



Developer Advice Note

SUBJECT: Speculative Housing Development Proposals
February 2018

Adopted by Flintshire
County Council on the 23rd
February 2018



Purpose

It is Flintshire County Council's intention to prepare and keep up to date a series of Supplementary Planning Guidance (SPG) Notes which will provide detailed guidance on a range of development issues and topics. The purposes of these Notes are:

- To assist the public and their agents in preparing planning proposals and to guide them in discussions with officers prior to the submission of planning applications,
- To guide officers in handling, and officers and councillors in deciding, planning applications, and
- To assist Inspectors in the determination of appeals
- The overall aim is to improve the quality of new development and facilitate a consistent and transparent approach to decision making.

Planning policies: the Flintshire context

The Development Plan Under planning legislation, the planning policies for each area should be set out formally in the Development Plan. Flintshire County Council, as the Local Planning Authority (LPA), has a legal duty to prepare and keep up to date a development plan for the County, and the Flintshire Unitary Development Plan was adopted in 2011. The UDP provides broad policies together with allocations of land for all the main uses such as housing, employment and retailing, and will help to shape the future of Flintshire in a physical and environmental sense as well as influencing it in economic and social terms. The Plan therefore seeks:

- To help the Council make rational and consistent decisions on planning applications by providing a policy framework consistent with national policy and
- To guide development to appropriate locations.

The need for Supplementary Planning Guidance.

Despite the Plan containing policies with which the Council can make consistent and transparent decisions on development proposals, it cannot in itself give all the detailed advice needed by officers and prospective applicants to guide proposals at the local level, such as house extensions or conversions of agricultural buildings. The Council's intention is to prepare a range of Supplementary Planning Guidance notes (SPG) to support the UDP by providing more detailed guidance on a range of topics and issues to help the interpretation and implementation of the policies and proposals in the UDP. The review of the Local Planning Guidance Notes will be undertaken on a phased basis and details of the available SPG's can be found on the Council's website. Where there is a need to refer to another SPG this will be clearly referenced. These SPG Notes are freely available from Planning Services, Directorate of Environment, County Hall, Mold, Flintshire CH7 6NF (telephone 01352 703228), at the Planning Services reception at County Hall and can be downloaded from the Planning Web pages - www.flintshire.gov.uk/planning

The Status of this Advice Note

This Advice Note is not a formal Supplementary Planning Guidance note because there is no policy in the UDP which relates directly to speculative Developer Guidance. However this note is a material planning consideration as it sets out what supporting information and studies are required for a speculative planning application. The draft Advice Note was approved for public consultation on 16.03.17 (Council Minute No 5) and was subject of a public consultation exercise between 07.07.17 and 18.08.17. The comments submitted to the Council have been taken into account and where appropriate amendments have been incorporated into this final draft which was approved by the Council on 23.02.18 (Council Minute No.11) for use as a material consideration in determining planning applications and appeals. A summary of the representations and the Councils response is set out in Appendix 1.

This document should therefore be afforded considerable weight as a material planning consideration.

Context

This guidance note provides guidance on the Council's requirements for supporting evidence and justification to be submitted, in the event that developers are considering the submission of speculative planning applications for housing development, on the basis of the Council's present housing land supply position. This does not mean that applications are necessarily invited. The guidance note applies to both large sites (of 10 or more units) and small sites (9 or less units). The requirements for supporting information will be necessary for small sites but the amount of information sought will be proportional to the scale and issues associated with the proposed development.

This note was originally amended twice and considered and endorsed by the Council's Planning Strategy Group as well as approved by the Cabinet at its meeting on 16th June 2015. It has subsequently been updated and approved by the Cabinet at its meetings on 13th December 2016 and 23rd February 2018. It therefore takes immediate effect and applies to any speculative applications currently with the Council as well as future ones yet to be submitted.

Speculative Housing Development Proposals

According to the method of calculating housing land supply prescribed by the Welsh Government in Technical Advice Note 1 Joint Housing Land Availability Studies (TAN1), Flintshire does not currently have a five year supply of housing land. The last formal JHLAS was completed for 2014 but since that date, with the expiry of the UDP, and without an adopted LDP in place, according to TAN1 the Council cannot carry out and publish a formal study until such time as the LDP is adopted. This means that in the interim, the Council will be unable to demonstrate whether or not it has a five year land supply, and effectively will be considered not to have five year supply. In accordance with paragraph 9.2.3 of PPW ***“Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan”***.

TAN1 sets out how an authority must act when it does not have a 5 year land supply: ***“The housing land supply figure should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5-year requirement or where the local planning authority has been unable to undertake a study (see 8.2 below), the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies”***. (Paragraph 6.2).

For the purposes of both paragraphs 9.2.3 of PPW and 6.2 of TAN1, reference to “the development plan” means the adopted Flintshire Unitary Development Plan.

In the event that a developer is considering submitting a planning application for housing development, justified on the basis of a shortfall in housing land supply, the Council will expect to see comprehensive evidence to justify such an application, in relation to:

1. The context for the development proposed

This should set out the context of the area local to the site. Regard should be had to the nature and function of the settlement within which the proposal is made, its role as part of the UDP/LDP spatial strategy, and how the identification of the site fits in with the requirement for a search sequence as referenced in paragraph 9.2.8 of PPW. This is to ensure that developers are following the same principles in terms of identifying sustainable sites as the Local Planning Authority are required to do, in the preparation of the LDP which is currently underway. This is also to ensure that any spatial strategy under development by the Council is not compromised by unjustified speculative applications for housing development.

2. Full Application

The Council would prefer the submission of a full application to allow the Council to properly assess the proposal in terms of the need to be met, the housing to be provided, and the deliverability of the scheme. Outline applications are not considered appropriate or acceptable to consider proposals for speculative development on the basis of a lack of housing land supply, unless they provide sufficient information to enable the Council to be satisfied that the proposal represents a sustainable and deliverable form of development. Outline applications will be expected to be accompanied by sufficiently robust information to ensure that they are sustainable viable and deliverable.

3. Sustainability Appraisal

A Sustainability Appraisal (SA) or some other appropriate means of assessing sustainability is required to demonstrate why and how the site represents a sustainable form of development in relation to its local context and to both the local and national policy framework, the principles and objectives of which are set out in paragraphs 4.3.1 and 4.4.3 respectively of PPW. This process will be aided by the SA information associated with the emerging LDP which is available on the website. The sustainability appraisal can either be a stand alone document or incorporated into a Planning Statement or Design and Access Statement.

4. Viability Assessment

A viability assessment is required in cases where the developer is not intending or able to meet necessary and reasonable planning obligations. In such cases it is necessary to demonstrate why the site cannot be developed on the basis of accommodating all of the Council's policy requirements (e.g. POS, affordable housing, education, highways etc.), as well as providing all other necessary infrastructure required. This is to assist in assessing the sustainability and deliverability of the proposal. Any financial viability information will be treated as confidential and will not be made publicly available as part of the consideration of the application.

5. Housing Delivery Statement

The Council requires the submission of this essential evidence by the developer in order to demonstrate how the development can deliver housing to help to reduce the presently unidentified shortfall in housing supply, within 5 years from the date of planning consent. This should clearly identify a timeline for the development including the expected start date, the annual completion rate as well as the expected completion date

for the whole development. This should also clearly identify wherever possible, which developer(s) will be building the homes, as well as a statement that the land owner (where relevant) is committed to the sale of the land on the basis of the scheme proposed, and will complete this agreement on the grant of planning permission thereby making the land immediately available for development. This requirement is also to ensure compliance with advice in paragraph 9.2.3 of PPW: “This means that sites must be free, or readily freed, from planning, physical and ownership constraints, and economically feasible for development, so as to create and support sustainable communities where people want to live”.

Advisory Notes

- Where a developer seeks to comply with these essential requirements, this will assist the Council in being able to adequately assess the sustainability, viability and deliverability of the proposed development.
- Speculative developments that do not otherwise comply with development plan policy must clearly demonstrate their full sustainable development credentials.
- It is necessary to ensure that outline applications are accompanied by suitable or appropriate information to make such exception cases.
- This is also relevant in terms of the LDP candidate sites that are now publicly available, as well as any existing land or sites allocated within settlement boundaries, as any speculative sites that come forward must be capable of demonstrating why they are better/more sustainable than other option sites including those yet to be considered by the Council as part of progressing the LDP.
- Whilst all sites are considered on their merits, speculative development sites must also clearly show that they do not compromise the ability of the Council to develop a sustainable strategy for the LDP.
- Any full planning consent will be time limited to commencement within two years of a permission being issued. In the case of outline planning consents a condition will be attached seeking submission of reserved matters within one year of the consent. This should not pose a problem for developers as their applications are submitted on the basis of being sustainable, otherwise compliant with policy, deliverable, as well as being submitted to meet an urgent need for housing.
- Any applications for renewal of such consents will need to be fully justified as the basis on which they were originally permitted i.e. as an exception based on an urgent need, should result in commencement first time around. Such application for renewal will be given careful consideration and will not automatically be renewed.
- Commencement should result in the timely completion of homes and not simply the minimum steps to protect a planning permission.