

## CABINET

<b>Date of Meeting</b>	Tuesday, 13 December 2016
<b>Report Subject</b>	Changes to Developer Guidance Note – Speculative Housing Development Proposals
<b>Cabinet Member</b>	Deputy Leader of the Council and Cabinet Member for Environment
<b>Report Author</b>	Chief Officer (Planning & Environment)
<b>Type of Report</b>	Operational

### EXECUTIVE SUMMARY

To update the Developer Guidance Note relating to Speculative Housing Developments, to reflect the status of the Unitary Development Plan (UDP) now it is time expired, as well as tighten some of the requirements on developers to both fully justify their proposals and to ensure delivery if permission is granted. Speculative developments are those that are submitted by developers that relate to land or sites not allocated in the adopted UDP, and result from the Council's apparent lack of a five year housing land supply. This is defined by Welsh Government policy as set out in Technical Advice Note 1 (TAN1), which requires Councils that do not have a sufficient land supply, to give such proposals 'significant weight' when considering them. The guidance note was produced as a response to the Council receiving such applications and whilst not policy, aims to define the necessary information that should accompany an application, to fully demonstrate and justify its sustainability. It has become apparent that developers are not fully complying with the note and so changes have been made to tighten up on the requirements. (see tracked changes version of the guidance note in appendix 1).

### RECOMMENDATIONS

1	That Cabinet approve the amended Developer Guidance Note so that it becomes immediately operational for use for Development Management purposes.
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## REPORT DETAILS

<b>1.00</b>	<b>EXPLAINING THE REASON FOR CHANGING THE DEVELOPER GUIDANCE NOTE</b>
1.01	Flintshire has an apparent lack of housing land supply, resulting from changes to Welsh Government policy TAN1 and the way supply can be measured, which now prevents the Council from being able to demonstrate a five year supply until the Local Development Plan (LDP) is adopted.
1.02	Where local authorities either don't have or can't demonstrate a five year land supply, the TAN requires authorities to give "significant weight" to applications that can increase supply, that are otherwise policy compliant and are sustainable.
1.03	In order to ensure that developers were not simply seeing the lack of land supply as the only relevant reason to justify and submit an application, the Developer Guidance Note was created to highlight and expand on the principles within the advice already in the TAN relating to "otherwise comply" with policies, and generally in Planning Policy Wales in relation to representing "sustainable development". It is therefore guiding developers to fully explain and justify their speculative proposals, but does not represent policy in itself. That said, it has proved very useful in assisting Development Management to ensure full information is submitted with such applications, and has also been adopted by many other Local Planning Authorities (LPAs) as a useful tool to challenge the sustainability credentials of such proposals.
1.04	<p>The need to update the note arises from several factors:</p> <ol style="list-style-type: none"><li>1. To update the status of the UDP in the note now it is time expired, and also that the Council can no longer carry out a formal Joint Housing Land Availability Study;</li><li>2. A concern that the sustainability of a speculative development is not being sufficiently considered in its local context by developers where, for example, that settlement may have recently had significant development via the UDP;</li><li>3. A concern emanating from a recent local example where the land that is proposed for development via a speculative application is not in fact immediately or genuinely available for development;</li><li>4. A need to shorten the timeframe for commencement further to 12 months and to ensure, as far as the LPA can, that commencement leads to the early completion of houses.</li></ol>
1.05	In relation to the first point above, this is simply to maintain the currency of the note in relation to the present position with the UDP and the Joint Housing Land Availability Study. Additional text has been added to the note in para 3 page 1 to explain this (see tracked change version of the note in Appendix 1).

1.06	Secondly, there is a concern that developers are submitting applications having analysed their degree of 'policy compliance' in order to express the sustainability of the site, whereas they need to carry out a fuller sustainability appraisal as set out under evidence requirement number '3. Sustainability Appraisal' on page 2 of the note. This has been amended to emphasise that such an assessment has to relate to the sustainability of the local context for the site, and not just the site itself.
1.07	Thirdly, evidence requirement number '5. Housing Delivery Statement', has been amended to request that additional information is provided to state that the landowner has agreed a price for the land with the developer based on the submitted scheme and that the land will therefore be immediately available for development once a consent is issued. This is to alleviate the potential for a landowner to seek to renegotiate the value of a site with a developer post consent, thereby jeopardising the availability of the land, the viability of the approved scheme (which may lead to re-submission), the real sustainability of the proposal, and to avoid the potential to mislead the LPA and a Planning Inspector about the intentions and sustainability of a proposal.
1.08	Lastly, the 'Advisory Notes' section has been amended with two related points. In the first instance it is now proposed that where the LPA are minded to recommend approval of a speculative scheme, the commencement period should be reduced from two years as is currently set out in the note, to one year. As the amended text in the note in appendix 1 explains, this should not pose a problem to developers who are submitting these applications on the basis of an 'urgent' need for housing, and also if their schemes are otherwise compliant and sustainable. A further advisory bullet point has been added to the list in the note which emphasises that commencement of a speculative permission once granted, should lead to the early completion of housing and not result in the protection of the permission (or land banking) by taking the minimum legal steps to show commencement e.g. digging a footings trench.
1.09	The inability to demonstrate a five year supply of housing land following the adoption of the TAN1 methodology is not unique to Flintshire. Indeed, over half of the Local Planning Authorities in Wales find themselves in a similar position, including some with a recently adopted Local Development Plan. Clearly, it is felt that the methodology is flawed and does not represent the true housing land supply position. Officers and Members will be meeting with the Minister in January 2017 to voice these concerns and seek that the matter is reviewed as a matter of urgency. This matter is also being raised by the Welsh Local Government Association with the Minister.

<b>2.00</b>	<b>RESOURCE IMPLICATIONS</b>
2.01	The main negative consequence of the receipt of speculative applications is that it is drawing resources away from making progress with the LDP as well as potentially compromising the emerging strategy and direction of the Plan.

<b>3.00</b>	<b>CONSULTATIONS REQUIRED / CARRIED OUT</b>
3.01	There is no need to carry out a consultation exercise on the note as it is not new policy – the note simply reminds developers to do what they should be doing when submitting applications, and that is to fully accord with national planning guidance and policy and the UDP and show how their schemes are compliant and sustainable.

<b>4.00</b>	<b>RISK MANAGEMENT</b>
4.01	The key risks relate to non-achievement of the LDP timetable, Planning by “appeal”, as well as the potential for unsustainable levels of development to be permitted in settlements on appeal, as Inspectors are not considering the wider picture in terms of past development and future LDP strategy.

<b>5.00</b>	<b>APPENDICES</b>
5.01	Appendix 1 Amended Developer Guidance Note with tracked changes.

<b>6.00</b>	<b>LIST OF ACCESSIBLE BACKGROUND DOCUMENTS</b>
6.01	None.  <b>Contact Officer:</b> Andy Roberts, Service Manager Strategy <b>Telephone:</b> 01352 703211 <b>E-mail:</b> <a href="mailto:andy.roberts@flintshire.gov.uk">andy.roberts@flintshire.gov.uk</a>

<b>7.00</b>	<b>GLOSSARY OF TERMS</b>
7.01	<b>Five Year Housing Land Supply:</b> A requirement of Welsh Government Planning Policy to maintain a minimum five year supply of housing development land at any one time.  <b>Technical Advice Note 1:</b> Welsh Government Policy relating to Land Availability Studies and measurement of land supply, and how to consider applications when an authority cannot demonstrate a minimum land supply.  <b>Commencement:</b> This is the time period specified with a grant of planning permission by which a developer should have begun the development.