

# The Planning Bureau Limited

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**Crawley Local Plan 2024-2040 Examination**

**Hearing Statement**

**The Planning Bureau on behalf of  
McCarthy & Stone Retirement Lifestyles Ltd.**

**December 2023**

**Matter 6: Housing Delivery**

## **Issue 2: Whether the Plan would deliver an appropriate mix of house tenures and types.**

**6.9 Given the significant need for, and importance to the local economy of, affordable housing, does the plan optimise its delivery having appropriate regard to plan-wide viability considerations? Is the approach to smaller sites (less than 10 dwellings) justified and demonstrably viable given the significance of such sites to housing delivery in the Borough?**

6.9.1 For council.

**6.10. Is the differentiation in affordable housing provision (proportion and mix) between the town centre and areas outside of the town centre justified?**

6.10.1 Please see answer to question 6.17.

6.10.2 Although the differential in affordable housing provision between the town centre and other areas may be justified, the requirement for all '*residential development, including those providing care regardless of whether it falls into Use Class C2 or C3*' is not justified and will not be effective in delivering the older persons housing need within the Borough. This approach is not consistent with national policy and undermines delivering much needed specialist housing to meet the needs of older people. Specifically, the approach is not consistent with paragraphs 002 Reference ID: 10-002-20190509 and Paragraph 004 Reference ID: 10-004-20190509 of PPG on Viability. This is discussed in our response to 6.17.

**6.11 As part of the duty to cooperate or through other mechanisms (for example the Planning Performance Agreement on West of Ifield) is there a reasonable prospect that Crawley's significant affordable housing need could be positively considered on housing development in adjoining administrative areas adjacent to or very close to the boundary with Crawley through some nomination of Crawley's affordable housing needs being met on these schemes? Is paragraph 12.23 at point vii) justified in seeking 40% affordable housing on prospective urban extensions at Crawley and for to seek agreements for nomination rights for those on Crawley Borough's housing register?**

6.11.1 For Council.

**6.12 Is the approach to affordable care accommodation in Policy H5 justified by the evidence in the SHMA and plan-wide viability assessment? Will it be effective in meeting the needs for affordable forms of housing including those requiring an affordable form of use class C2 accommodation? Is the proposed approach consistent with national planning policy?**

6.12.1 No, for reasons detailed in our answer to question 6.16 and 6.17 the approach to affordable care accommodation in Policy H5 is not justified by the evidence in the Northern West Sussex Strategic Housing Market Assessment, Icen, 2019 (exam ref: H/HN/010) ('SHMA') and the Crawley Local Plan and Community Infrastructure Levy Viability Assessment, March 2021, Dixon Searle (exam ref: D/VA/02a and b) (LPVS). It will not therefore be effective in meeting the needs for affordable forms of housing including those requiring an affordable form of use class C2 accommodation. The approach therefore is not consistent with national policy.

**6.13 Will the Plan be effective in delivering a housing mix that reflects the SHMA evidence in terms of a blend that is steered towards smaller affordable dwellings (1 + 2 bed) and larger market housing (3 & 4+ bed)?**

6.13.1 For Council

**6.14 The SHMA identifies that Crawley has, in comparison to the wider HMA, a younger population and a particular issue of affordability for younger households forming in the Borough. Does the Plan at Policy H4 provide an effective response to this aspect of the Borough's housing market? Is the town centre a location where this need (and other housing needs) could be met (in part)?**

6.14.1 For Council

**6.15 Given the nature of the housing land supply in the Borough and the numbers on the Council's registers are there any reasonable options to specifically allocate or identify sites for custom or self-build in the Borough? Has the issue of this specific sector of the Borough's housing need and the unmet need been identified or considered through duty to cooperate discussions within the HMA?**

6.15.1 For Council

**6.16 Will the Plan be effective in meeting the needs of older persons, consistent with NPPF paragraph 62 and PPG paragraph 63-001-20190626? In addition to the two sites allocated for older persons in Policy H2 is further provision required to meet needs identified in the SHMA? Is older persons housing a specific element of the unmet housing need raised under the duty to cooperate?**

6.16.1 No, the Submission Crawley Borough Local Plan (Submission Plan) (exam ref CBLP/01) will not be effective in meeting the needs of older people and therefore not consistent with NPPF paragraph 62 and PPG paragraph 63-001-20190626.

6.16.2 Table 64 of the SHMA (exam ref: H/HN/010) identifies the housing need for older persons dwellings. This splits the need into housing with support (sheltered housing) and housing with care (extra care housing). Table 64 confirms a need for 715 leasehold houses with support (sheltered), 276 leasehold houses with care and 175 rented housing with care. To note the SHMA (exam ref: H/HN/010) also identifies a surplus of rented housing (affordable) with support of 138 units by 2039. Para 10.28 confirms that 1,027 (net) older persons dwellings are needed over the plan period - 51 per annum. Table 65 identifies separately the older persons care bedspaces (care homes) and identifies a shortfall of 1,029 bedspaces by 2039. Para 10.27 confirms that *'there is an apparent surplus of affordable sheltered housing but a shortfall of all other types and tenures'*.

6.16.3 The Submission Plan (CBLP/01) looks to allocate two sites for older persons housing. These two sites allocate 115 class C3 specialist dwellings for older people and 120 residential rooms (care home). This will only deliver just over 10% of the older persons housing need and therefore not be effective in meeting the housing needs of older people in line with para 62 of NPPF. Not only will the plan not be effective in meeting the housing needs of older people, the policy approach in H5 (Affordable Housing) will limit the ability of the private sector to deliver additional housing to meet the specialist needs of older people outside of the allocations (see response to question 6.17).

6.16.4 We provided a detailed response to the 2021 Regulation 19 consultation, this representation REP / 133 to policy H5 (available from Consultation Statement Appendix 6 Additional

Publication Consultation Representations KD/CS/01 h – see page 25 to 36 and page 531 to 532) acknowledged the support that the council was providing to older persons housing through para 12.26 of the Submission Plan (CBLP/01) and the identification in para 12.28 of the specialist housing for older people needed over the plan period as evidenced in the SHMA (exam ref: H/HN/010), **however we expressed concerns that despite the positive manner in which the Council had sought to address the specialist older persons housing needs, it is undermined by inconsistencies in the Whole Local Plan Policies & Community Infrastructure Levy Viability Assessment, Final Report, March 2021, Dixon Searle ('LPVS') (exam ref: D/VA/02a and b) of older persons housing typologies and corresponding inappropriate policy requirement of Policy H5.** As detailed in our response to 6.17 below Policy H5 makes it very clear that the Council would expect new residential developments including those providing care falling into either C2 or C3 of the use class order to deliver affordable housing on-site in the same proportion as conventional housing, that being 40% borough wide and 25% within Crawley Town Centre with little flexibility being provided within the policy itself. The affordable housing requirement for older person's housing will make the plan ineffective at delivering the critical housing needs of older people as discussed in our answer to 6.17 below.

**6.17 Is the proposed approach in Policy H5 to 'Affordable Care' justified and effective? Having regard to NPPF paragraph 58, is it viable and is it capable of practicable implementation on-site? Do the proposed exceptions in the policy provide sufficient flexibility?**

6.17.1 Policy H5 (Affordable Housing) makes it very clear that the Council would expect new residential developments including those providing care falling into either C2 or C3 of the use class order to deliver affordable housing on-site in the same proportion as conventional housing, that being 40% borough wide and 25% within Crawley Town Centre. The term 'Affordable Care' in the context of the submission plan includes all care uses within the C2 and C3 use class so includes Sheltered housing, Extra Care housing and Care homes. Policy H5 then confirms that *'The council will only consider relaxing this affordable housing requirement, in part or in full, in exceptional circumstances, where a scheme is clearly subject to abnormal costs, not including land costs, and not otherwise envisaged by the Local Plan Viability Assessment. This must be evidenced by robustly assessed viability appraising various permutations of affordable housing provisions to best address local affordable housing needs which will be independently assessed. Should concessions be agreed by the council then claw-back mechanisms will be expected to be put in place and independently monitored. The scheme must also evidence that it addresses a demonstrative and immediate housing need'*. The policy then also defines an exception as Build to Rent and Rent to Buy and does not include specialist housing for older people despite our representations highlighting viability concerns including the identification of abnormal costs. Any consideration of flexibility towards older persons housing is instead expressed within paragraph 13.40 of the Submission Plan.

6.17.2 The approach to 'Affordable Care' (or specialist housing for older people) is not justified by the evidence in the SHMA and Whole Local Plan Policies & Community Infrastructure Levy Viability Assessment, Final Report, March 2021, Dixon Searle ('LPVS') (exam ref: D/VA/02a and b) and will not be effective in meeting the affordable or market needs of class C2 accommodation nor the specialist housing needs for older people that falls in to class C3. Having regard to para 58 of the NPPF and given the lack of viability discussed in our answer to question 6.16 and below, the policy will result in viability assessments having to be submitted alongside every planning application for schemes looking to deliver much needed specialist housing for older people leading to protracted negotiations at the planning application stage and limiting the delivery of much needed housing to meet the needs of older people. Such

schemes will also then be subject to a review mechanism, which becomes an extra burden for the developer and creates very considerable uncertainty for investors in a housing market which already carries greater risk.

- 6.17.3 Being mindful of the guidance in the PPG on Viability (Paragraph: 002 Reference ID: 10-002-20190509 and Paragraph: 006 Reference ID: 10-006-20190509) that confirms it is the responsibility of site owners and developers to engage in the Plan making process, we submitted a representation to the 2021 and 2023 consultations (Rep No 133, KD/CS/01 h – see page 25 to 36 and page 531 to 532). Our 2021 representation provided a separate document that undertook viability appraisals for the sheltered and extra care older persons' housing typologies. Our 2021 representation concluded at para 5.1.2 that:

*'The evidence we have provided in our viability appraisal for Sheltered housing and Extra Care Housing typologies, concludes that these forms of development should be exempt from affordable housing provision across the Borough'.*

- 6.17.4 Our 2023 representation (see Consultation Statement Appendix 8 Further Public Consultation Representations KD/CS/01j page 33-34) reminded the Council that in response to the 2021 consultation we observed that the LPVS *clearly' demonstrated that Extra Care accommodation cannot support an affordable housing contribution'* and that there were discrepancies in the inputs to viability in terms of dwelling mix, sales period site works, profit, sales and marketing costs and sales values used within the LPVS and if adjusted show that sheltered housing in addition to extra care is not viable. Since the original Viability Assessment was undertaken build costs have also increased and sales values have been more challenging, both of which will affect viability further.

- 6.17.5 However, the Council have disregarded both their own and our evidence and made no proposed modifications to the plan. Their response to the 2023 consultation states '*CBC considers that Policy H5: Affordable Housing, as now drafted, is consistent with and supported by the Crawley Local Plan & Community Infrastructure Levy Viability Assessment, March 2021'* (See Consultation Statement – Officer Responses to Formal Public Consultation Representation Summaries 2019 – 2023), September 2023 page 95, Exam reference CBC/KD/CS/01k). This lack of amendment, update or justification of inputs to viability of specialist housing to meet the needs of older people is surprising given our detailed viability appraisal of sheltered and extra care schemes (rep No 133) and lack of evidence in the council's own LPVS. To note the Council published a 'Viability Assessment – Updated, December 2022' (Dixon Searle) (Viability Update) (exam ref: D/VA/02 b) to support the 2023 consultation however this does not discuss or update viability associated with specialist housing for older people (sheltered / extra care).

- 6.17.6 As well as the challenging viability situation for older persons housing shown in the LPVS and the evidence we submitted alongside our 2021 representation that showed that sheltered and extra care is not viable with the affordable housing requirement of policy H5, we would also highlight that para 3.7.21 of the LPVS acknowledges that applications for older persons housing often have to be '**subject to viability review and negotiation**' and at para 3.7.24 that '**particular consideration may need to be given to such schemes, commencing with an understanding of their characteristics and looking at viability if relevant**'. Although this may be acknowledged in paragraph 13.40 of the Submission Plan it is not incorporated into the policy in a similar vein to Build to Rent and Rent to Buy.

6.17.7 The PPG on Viability confirms at paragraph: 002 Reference ID: 10-002-20190509 that *'The role for viability assessment is **primarily at the plan making stage**. Viability assessment should not compromise sustainable development but should be used to ensure that **policies are realistic, and that the total cumulative cost of all relevant policies will not undermine deliverability of the plan**.....Policy requirements, particularly for affordable housing, should be set at a level that takes account of affordable housing and infrastructure needs and allows for the **planned types of sites and development to be deliverable, without the need for further viability assessment at the decision making stage.**'*

6.17.8 Paragraph 004 Reference ID: 10-004-20190509 of PPG on Viability confirms what is meant by a typology approach to viability and confirms that.....:

*'.....Average costs and values can then be used to make assumptions about how the viability of each type of site would be affected by all relevant policies. **Plan makers may wish to consider different potential policy requirements and assess the viability impacts of these. Plan makers can then come to a view on what might be an appropriate benchmark land value and policy requirement for each typology.***

*Plan makers will then engage with landowners, site promoters and developers and compare data from existing **case study sites to help ensure assumptions of costs and values are realistic and broadly accurate**.....Plan makers may then revise their proposed policy requirements to ensure that they are **creating realistic, deliverable policies.**'*

6.17.9 Paragraph 007 Reference ID: 10-007-20190509 of PPG on viability confirms the circumstances where Viability Assessment at the **decision making stage** could be appropriate and includes *'for example where development is proposed on unallocated sites of a **wholly different type to those used in viability assessment that informed the plan**; where further information on infrastructure or site costs is required; where particular **types of development are proposed which may significantly vary from standard models of development for sale (for example build to rent or housing for older people)**; or where a recession or similar significant economic changes have occurred since the plan was brought into force.'*

6.17.10 The Council have correctly tested the sheltered / retirement housing and extra care typology at this plan making stage in line with para 004 Reference ID: 10-004-20190509 of PPG on Viability, but despite the viability of retirement /sheltered housing /extra care housing with affordable housing being found to be challenging or substantially not viable within their own LPVS and evidence put to them that the typologies are not viable the Council have maintained their policy approach that specialist housing to meet the needs of older people can deliver affordable housing to the same level of other developments where there is no question regarding viability, and also then applying a Review Mechanism. The Council have therefore ignored the outcomes of the testing in their Viability Study and our representation with the assumption that schemes delivering specialist housing to meet the needs of older people falling into either use class C2 or C3 are viable and for such justification will need to be provided that such scheme for example, have abnormal costs and can move towards being viability tested at the application stage. Flexibility is therefore only being provided in exceptional circumstances. It is not clear that the provision of sheltered or extra care housing would form such an 'exceptional circumstance' given the clarification provided to Build to Rent and Rent to Buy, despite acknowledgement, with relation to sheltered and extra care housing at paragraph 13.40 of the Submission Plan that *'particular consideration may need to be given on a case-by-case basis given the complexities and issues'* .

- 6.17.11 Additionally of further concern is that Policy H5 then confirms that if such a *'concessions be agreed by the council then claw-back mechanisms will be expected to be put in place and independently monitored'*.
- 6.17.12 To burden single phased development which has already been found to be not viable at the Local Plan stage with a review mechanism is wholly inappropriate and inflexible. This effectively means that as currently written, all specialist housing to meet the needs of older people will have to go through the delay and uncertainty of viability testing and a review mechanism even though it is proven through the Council's evidence that such schemes will be unable to deliver policy compliant levels of affordable housing or viability is more challenging. This will impact on the number of sites coming forward for much needed older persons housing and provides further inflexibility.
- 6.17.13 Housing for older people, being specialist in nature as defined by Paragraph: 010 Reference ID: 63-010-20190626 of the PPG on Housing for Older and Disabled people, is often delivered on small brownfield sites separate to housing allocations or other development sites of around 0.5 hectares. Schemes tend to be high-density flatted developments located near town centres that have around 35 to 40 units. They tend to be delivered as a single phase.
- 6.17.15 Once planning permission for specialist housing for older people is granted given the small size and single phase of schemes the objective is to commence the build and complete all units within one single phase. The build period usually takes around 18 months. Older person's housing, given its specialist nature and being built in one phase, then has a much longer sales period often up to 36 Months with 50% of the scheme often not being sold until year 2 of sales, despite being completed some years earlier. Given the completion of the whole scheme on the first flat occupation, empty property costs are then charged on properties that have not yet sold, this includes costs such as council tax and service charges.
- 6.17.16 For a large or multi-phase development which will be delivered over a long period it makes sense to check whether the scheme's viability has changed with market movements. However, for a small single phased site the Inspectorate have repeatedly noted that review mechanisms are unnecessary. For example, under Appeal decision reference APP/C4235/W/120/3256972 dated 1<sup>st</sup> April 2021, the Inspector noted in paragraph 17 that *'as the development would almost certainly be completed in a single phase with an estimated build time of 12-18 months, it is not the sort of large multi-phased scheme where stronger arguments for a review/clawback mechanism may otherwise exist'*.
- 6.17.17 In addition PPG on viability requires that 'Plans should set out circumstances where review mechanisms may be appropriate, as well as clear process and terms of engagement regarding how and when viability will be reassessed over the lifetime of the development to ensure policy compliance and optimal public benefits through economic cycles.' Paragraph: 009 Reference ID: 10-009-2019050. The process and terms of engagement has not been detailed within the plan and therefore the review mechanism again is not justified or consistent with national policy.
- 6.17.18 The policy area again provides no or little flexibility in the policy as it requires all schemes including small single phased schemes that have resulted in an affordable housing contribution below policy compliant levels to be subject to a review. This, as currently written, includes older persons housing schemes that have been shown to not be viable at the Plan making stage. This will again limit the delivery of much needed older persons housing and is not justified or effective. A Main modification should therefore be put forward to remove



reference to a 'claw back mechanism' either for all scheme or as a minimum for single phased older persons schemes.

6.17.19 Policy H5 is therefore not justified as the Typology has been found to be substantially unviable and will not be effective with regard to delivering specialist housing to meet the needs of older people 'affordable care'. The proposed exceptions do not provide sufficient flexibility given that the typology has been found to be substantially unviable at the Local Plan stage and the policy as written in contrary to NPPF para 31 and Paragraph: 002 Reference ID: 10-002-20190509) of the PPG.

6.17.20 Any affordable housing requirement for older people's housing including on brownfield sites, where older person's housing is predominantly delivered, creates an unrealistic, over aspirational policy requirement that will undermine deliverability. The plan as written, will not deliver much needed older peoples housing in line with need without further viability assessment and is therefore not justified or effective. In addition, the policy is not flexible as the flexibility implied at para 13.40 of the submission plan has not been incorporated in a similar vain to Build to Rent and Rent to Buy and instead the policy strictly implies that 'affordable care' should meet the same policy requirements as mainstream housing.

6.17.21 The Councils approach is therefore contrary to national policy guidance (NPPF para 31) and given the PPG on viability (Paragraph: 002 Reference ID: 10-002-20190509) the Council have not taken appropriate account of the Viability Study and policy H5 should be modified to provide exemption for older persons housing schemes from providing affordable housing or as a minimum flexibility should be provided and review mechanisms removed. This is to ensure the plan is justified, effective and consistent with national policy and will result in a policy approach that is capable of being practically implemented. Planning applications for much needed Older Person's housing can then proceed without the need for further Viability Assessment at the decision-making stage with protracted negotiations and older persons housing delivered in a timely manner. This approach would also be consistent with other Council's Local Plans. For example, both Swale and Fareham Borough Council's, based on detailed viability evidence have adopted Local Plan's that exempts older people's housing schemes from affordable housing.

#### 6.17.22 Recommendation

6.17.23 The policy should be amended in line with our original representation as follows:

Amend para 1 of the policy to read:

40% affordable housing will be required from all residential development, including those providing care regardless of whether it falls into Use Class C2 or C3, resulting in a net increase of at least one new housing unit across the borough which fall outside the Town Centre. Specialist older persons' housing including sheltered and extra care accommodation will not be required to provide an affordable housing contribution and will not be subject to a review mechanism.

Delete para 7 'Affordable Care' as follows:

#### Affordable Care

This Policy applies to all new residential developments, including those providing care, regardless of whether it falls under Use Class C2 or C3. Affordable provision for such schemes should be met on-site and equate to:



~~▲ Borough Wide: 40% affordable provision (tenure to be determined);~~  
~~▲ Town Centre: 25% affordable provision (tenure to be determined);~~  
~~**For traditional Care Homes, the requirement will be for the provision of the equivalent percentage in affordable care beds in order to meet the Policy.**~~

6.17.24 If the above is not assessed as appropriate and instead greater flexibility is required we would recommend the following wording amendments.

Amend para 1 of the policy to read:

40% affordable housing will be required from all residential development, **including those providing care regardless of whether it falls into Use Class C2 or C3**, resulting in a net increase of at least one new housing unit across the borough which fall outside the Town Centre.

Delete para 7 'Affordable Care' as follows:

**Affordable Care**

~~**This Policy applies to all new residential developments, including those providing care, regardless of whether it falls under Use Class C2 or C3. Affordable provision for such schemes should be met on site and equate to:**~~

~~▲ Borough Wide: 40% affordable provision (tenure to be determined);~~

~~▲ Town Centre: 25% affordable provision (tenure to be determined);~~

~~**For traditional Care Homes, the requirement will be for the provision of the equivalent percentage in affordable care beds in order to meet the Policy.**~~

Amend para 9 as follows:

The council will only consider relaxing this affordable housing requirement, in part or in full, in exceptional circumstances, where a scheme is clearly subject to abnormal costs, not including land costs, and not otherwise envisaged by the Local Plan Viability Assessment. This must be evidenced by robustly assessed viability appraising various permutations of affordable housing provisions to best address local affordable housing needs which will be independently assessed. Should concessions be agreed by the council then claw-back mechanisms will be expected to be put in place **for multi-phased development schemes** and independently monitored. The scheme must also evidence that it addresses a demonstrative and immediate housing need.

Add to end of policy

**Specialist older persons' housing including sheltered and extra care accommodation falling into either C2 or C3 of the use class order is an exceptional circumstance. Proposals delivering older persons housing will be considered on a case-by-case basis in terms of viability and affordable housing and given the single phased nature of such schemes will not be subject to a review mechanism.**