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04/02/2026

Dear Graeme

Durham County Council Draft Supplementary Planning Document (SPD) - Discounted Market Sale Homes

1. I am writing to you on behalf of the Home Builders Federation (HBF) concerning the above draft SPD that is due to go before Cabinet on 11 February and if approved, it will then be subject to public consultation until 13 April.
2. I understand your colleague Tony Hanson met both Dominic Smith from Barratt Redrow and Chris Haggon from Taylor Wimpey to discuss the overall approach to the SPD. Having reviewed the draft document, the HBF has a number of strong concerns with it. We detail these below.

Rationale and Basis for the Supplementary Planning Document

3. As you will be aware, an SPD is not a development plan document and so it cannot be given statutory weight in the determination of a planning application, rather it is a material consideration.
4. As this is the case, both the National Planning Policy Framework (NPPF, 2024) and the Planning Practice Guidance (PPG) are very clear on the role of an SPD in the plan-making system. Annex 2 of the NPPF confirms this by stating that SPDs are:

“Documents which add further detail to the policies in the development plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design...”

5. The PPG goes further and states:

“...As they do not form part of the development plan, they cannot introduce new planning policies into the development plan. They are however a material consideration in decision-making. They should not add unnecessarily to the financial burdens on development.” (Reference ID: 61-008-20190315).

6. The HBF considers that this proposed SPD goes much further than this and its role is clearly not to explain or provide further guidance in relation to Policy 15, rather it seeks to fundamentally change the mechanics of the policy by introducing additional requirements; namely a county-wide price cap on DMS homes.
7. As outlined in the PPG, an SPD is also not to unnecessarily add financial burdens on development. It is clear by introducing a price cap such as that outlined in the SPD, the Council is precisely doing this and has failed to present evidence to demonstrate that it will not unnecessarily add a financial burden. The SPD references a Viability Assessment that was last updated in October 2020. The HBF does not consider relying on a Viability Assessment that is over five years old is sufficient and robust justification on which to base the SPD and for the Council to credibly claim that there will not be an additional financial burden anywhere within the county.
8. Notwithstanding this, County Durham itself is a geographically large authority containing a wide array of residential values. This is acknowledged through the application of value areas for affordable housing within Policy 15 itself. The application of a single price cap to cover the whole of County Durham is therefore inappropriate and simply ignores the diverse residential values found across the county. This leads to a disjointed approach between how the quantum of affordable homes is calculated and then how any discount is applied.
9. The HBF therefore considers that the Council’s proposed SPD does not accord with the requirements of an SPD set out in the NPPF and PPG, and in fact goes far beyond what can be lawfully done through an SPD. The application of a single price cap also ignores the diversity in the housing market in County Durham and is inconsistent with the current approach in Policy 15 which relates to the different value areas present across the county.

Principle of Using a Price Cap for Discounted Market Sales Homes

10. Annex 2 of the NPPF provides the definition for DMS homes which outlines that they are

“Discounted market sales housing: is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.”

11. This makes it clear that the basis on which the price of a DMS home is calculated is as a percentage of the local market value. It makes no mention of this then being able to be subject to any form of price cap and as an organisation, the HBF is unaware of any other local planning authority in England applying such a cap to its DMS homes. Indeed, the only mention that the Government has ever made in relation to a price cap is concerning First Homes and the SPD itself makes clear that the DMS sought in County Durham is not First Homes.
12. The HBF therefore considers that putting a price cap on DMS homes conflicts with the NPPF and is inconsistent with the Annex 2 definition.

Further Engagement

13. The HBF wishes to continue to engage with the Council so as to help facilitate the delivery of affordable homes in County Durham, however it considers that the use of this proposed SPD to impose a price cap, which has no basis in national planning policy or guidance, will in fact stifle delivery of affordable housing across the county and make it more difficult to develop the homes which are needed.
14. The HBF would therefore welcome further dialogue with the Council to examine better ways to boost the delivery of affordable homes across County Durham.

Yours sincerely,

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