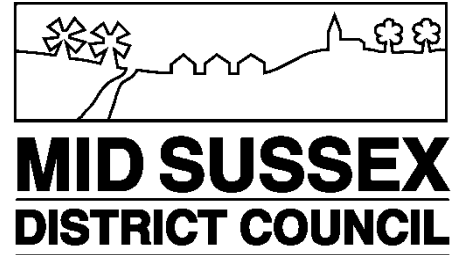


Mid Sussex District Council



**BARTON
WILLMORE**

Representing Retirement Villages Ltd

Turley

Rainier Developments (Cophorne) Ltd

Site Allocations DPD

MSDC-15: Older Persons' Housing (C2)

Position Statement between Mid Sussex District Council, Turley and Barton Willmore

20th September 2021

MSDC-15: Older Persons' Housing (C2)

Introduction

This joint position statement has been prepared in response to queries raised in the Matter 3 hearing sessions, at the request of the Inspector [AP18].

Action Point 18 is “***Taking Barton Willmore’s suggested text as a start, Barton Willmore and Turley to suggest by way of a collaborative approach with MSDC, a possible policy covering specialised older persons’ housing, to be applied at a District wide level.***”

In summary a proposed policy has been agreed between Barton Willmore and Turley, but not with Mid Sussex District Council. Whilst Mid Sussex District Council maintain that no such policy is required has proposed an alternative policy which is not agreed between the parties.

Barton Willmore’s Proposed Policy Wording – As Originally Proposed

Proposed policy wording as originally put forward by Barton Willmore in its Matter statements (MS) 3 and 7.

There is an identified need for at least 665 additional extra care units (Use Class C2) by 2030, of which at least 570 need to be leasehold. The Council will support proposals that will contribute to meeting this need. Such developments will be permitted within towns and villages within the defined built-up-area boundaries, having regard to Local Plan policy DP26: Character and Design and where the development does not cause harm to the character and function of the settlement.

Outside defined built-up area boundaries, proposals for C2 extra care development will be supported where a site is allocated for that purpose either in the Site Allocations DPD or a Neighbourhood Plan, or it can be demonstrated that:

- The Site is contiguous with or does not cause significant harm to the existing pattern of development in the settlement;*
- The development is demonstrated to be sustainable having regard to the accessibility of local services and facilities and any services and facilities that might be provided as part of the proposals.*

Barton Willmore and Turley Amended Draft Policy Wording

In accordance with Action 18, Barton Willmore discussed this further with Turley and the policy was amended to include reference to care homes, for which there is also an identified unmet need.

As discussed below, this was shared with the District Council for comment. The Council proposed an alternative policy which both Barton Willmore and Turley objected to on the basis that it failed to move the policy position further forward, beyond that in the currently adopted Local Plan and thus failed to address the identified significant unmet need for specialist accommodation for the elderly. Following a request from Barton Willmore, MSDC advised via email on 26th August 2021 that

“Thank you for providing comments on our suggested draft policy and the offer of a meeting next week to discuss further.

Andrew and myself are on leave next week, and in the interests of moving things along we don't think that a meeting is required.

We have drafted a 'Position Statement' that sets out both sides position on the suggested policy wording, indicating matters of agreement and disagreement. We don't feel that an agreement can be reached between the parties and that the Inspector will need to take a view on this matter.

I have attached the Position Statement for your review and will await your views on this suggested way forward “

The proposed policy below is agreed between Barton Willmore and Turley following collaborative discussions. It follows an earlier draft issued to the Council for comment and was amended to include elements of the District Council's proposed policy wording, as set out further below.

Barton Willmore and Turley Proposed Policy Wording

Policy xxxx – Specialist accommodation for Older People & Care Homes

There is an identified need for specialist accommodation for older people comprising at least 665 additional extra care units (Use Class C2) by 2030, of which at least 570 should be leasehold. The Housing and Economic Development Needs Assessment Addendum (August 2016) identified forecast demand for care homes (Use Class C2) at 2031 as 2,442 bedspaces. The Council will support proposals that will contribute to meeting these types of specialist accommodation.

Proposals for specialist accommodation for older people and care homes that contribute to meeting the identified need will be supported:

- a) It is allocated for such a use within the District Plan, Site Allocations DPD or Neighbourhood Plan; or
- b) It forms part of a strategic allocation; or
- c) On sites within built up-area boundaries, having regard to Local Plan Policy DP26: Character and Design; or
- d) Notwithstanding Policy DP6 in the Adopted Local Plan, on sites outside defined built-up area boundaries, proposals in excess of 10 dwellings will be supported where a site is allocated for that purpose either in the Site Allocations DPD or a Neighbourhood Plan, or it can be demonstrated that:
 - i. the site is well related to existing development, with appropriate access to, or provision of, services and facilities either on or off site, to meet the needs of residents/staff and which contribute to the wider economy; and
 - ii. the proposal seeks to reduce the reliance on the private car, having regard to the use proposed.

Such proposals should be accompanied by a Travel Plan which sets out how the proposal would seek to limit the need to travel and how it offers a genuine choice of transport modes, recognising that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

As such, no further amendments to the agreed policy between Barton Willmore and Turley (as set out below) has been suggested by the Council.

The proposed policy brings together the requirements of current adopted Policy and includes additional considerations, recognising that specialist C2 accommodation can be suitable on sites not suitable for general C3 housing owing to their enhanced sustainability credentials i.e. reduced car trips and potential for onsite services and facilities etc. Greater locational flexibility is also essential to ensure the needs of the urban and rural communities can be met, whilst recognising that specialist C2 accommodation providers cannot compete with housebuilders on sites suitable for C3 housing and thus are “squeezed” out of the market, stifling delivery (BW, MS 3, Appendix 3).

It is considered essential that the Plan includes the identified need figure, to ensure that the identified need is met, as required by paragraph 125 (NPPF, July 2021), thus ensuring the delivery of sustainable and inclusive communities. Barton Willmore consider that this text must be included within the policy itself. Turley are content for the identified need to be included in any explanatory text / supporting text.

However, it is agreed between Barton Willmore and Turley that it is paramount that the extent of unmet identified need is established in this Plan.

Barton Willmore & Turley Position – Principle (Summary)

As set out in successive representations to the Site Allocations DPD (SA DPD) and submitted Matter Statements (MS), Barton Willmore and Turley claim that a policy that addresses the shortfall in specialist older person’s accommodation, especially for extra care and care homes, is essential for the Plan to be found “Sound” because:

- The Council has not produced any up-to-date evidence since the HEDNA Addendum 2016 and no further evidence in support of the SA DPD has been prepared contrary to National Guidance and the provisions in the Adopted Local Plan, as set out below.
- There is an identified “significant” unmet need for extra care leasehold accommodation as established via the Albourne Appeal (September 2020). The Council’s own evidence (even though not preferred by the Inspector), recognised an unmet need. There has been no material change in circumstances, either in the supply or pipeline within the District since the Appeal decision (see Appendix 3 to Barton Willmore’s (BW) Matter Statement (MS) 3) and as such this “significant” unmet need prevails;
- In the Pease Pottage Appeal (June 2021) the Inspector consider whether there is a need for C2 registered care home bedspaces. At paragraph 32 he noted “At the Hearing the main parties agreed that extrapolating as a straight line between the HEDNA demand for 1,452 bedspaces in 2014 and 2,442 bedspaces in 2031 indicates a demand for 1,852 bedspaces in 2021.”
- The Council has failed to have regard to National policies and advice which seek to address the need for older persons accommodation for the elderly, including extra care, as set out in the NPPF (para 61, now para 62), and the PPG (ref ID 63). The failure to address the identified need is contrary to the requirements of Section 19(2)(a) PCPA 2004 (BW MS 1);
- Allied to the above, the Council has failed to have regard to the requirements of the Adopted Local Plan, Policies DP25 and DP30, contrary to the requirements of Section 19(2)(h) PCPA 2004 (BW MS 1);
- Adopted Local Plan Policies DP25 and DP30 include commitments to identify and address the need/demand for specialist accommodation with the assessment of need being based on the best available evidence and with consideration to be given to the allocation of sites. The best available evidence, as established through the Albourne Appeal, has not been

used and as above demonstrates a significant unmet need for leasehold extra care (BW MS1 & 3), which the Council has not sought to address, contrary to Adopted policies;

- The Council has misdirected itself in not seeking to address the need for specialist accommodation and as such the site selection process and proposed allocations have failed to identify sufficient sites to address the need (BW, MS 1, 2 & 3);
- To be “Legally Compliant”, “Consistent with National Policy” and compliant with the requirements of the Adopted Development Plan, the inclusion of a Development Management Policy is essential to address the current failure of the SA DPD to address the need for specialist older persons accommodation (BW MS 1, 3 & 7). This is a need that must be addressed now and cannot be pushed out into a future Local Plan review as is being proposed by the Council.
- The proposed policy would fall within the remit of a Development Management Policy and provides positive guidance to assist the delivery of specialist older persons accommodation which is necessary to meet the soundness tests of “Justified” and “Effective”.
- In addition to the proposed policy, it is further proposed that the Hazelden and Crawley Down sites are also allocated.

Council Position – Principle (Summary)

- Topic Paper 4: Housing For Older People sets out the Councils position. The Topic Paper explains that based on evidence at the time, the Council was not required to identify specific provision for older people within the District Plan. The evidence indicated there was no immediate need.
- Given the rate of specialist housing coming forward since the start of the Plan period, especially in the last two years, it is not considered necessary to allocate sites to deliver housing for older people in the SA DPD.
- Notwithstanding the above, no suitable sites have, to date been identified.
- The District Plan review is the proper place to revisit strategic issues such as the provision of housing for older people; it is not within the scope of the SA DPD to re-establish needs, in the same way it is not within the scope of the SA DPD to review the whole spectrum of housing.
- District Plan provides a policy framework to determine applications for older persons accommodation, as reflect in the number of permission granted in recent years (See [TP4] Appendix 1)
- The proper place to re-examine the need for Older Persons Housing is through the District Plan Review to enable this element to be considered alongside the wider housing need. Work on the District Plan review has commenced and consultants have been appointed to undertake a Strategic Housing Market Assessment.
- To clarify MSDC’s position regarding Barton Willmore’s request for a meeting (made on 25th August), the Council could not accommodate the request at that point in time due to other commitments. Therefore, given this, the opposing positions, and the need to respond to the Inspector’s Action Point with urgency, the Council suggested the most efficient way of moving the issue forward in the meantime was to circulate a statement, which MSDC considered reflected the ongoing dialogue and respective positions since the hearings and therefore assists the Inspector as far as is possible.

Council Position – Barton Wilmore and Turley Draft Wording

- For the reasons set out in Topic Paper 4 [TP4] and MSDC 02c, the Council does not agree that an updated/revised need figure should be identified within the SA DPD.

- Does not agree with sustainable location / travel plan element of the proposed policy. District Plan Policy DP21:Transport, sets out requirements in relation to sustainable transport requirements, however some wording in relation to sustainable transport could be included as set out below.
- District Plan Policy DP6 uses the term 'contiguous' to establish if a site is well related to the built-up area. This policy forms an important part of the District Plan strategy by which the Sites DPD is in accordance with. This wording should also be used when assessing sites for older person's accommodation, in order to be consistent with the 'parent' document and to avoid confusion between the assessment of general housing and that of older persons accommodation. Essentially, both forms of housing should be considered equally and in accordance with the adopted strategy. The Council does not agree that that criterion d) is more onerous than the District Plan DP6.
- Do not agree with Barton Wilmore and Turley using this paper to again suggest their sites should be allocated within the Sites DPD. This matter is outside the scope of the paper and discussed fully at the Examination Hearing sessions and in Matter Statements submitted by the participants.
- Do not agree with Barton Wilmore and Turley making reference to the Pease Pottage appeal decision issued after the Examination hearing. This is introducing new evidence to the hearings, is beyond the scope of this paper and MSDC or other parties have not been asked by the Inspector to make comment on this specific matter.

Council Position – Alternative Wording

- Notwithstanding the Council's starting point that an additional policy is not required the Council has proposed some alternate policy wording below should the Inspector be minded to recommend the inclusion of an additional policy

SAXx

Proposals for specialist accommodation for older people and care homes will be supported where:

- a) It is allocated for such a use within the District Plan, Site Allocations DPD or Neighbourhood Plan; or**
- b) It forms part of a strategic allocation; or**
- c) It is located within the Built-Up Area Boundary as defined on the Policies Map; or**
- d) Where the site is outside the Built-Up Area, it is contiguous with the Built-Up Area Boundary as defined on the Policies Map and the development is demonstrated to be sustainable, including by reference to the settlement hierarchy (DP4).**

In all circumstances, the site must be accessible by foot or public transport to local shops, services, community facilities and the wider public transport network. Proposals must demonstrate how reliance on the private car will be reduced and be accompanied by a Travel Plan which sets out how the proposal would seek to limit the need to travel and how it offers a genuine choice of transport modes, recognising that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

Barton Willmore and Turley Position on the Council's Proposed Policy

- Do not agree that the review of the need figures should wait for the Local Plan Review. It is a requirement of the NPPF/PPG and Adopted Local Plan Policies (specifically Policies DP25 and DP30 of the adopted Local Plan) and thus also a legal requirement that the significant unmet need is addressed now, and positively addressed in this SA DPD.
- Parts a) to c) of the Council's draft policy replicate existing policy provisions in the adopted Local Plan (Policy DP6 and site allocation policies). As evidenced by the current significant level of unmet need, the current policy framework is failing to support the delivery of specialist older persons accommodation. As established through the Albourne Appeal and BW MS 3, existing and proposed allocations would fail to meet the need for leasehold extra care. Parts a) to c) therefore do not add anything in respect of positively supporting the delivery of specialist accommodation for the elderly.
- Part d) is considered unnecessary as the text beneath sets out circumstances where sites are considered, it also replicates provisions in Adopted Local Plan Policy DP6. As above, this does not add anything in respect of positively supporting the delivery of specialist accommodation for the elderly.
- Policy should not preclude other sites that are not contiguous to the existing Built-up Area Boundary from coming forward. This introduces a higher policy bar than that set out in Local Plan Policy DP6, which only requires development to be contiguous with a built-up area, not boundary. The proposed policy wording in this regard is therefore unjustified. Notwithstanding, this is still unnecessarily prescriptive. It fails to recognise the sustainability credentials of specialist elderly accommodation; the requirement to ensure the needs of the urban and rural communities are met, whilst also recognising that specialist accommodation providers cannot compete with housebuilders on sites suitable for C3 housing and thus are "squeezed" out of the market, stifling delivery. In short it replicates existing policy provisions which are failing to deliver.

Matters of Agreement

The three parties agree that the policy should support specialist accommodation for older people where:

- a) It is allocated for such a use within the District Plan, Site Allocations DPD or Neighbourhood Plan; or
- b) It forms part of a strategic allocation; or
- c) It is located within the Built-Up Area Boundary as defined on the Policies Map
- d) There are further tests for sites outside the built-up area boundary regarding the site's connectivity to existing settlements, albeit the Council and Turley/Barton Willmore disagree on how assessing this connectivity is defined (see below).

Matters of Disagreement

The three parties do not agree:

- The policy should include reference to the identified need for specialist accommodation. Barton Willmore maintains that this must be expressed within the policy itself to ensure delivery. Turley are content for this to be expressed either in the policy itself or in the supporting text. However, both parties agree that it is essential that the level of need is recognised in the SA DPD. The Council disagree as this is currently being re-assessed as part of the District Plan Review and consider that it would date the policy quickly.

- Criteria d) reference to ‘contiguous to built up area boundary’ as suggested by MSDC (which the wording of DP6 of District Plan). At paragraph 2 DP6 states “.....Outside defined built-up area boundaries, the expansion of settlements will be support where:...2. The site is contiguous with an existing built up area of the settlement”. The MSDC suggestion at criteria d) is not more onerous than DP6. The policy, when read as a whole, applies to area outside defined built-up area boundaries. There is no reason why sites providing older persons accommodation should be assessed differently against DP6 to that of other residential development. Barton Willmore and Turley do not agree to the use of reference to ‘*contiguous to built up area boundary*’ as this effectively repeats policy DP6 and is too restrictive and does not support the delivery of specialist older person’s accommodation. The proposed wording is also more onerous than the current policy position

Conclusion

Whilst MSDC’s position is that another policy to support the provision older persons accommodation is not required for the reasons set out above and in Topic Paper 4, if the Inspector were minded to request the inclusion of the policy the Council would accept that position.

However, MSDC and the other parties cannot agree on the content of the policy, as set out below:

- Principle of including a different need figure to that evidenced in the HEDNA
- Criteria d) reference to ‘*contiguous to build up area boundary*’ as suggested by MSDC (which reflects wording of District Plan).

Both parties are broadly in agreement to principles set out in criteria a – c, whilst both appreciating that these do not add any value as they replicate what is already set out in the District Plan.