

View Response

Response Details

From The Retirement Housing Consortium

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Email Address [REDACTED]

Postcode [REDACTED]

Areas of Interest [REDACTED]

Response ID #798429

Visibility Unknown.

Question 1.

Your Name:

You must provide an answer to this question.

CARLA FULGONI

Question 2.

Your organisation (if applicable):

Question 6.

DATA PROTECTION:

Please note that your response will be made available for inspection by the public in paper form at the Council's offices, or other locations as appropriate for the purpose of facilitating public access.

Your personal details will be properly safeguarded and processed in accordance with the requirements of the General Data Protection Regulation (GDPR) 2018. Your information will be used for The Oxford Local Plan 2036 Main Modifications Consultation only, and we will only store your data until the Oxford Local Plan 2036 is adopted. Information you give in this form will be shared with the Independent Examiners.

Please note: Anonymous representations may not be accepted.

Select at least 1 option.

Select this box if you are happy for us to state your name and the first line of your address and postcode when publishing your response(s).

Select this box if you would rather all personal details except your name and a non-specific address (e.g. Oxford) to be obscured.

Question 7.

To which Modification(s) or part(s) of the Sustainability Appraisal does this response relate?

You must provide an answer to this question.

Policy H2 and POLICY H11.

Question 8.

Do you Support or Object the proposed modification(s)?

You must provide an answer to this question.

- Support
- Object

Question 9.

If you object, please state why:

The Examination Inspectors are required to consider whether the Local Plans have been properly prepared against tests set out in the Government's National Planning Policy Framework (paragraph 182). Please tick any which apply:

- Not positively prepared - i.e. the strategy will not meet development needs
- Not justified - i.e. there is no evidence to justify the modification
- Not effective - i.e. it won't work
- Not consistent with national policy - i.e. does not comply with the law

Question 10.

Reason for SUPPORT or OBJECTION:

Please give details to explain why you support or object to the wording of the Modification(s) or part(s) of the Sustainability Appraisal of the Main Modifications.

You must provide an answer to this question.

Policy H2: Delivering affordable homes

– AFFORDABLE HOUSING POLICY APPENDIX 3.1

APPENDIX 3

3.1 Method for calculating affordable housing contributions relating to residential development

We support the publication of a formula for assessing the level of off-site contributions for affordable housing. However we have concerns that this formula is not fair and reasonable and does not reflect the subsidy that the developer would have provided had the affordable housing been provided on site. While the formula is clear and simple it does not relate in scale and kind to the development.

1. The formula does not relate to the subsidy that would have been provided had the affordable housing been provided on site. The proposed formula, being based on a very crude assumption about land values, has the propensity to penalise some developers and benefit others. Being based on a proportion of the Gross Development Value it will benefit low density development and penalise high density high cost developments such as apartment blocks. In particular older persons housing will be caught and the land value calculation on a typical site that we develop (brownfield, town centre sites with high demolition and clear up costs) will mean that a typical contribution will be equal to the land value for the whole site. This will lead to a site specific viability assessment having to be undertaken at the very least and will unreasonably preclude developers of retirement housing in the city.

2. Developers need certainty in order to avoid risk and to undertake land purchase based on known information. This means that a sum will have to be included in any S106 obligation. The current wording suggests that the commuted sum will not be calculated until sales values are known. This is a long time after the land sale has taken place and increases developer risk considerably.

3. Following sound planning principles the commuted sum should relate in scale to the development in question. As set out above, the assumption that land represents a specific percentage of Gross Development Value is crude. Land exchanges at different levels based on landowner expectation and the specifics of the site. A much fairer and more reasonable contribution should be based on the specifics of the site and scheme in question. This principle of 'equivalence' is important here. The commuted sum should be fairly and reasonably equivalent to the subsidy that the developer would have provided had the affordable housing been achieved on site. To this end a commuted sum that has been used by developers of retirement housing has been a formula based on the difference in residual value of the scheme with no affordable housing and the scheme with the policy compliant sum of affordable housing. This maintains the land value base for the calculation of a commuted sum and ensures that a contribution is fairly and reasonably related in scale and kind to the development in question.

4. The advantages to this formula are that

- it treats all developers fairly and equitably;
- the commuted sum relates to the development in question;
- it allows a commuted sum to be calculated at the planning stage;
- it relates to the subsidy that would have been provided on site;

- the calculation is clear and open to scrutiny;
- it is future proofed and reflects economic conditions at the time of the planning application; and
- it will negate the need for further viability assessments to be undertaken during the development process.

Policy H2 states that the LPA will seek Affordable Housing Contributions from self-contained residential developments (C2 and C3, including retirement homes, sheltered housing, but excluding student accommodation and employer-linked housing. This is a complex issue and there are a number of factors that determine whether or not an Extra Care development is within Use Class C3 or Use Class C2.

The Consortium's representation to the Consultation on the CIL Charging Schedule (October 2018) highlights the many shortcomings of the Viability Assessment as it relates to retirement housing and applies equally to the viability assumptions that have been applied to policies of the Local Plan. This submission is attached

We raise significant objections to the Council's position on this matter as it is contrary to common local authority interpretation and recent Appeal case precedent.

I would like to refer the Council to two appeal decisions where Extra Care accommodation was deemed by the Planning Inspectorate as a C2 land use:

- a) The "Gladman" Appeal against North Somerset Council dated 9th October 2012 - (Appeal Ref: APPP/D0121/A/12/2168918 Former Portishead Primary School Site,

Slade Road, Portishead, BS20 6BD.

b) The “Brooklands” Appeal against Wychavon District Council dated 19th August 2013 – (Appeal Ref: APP/H1840/A/13/2193666 Brooklands Farm, Cheltenham Road, Evesham, Worcestershire, WR11 2LW)

In the case of the Gladman appeal, self-containment was considered by the North Council to be the defining factor between C2 and C3 uses and correspondingly developments that do, and do not, provide affordable housing contributions.

The Inspector however rejected the Council’s premise for determining the proposal as a C3 development on the grounds that:

Here, I find that the primary purpose of the building as a whole is to provide residential accommodation and care to people in need of care, as the care element is the reason people choose to live there, and is an integral part of everyday life. The facilities provided for residents are not only significant in terms of their extent... are well used by residents, and are an integral part of many residents’ lives. I consider that it would be wholly artificial to regard the apartments as being so independent of the rest of the facilities as to amount to one building in separate planning units – the whole of the building is used for residential accommodation with care to people in need of care, and thus falls within Class C2. (my emphasis)
(Paragraph 29)

Similarly, in the Brooklands Appeal Decisions the Inspector concluded that “Paragraph 71 of the Circular (Circular 03/2005 Changes of Use of Buildings and Land - The Town and Country Planning (Use Classes) Order 1987.) states that it is

the manner of use, as well as the physical attributes of the building that determines whether a use falls within Class C3. Use Class C3 does not preclude the provision of care to the occupants. Indeed, it is not unusual for many people, particularly the elderly, to receive care within their homes on a regular or daily basis.

Notwithstanding this, the primary purpose of the proposal is to provide care for the residents. The need for this care is reflected in both the physical form of the building, as well the manner in which the building will be used. In this respect the proposal would be fundamentally distinct from use as a dwelling house” (emphasis own) (Paragraph 20.)

It is clear from the aforementioned appeal decisions that specialist accommodation for the elderly purpose built to allow the provision of care for residents fall within Class C2 of the Use Classes Order. Similarly, development characteristics such the self containment are not in themselves a valid mean of determining whether a development falls within Use Class C2 or C3. I would remind the Council that in addition to the above Appeal Decisions, McCarthy and Stone has achieved considerable success nationally in demonstrating that their Assisted Living / Extra Care developments fall within use class C2 land use, both during the planning applications process.

We are encouraged tha there is a policy H11 to provide a specific reference to the needs of the ageing population. The complex needs, expectations, provision of care and support will vary considerably within this age group and there will be a need to provide a holistic approach to different types of housing and care provision from the public and private sector. The provision of adequate support and accommodation for the increasingly ageing democratic profile of Oxford City Council is a significant challenge and, unless properly planned for, there is likely to be a serious shortfall in specialist accommodation for the older population, which

Not in
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schedule

will have a knock-on effect in meeting the housing needs of the whole area and wider policy objectives. Specialist accommodation for the elderly, such as that provided by McCarthy and Stone, will therefore have a vital role in meeting the areas housing needs

Question 11.

Summary of Representation:

If your reason for support or objection is longer than 100 words, please summarise the main issues raised.

Please see above for further details.