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ELMBRIDGE BOROUGH COUNCIL

INDIVIDUAL CABINET MEMBER DECISION MAKING -
HOUSING AND PLANNING SERVICES

Report of decisions taken on 26 April 2017

Present:

R. Green (Portfolio Holder for Housing)
Mrs. K. Randolph (Portfolio Holder for Planning Services)

Also present:

Mrs. S.R. Kapadia

1/16 DECLARATIONS OF INTEREST

There were no declarations of interest.

MATTERS OF REPORT

2/16 FIXING OUR BROKEN HOUSING MARKET. THE HOUSING WHITE PAPER AND THE PLANNING IMPLICATIONS

(Link to Council Priorities: P3)

The Portfolio Holders for Housing and Planning Services considered a report that set out the Council's proposed response to the Government's White Paper on housing entitled "Fixing the Housing Market".

The Portfolio Holders noted that on 7 February 2017, the Housing White Paper had been published which set out the Government's approach to "fixing" the housing market, by reshaping the approach to housebuilding and boosting the nation's housing supply. The White Paper had been structured around four chapters which focussed on planning for new homes in the right places; building homes faster; diversifying the housing market; and helping those people most in need.

Whilst the broad nature of the Housing White Paper meant that it set out existing policy and also made commitments on funding that did not require a change in policy or legislation, the Portfolio Holders noted that the Council's precise response had been tailored to the Government's questionnaire which had been published alongside the White Paper.

It was noted that the Council was supportive of some of the measures within the White Paper. However, there were significant concerns around a number of key issues, specifically:

- the impact of the duty to co-operate on plan preparation;

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- the implications arising from the proposal to standardise the methodology for assessing housing needs;
- clarification of the exceptional circumstances required to amend Green Belt boundaries;
- the need to ensure proposals to make better use of brownfield sites respect the character of the area; and
- proposals to hold local authorities to account for the delivery of new housing.

The Portfolio Holders acknowledged that the Local Plan Working Group had considered the Council's proposed consultation response the previous day and a number of comments had been suggested.

Accordingly, in light of the comments made by the Local Plan Working Group and the additional comments made during the meeting, the Portfolio Holders requested that the following be included within the response prior to submission to the Government:

- Response to Question 1 – the word “cannot” at the end of the last paragraph be amended to read “can”;
- Response to Question 1 – in order to put more emphasis on infrastructure, the wording in the last paragraph, be amended to read “... and where it is only shown that ...”;
- Response to Question 4(b) – the wording in the first sentence be amended to read “... sufficient in order not to meet identified ...”;
- Response to Question 4(b) – the word “can” at the end of the last sentence be amended to read “should”;
- Response to Question 7 – the words “and feasible” be added to the end of the second sentence;
- Response to Question 8(d) – the second sentence of the last paragraph be amended to read “Should an authority allocate 10 large sites only, would only one site need to be 0.5ha or less?”.
- Response to Question 8(d) – in order to make the last paragraph clearer, the last sentence be removed and the following wording be added “LPAs should be able to allocate those sites it considers to be appropriate without Government interference.”;
- Response to Question 10(a) – the beginning of the second sentence be amended to read “In addition to the requirements set out in paragraph 1.39 of the White Paper, the Government ...”;
- Response to Question 10(b) – as it was considered that further clarification was needed in this regard, the following sentence be added at the end of

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- the paragraph, “Government must also set out clear guidance as to the level of compensatory improvements that would be required where land is removed from the Green Belt.”;
- Response to Question 14 - the word “can” in the second sentence be amended to read “should”;
 - Response to Question 16(b) – insert the word “Yes” at the beginning of the paragraph and remove the last sentence;
 - Response to Question 19 – the last sentence be removed and replaced with the following wording “This is, and should remain a national priority and the function of Central Government to deliver.”;
 - Response to Question 21(a) – the following additional sentence be added to the end of the paragraph “Any failure to meet estimated delivery dates should be penalised.”;
 - Response to Question 21(d) – as further clarification is required, the following wording be added “However, clarification will be needed as to the definition of a large housebuilder.”;
 - Response to Question 28(d) – the word “Disagree” be replaced with “Agree” and the following wording be added to the beginning of the first paragraph “The Council fundamentally disagrees with the implementation of the housing delivery test. However, if it were to be implemented whilst we agree with the three-year rolling programme we do not support the use of published household projections as set out in 28(b).”;
 - Response to Question 28(d) – the following wording be added to the third sentence “... believes that, in the first instance, a transitional period ...”;
 - Response to Question 30 – the following sentence be added at the end of the paragraph “In addition significant improvements to strategic infrastructure are fundamental to supporting housing growth.”.

Whilst supporting the above amendments, the Portfolios Holder thanked the Planning Policy Manager and his Team for all the hard work that had been undertaken to date in respect of the White Paper.

With regard to the submission of the Council’s response to the Government, it was noted that a covering letter setting out the general concerns raised by the Council would be included with the response. As concerns had been raised that the questionnaire did not provide scope to comment on infrastructure, it was agreed that the covering letter should indicate the need for appropriate and sufficient infrastructure needs to be in place at the same time as new development was delivered. Furthermore, it was also considered appropriate that the covering letter and response be sent to the two local Members of

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Parliament for Elmbridge and that in this regard an additional covering note be prepared and signed by the Chief Executive and Leader of the Council.

Subject to the above comments together with the correction of a number of typographical errors and some minor wording changes to provide stronger emphasis, the Portfolio Holders for Housing and Planning Services

RESOLVED that, the consultation response to the Housing White Paper, as amended, be agreed.

3/16 PROPOSED RESPONSE TO THE GOVERNMENT'S "PLANNING AND AFFORDABLE HOUSING FOR BUILD TO RENT" - A CONSULTATION PAPER

(Link to Council Priorities: P3 and H1)

The Portfolio Holders for Housing and Planning Services considered a report that set out the Council's proposed response to the Government's consultation on proposals to change planning policy to encourage Local Authorities to support an increase in the supply of Build to Rent schemes nationally.

The Portfolio Holders noted that the consultation proposed a new type of affordable housing, "Affordable Private Rent", as the main type of affordable housing to be delivered on Build to Rent schemes.

The key features of Build to Rent included:

- Tenure – they would typically be wholly rented, although they may form part of larger multi-tenure schemes;
- Housing type – schemes may be flats or houses, but would need to be on the same site or adjoining sites;
- Management and ownership – schemes would typically be professionally managed portfolios in single ownership and management control; and
- Capital funding – funded mainly by large-scale institutions, looking for long-term, low-risk returns on their investment.

With regard to Affordable Private Rent, the Council's proposed consultation response reflected that the Council agreed that the Government should set a policy expectation on Affordable Private Rent within national planning policy, but that there should be safeguards put in place concerning the management and affordability of homes provided under this tenure. The draft response also suggested that it might be better to call the product, "Discounted Private Rent" rather than "Affordable Private Rent" as the latter could cause confusion.

Whilst the Government believed that it would be helpful if it specified the terms under which Affordable Private Rent should be accepted as Build to Rent development's contribution to affordable housing, the Council's proposed consultation response suggested that it should be a matter for Local Planning Authorities to set targets for Affordable Private Rent, based on local circumstances. The response also proposed that flexibility be built into policy

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so that other forms of affordable housing could be provided in specific circumstances.

The consultation also set out an expectation that Built to Rent should offer tenancies of three-years (or more) to tenants and whilst the Government did not intend to legislate on this, it did suggest that this could be secured through planning obligations. The Council's proposed consultation response supported the adoption of family-friendly tenancies as shorter term tenancies could create uncertainty for households renting privately.

With regard to the proposed definition of Affordable Private Rent, the Council's proposed response included comments that due to the high costs of renting locally, the definition should peg rents to the lower of the relevant Local Housing Allowance levels or 80% of market rents. Furthermore, safeguards should be put in place around the standards of management to be provided, given that private managing organisations would not be subject to the regulatory regime that social landlords were. Finally, the selection of tenants and lettings policies used should broadly align with local authority housing allocation policies / local authority priorities, rather than following a market-led model.

The Portfolio Holders considered the report and the Council's proposed consultation response and agreed that the following be included within the response prior to submission to the Government:

- Question 16 – with regard to tenancy lengths in Build to Rent schemes, whilst "Yes" had been indicated as the Council's response, the following detailed explanation also be included

"If the NPPF makes clear that Affordable Private Rent is an acceptable form of affordable housing within Build to Rent schemes, then the Council believes that the Government makes the following equally clear (to reiterate the points made in response to question 11).

Firstly, the NPPF should make it clear that Affordable Private Rent can only be included within Build to Rent schemes (and not within other types of residential development).

Secondly, national policy and / or guidance should put in safeguards to support the effective management and maintenance of Build to Rent generally and Affordable Private Rent, in particular. There is a regulatory framework in place applying to Registered Providers of Social Housing, which provides some checks, balances and safeguards around management standards, but the consultation does not provide any detail in terms of what arrangements / expectations will be put in place on Build to Rent schemes."

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- Question 18 – with regard to the Government’s intention of setting the parameters of Affordable Private Rent, the response be significantly amended to read:

“The Council strongly believes that it should not be for Government to set a target in relation to the provision of APR within Build to Rent schemes. The setting of targets is a matter for local planning authorities, based on assessment of the local evidence and consideration through the local plan-making process. Local authorities should have the freedom, based on the evidence, to adopt policies that will work locally and these could, depending on local circumstances, set higher, lower or the same sort of target as the Government is consulting on, or may include some sort of variable target, based on scheme size (for example). Even reference to a minimum provision of 20% is not helpful, as experience indicates that developers will, for the most part, seek to deliver the minimum requirement, rather than aspire to deliver above that.

There is also a potential unintended consequence that could result if the Government sets a minimum percentage target, whether it be 20% or some other figure. For example, in a case where it is accepted that it is not viable for the scheme to deliver the minimum 20% APR, but that a lower proportion could be delivered (for example, 10-15%), a developer may seek to advance an argument that as the Government is indicating that a minimum 20% should be delivered and it is not economically viable to deliver the minimum target, then it automatically follows that any requirement to deliver APR on site should be waived and that either no affordable housing contribution should be made or only a commuted sum to offsite delivery should be paid.

This is one scenario, which may be unlikely, but the Council would suggest that should the Government set a minimum target, national policy makes it clear that developers would still be required to deliver APR on sites below this percentage target. Any ambiguity in policy leads to uncertainty and delay.

Beyond that, the Council is not clear as to why the Government would want to set out a minimum proportion of the Affordable Private Rent (DPR) to be included within a qualifying development.

It is understood that on mixed-tenure developments, Registered Providers may be reluctant to acquire a small number of units, because of the practicalities involved and issues around service charges etc. However, as Build to Rent entails control and management by one party, this should not be such an issue and it would seem reasonable to expect a provider to be able to manage a smaller number of APR homes within a larger development, regardless of what percentage it comprises.

In terms of the minimum discount of 20%, please see our response to question 17 and the Council’s suggestion to use either the lower of this

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minimum or the relevant LHA cap. It is appreciated that pushing for a larger discount may have an impact on viability (or that landowners' expectations on the value of their land may need to be managed).

The Council supports the parameters around length of tenancy and the discount applying indefinitely (subject to any clawback arrangements).

As an aside (and mainly for the avoidance of doubt), the Council would recommend that, either within the definition or the accompanying guidance, the Government make it clear that the right to buy provisions (or voluntary right to buy provisions) will not apply to Affordable Private Rent included within Build to Rent schemes.

One last point concerns financial viability. The Council, along with many others, believes that the Government's policies around financial viability and planning obligations are tipped too far in favour of developers and that house-builders are making excessive profits whilst pleading viability concerns on pretty much every scheme. We would encourage the Government to look to level the playing-field, both on Build to Rent and affordable housing more generally."

- Question 20 – whilst supporting the Government's intention to leave the determination of eligibility and nomination for Affordable Private Rent to negotiation between the developer and the Local Authority, the following additional sentence be added to the end of the last paragraph of the response:

"Going beyond this, the Council would recommend that, for the sake of transparency and making most effective use of resources, that the Government gives local authorities the tools to oversee the letting of these homes or puts in place some structure to assist in this regard."

- Question 22 – whilst supporting the Government setting a possible basis for calculating the amount of claw-back in guidance, the following additional sentence be added to the end of the last paragraph of the response:

"It would also deter developers from potentially "playing the system" by citing viability arguments to reduce their affordable housing obligations."

The Portfolio Holders commented that they were of the view that whilst the Government were supportive of Build to Rent schemes, it was unlikely that Elmbridge would be a major destination for such developments in the short to medium-term given that developers would most probably be focussing on cities and larger towns.

During consideration of the report, the Portfolio Holders invited Councillor Mrs. S.R. Kapadia, who was present at the meeting, to comment on the proposed consultation response. Councillor Mrs. Kapadia asked whether the Council could allocate sites in the Local Plan for Build to Rent schemes. The

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Planning Policy Manager commented that the Plan could refer to “a proportion” of sites for Build to Rent schemes being included however evidence of the need and demand would need to be identified.

The Portfolio Holders thanked the Housing Strategy & Enabling Manager and Planning Policy Manager and their Teams for all the hard work that had been undertaken to date in respect of this consultation response.

Subject to the above comments, the Portfolio Holders for Housing and Planning Services

RESOLVED that the response to the Government’s Planning and Affordable Housing for Build to Rent consultation paper, as amended, be agreed.

The meeting commenced at 10.00 am and concluded at 10.56 am

R. GREEN
Portfolio Holder for Housing

MRS. K. RANDOLPH
Portfolio Holder for Planning Services

Democratic Services Officer

Mrs. T. Hulse Principal Committee and Member Services Officer

Other Officers in attendance

R. Lee	Strategic Director
A. Harrison	Head of Legal Services
M. Behrendt	Planning Policy Manager
C. Waters	Housing Strategy & Enabling Manager