporting text the requirement for affordable housing from different specialist housing accommodation proposals, in accordance with Local Plan Policy LP11. A minor rewording of the supporting text is proposed to clarify the types of housing for older people that will need to provide affordable housing. This clarification is to avoid confusion and is in accordance with the Local Plan policy (LP11).</p>
<p><b>First Homes</b></p> <p>The policy on First Homes should be included in the SPD rather than set out in a separate position statement document.</p> <p>Concerns regarding the impact of providing First Homes.</p>	<p>No proposed change - The SPD already cross references the Kirklees First Homes Position Statement, however this is a stand-alone document intended to be monitored and reviewed as necessary by the council. First Homes are a relatively new type of affordable housing and including the First Homes policy in the SPD will not allow flexibility for updating the approach to this position statement when required as the current approach is monitored.</p> <p>The provision of First Homes through the planning system is a national requirement set out in Planning Practice Guidance.</p>
<p><b>Design</b></p> <p>To combat climate change, there should be a stronger emphasis on high standards of energy efficiency, such as solar power on roofs, wind</p>	<p>No proposed change - The SPD already acknowledges that information about how design can help address climate change is set out in 'Housebuilders Design Guide SPD' and the council's 'Planning Application Climate Change Guidance'.</p>

<b>Summary of main issues</b>	<b>Proposed council response</b>
<p>power, recycling rainwater and zero heat loss.</p> <p>The design should be sustainable, such as the design life of the buildings, and materials and construction methods should be durable and sustainable.</p>	
<p><b>Comments about the role of SPDs</b></p> <p>Case law has been cited setting out that planning policy cannot be introduced through SPDs and that there have been successful legal challenges on these grounds.</p>	<p>No proposed change – the cited case law has been reviewed by planning officers and legal officers. Officers are confident to proceed on the basis that there are significant differences between the Kirklees situation and the circumstances of the legal challenges presented in the case law, especially relating to the fact that this SPD is based on the Kirklees Local Plan policy which includes the affordable housing percentage requirement and that the housing mix should reflect local needs. The SPD also provides the opportunity for an alternative housing mix where local evidence justifies this. This SPD is adding further guidance about the local needs rather than introducing further policies.</p>

An updated Integrated Impact Assessment (IIA) has been completed since the public consultation period ended. This has again concluded that a Stage 2 Assessment is not required.

### **3. Implications for the Council**

The main implication for the Council in producing the Affordable Housing and Housing Mix SPD is that it will provide consistency, greater clarity and improve certainty for housebuilders, developers, agents and Registered Providers (affordable housing providers) submitting planning applications for new housing in the district. It will assist applicants in the early design and layout of residential development to identify key matters likely to be raised within pre-application discussions and will help to bring forward policy-compliant schemes. This will, in turn, ensure an improved mix of house sizes for Kirklees residents to reflect local need.

The SPD will also help facilitate the council's Development Management service in the determination of planning applications and provide clear guidance and certainty for the local community, elected members, officers and statutory consultees in relation to the delivery of affordable housing and the mix of house types within high quality well-designed housing developments.

### **3.1 Working with People**

The Affordable Housing and Housing Mix SPD will enable communities to understand the council's expectations regarding the delivery of affordable housing and the mix of house types within well-designed housing developments. It will have the benefit of seeking a greater mix of house types and tenures which will benefit future occupiers. The council has undertaken public consultation in accordance with the Statement of Community Involvement (SCI).

### **3.2 Working with Partners**

The Affordable Housing and Housing Mix SPD will enable housebuilders, developers, agents, Registered Providers and external partners, such as statutory consultees, to understand the council's expectations regarding the delivery of affordable housing and the mix of house types within well-designed housing developments. The council consulted a range of partners, including statutory consultees on the draft documents.

### **3.3 Place Based Working**

The Affordable Housing and Housing Mix SPD uses local plan evidence in the Strategic Housing Market Assessment to determine the local need for the mix of houses that should be provided within the six sub areas within Kirklees namely Batley and Spen, Dewsbury and Mirfield, Huddersfield North, Huddersfield South, Kirklees Rural East and Kirklees Rural West. It also enables applicants to submit further specific needs information to be assessed through planning applications to justify an alternative approach to the housing mix in the SPD.

### **3.4 Climate Change and Air Quality**

The Affordable Housing and Housing Mix SPD details the mechanism to secure affordable housing and details the mix of house types the councils expects to be delivered through planning permissions. Whilst its remit doesn't include setting environmental standards it does signpost to the Housebuilders Design Guide SPD which addresses the quality of housing we expect to be delivered within Kirklees.

### **3.5 Improving outcomes for children**

The Affordable Housing and Housing Mix SPD sets out how affordable housing and a mix of local house types and tenure will be delivered through the planning system including the provision of family housing to meet local need.

### **3.6 Financial Implications for the people living or working in Kirklees**

The Affordable Housing sets out how affordable housing will be delivered through the planning system providing opportunities for

affordable rented and home ownership products for people living and working in Kirklees.

### **3.7 Other (eg Legal/Financial or Human Resources) Consultees and their opinions**

- Legal:
  - The requirements for producing SPDs are set out in the Town and Country Planning (Local Planning) (England) Regulations 2012 and the Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017 including the consultation requirements and sets out that SPDs must not conflict with an adopted development plan.
  - Equality Act 2010, Section 149
  - Case law issue – council legal officers have reviewed the case law submitted through the consultation process and concur with the view expressed in Table 1 above.
- Human resources – The proposal for the SPD is identified in the Local Development Scheme (planning policy timetable for document production as approved by the Cabinet) and as such existing staff resources are being used for the project.
- Integrated Impact Assessment - A stage 1 Integrated Impact Assessment (IIA) has been undertaken for the SPD, this concluded that no Stage 2 assessment was required with the assessment being neutral or positive in nature in relation to equality and environmental impacts. This has also been updated following the public consultation but with no change the conclusion of that assessment.
- Communication

#### External communications

- A Strategic Environmental Assessment (SEA) Screening has been undertaken by the council, which concluded that a full SEA is not required. The three statutory consultees (Environment Agency, Natural England and Historic England) agreed with this conclusion, and this is set out in the SEA Determination Statements published on the council's website.
- There was a six week public consultation on this document 20<sup>th</sup> September to 1<sup>st</sup> November 2022. Consultation included interested parties identified on the Local Plan consultation portal, statutory consultees and developers (including housebuilders and registered providers).

#### Internal communications – Post Consultation

- The SPD has been prepared with input from Planning Policy, Housing and Housing Growth.
- 17 January 2023 - Regeneration Portfolio Holder (Cllr Turner) and Housing and Democracy Portfolio Holder (Cllr Cathy Scott)
- 2 February 2023 – Briefing with the Overview and Scrutiny Management Committee lead member (Cllr Smaje)
- 13 February 2023 – Leadership Management Team

#### **4. Next steps and timelines**

- **Key Decision Notice published** – 6<sup>th</sup> February 2023
- **Economy and Neighbourhoods Scrutiny Panel** – 28 February 2023
- **Cabinet – 14 March 2023** for a decision on the adoption of the SPD

#### **5. Officer recommendations and reasons**

Scrutiny Panel to note the outcomes of the public consultation on the Affordable Housing and Housing Mix SPD and the proposed response to the key issues.

Reason: Scrutiny Panel requested that an update on the outcomes of the consultation is provided once the consultation had been carried out.

#### **6. Cabinet Portfolio Holder's recommendations**

Regeneration Portfolio Holder (Cllr Turner) and Housing and Democracy Portfolio Holder (Cllr Cathy Scott) were briefed on the outcomes of the public consultation and the proposed council response on 17 January 2023 and are supportive of this document going forward to the Cabinet to be considered for adoption.

#### **7. Contact officer**

John Buddle  
Team Leader Planning Policy  
[john.buddle@kirklees.gov.uk](mailto:john.buddle@kirklees.gov.uk)  
(01484 221000)

#### **8. Background Papers and History of Decisions**

Council website links:

- Local Plan adopted 27<sup>th</sup> February 2019 (Policy LP11)  
[Kirklees Development Plan | Kirklees Council](#)
- Local Plan Examination Library  
[Local Plan examination library and examination news | Kirklees Council](#)
- Affordable Housing and Housing Mix SPD consultation  
[Affordable housing and housing mix supplementary planning document \(SPD\) consultation | Kirklees Council](#)

- Integrated Impact Assessment  
<https://www.kirklees.gov.uk/beta/delivering-services/pdf/iias/growth-regeneration/IIA-stage1-affordable-housing.xlsx>
- Existing Affordable Housing SPD (2008)  
([https://www.kirklees.gov.uk/beta/planning-policy/pdf/Affordable\\_housing\\_SPD2.pdf](https://www.kirklees.gov.uk/beta/planning-policy/pdf/Affordable_housing_SPD2.pdf)) and Interim Affordable Housing update (2020) (<https://www.kirklees.gov.uk/beta/planning-policy/pdf/interim-affordable-housing-policy.pdf>)

## **9. Service Director responsible**

David Shepherd  
Strategic Director Growth & Regeneration  
[david.shepherd@kirklees.gov.uk](mailto:david.shepherd@kirklees.gov.uk)  
(01484) 221000

## **Appendix 1 – Local Plan policy**

### **Policy LP11**

#### **Housing Mix and Affordable Housing**

All proposals for housing, including those affecting the existing housing stock, will be of high quality and design and contribute to creating mixed and balanced communities in line with the latest evidence of housing need.

All proposals for housing must aim to provide a mix (size and tenure) of housing suitable for different household types which reflect changes in household composition in Kirklees in the types of dwelling they provide, taking into account the latest evidence of the need for different types of housing. This includes consideration of provision for those with specialist needs. For schemes of more than 10 dwellings or those of 0.4ha or greater in size, the housing mix should reflect the proportions of households that require housing, achieving a mix of house size and tenure. The council encourages the inclusion of appropriate design elements that ensure buildings are suitable or can be adapted to meet the needs of people needing specialist accommodation at present and into later life. The council will encourage proposals for custom/self build homes where consistent with other policies in the Local Plan.

Taking into account the annual overall shortfall in affordable homes, the council will negotiate with developers for the inclusion of an element of affordable homes in planning applications for housing developments of more than 10 homes, including proposals involving self-contained residential units. The proportion of affordable homes should be 20% of the total units on market housing sites. The proportion may be less where viability evidence demonstrates that there are development costs which would otherwise prejudice the implementation of the proposal. Achievement of a higher proportion of affordable housing on sites will be encouraged.

The affordable homes should be incorporated within the development but where justified, a financial contribution of at least equal value may be accepted to provide affordable homes elsewhere or to re-use or improve the existing housing stock.

The affordable housing provision should:

- a. cater for the type of affordable need identified in the latest housing evidence in terms type, tenure, size and suitability to meet the needs of specific groups;
- b. incorporate appropriate arrangements to retain the benefits of affordability for initial and subsequent occupiers or for the subsidy to be recycled for alternative affordable housing provision; and
- c. be indistinguishable from market housing in terms of achieving the same high quality of design.

Exceptionally, planning permission may be granted for affordable homes on land which would not normally be permitted for housing development, where there is otherwise little prospect of meeting robustly evidenced local needs particularly for housing to rent by people who work locally. Where appropriate, such schemes must include arrangements for the homes to remain affordable in perpetuity.