

Tanner & Tilley comments

Retirement Housing Group (lamontgomery@btopenworld.com)

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BACKGROUND

The Retirement Housing Group represents a range of providers of accommodation for older people both in the private and public sectors. The Group's remit is to promote awareness of this sector of the market and ensure planning policies are put in place so as to ensure the delivery of an adequate supply of accommodation specifically designed to meet the diverse needs of older people.

In recognition of the issues of an ageing population the Government put forward specific planning policies in the **National Planning Policy Framework**. Firstly, older people are identified and defined as a specific group in society. Secondly paragraph 50 requires that Local Planning Authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community such as the elderly. It follows from the above that it is incumbent on the Local Planning Authority to include specific policies to ensure the delivery of specifically designed accommodation for older people including downsizer housing, sheltered accommodation, extra care developments and continuing care retirement communities in appropriate and sustainable locations within its administrative area.

The PPG **Addressing Housing Needs: Housing for Older People** states that the need to provide housing for older people is “critical” given the projected increase in the number of households aged 65 and over half of the new households (DCLG Household Projections 2013). It advises that plan makers need to consider the size, location and quality of dwellings needed in the future for older people in order to allow them to live independently and safely in their own home for as long as possible, or to move to more suitable accommodation if they so wish. Supporting independent living can help to reduce the costs to health and social services, and providing more options for older people to move could also free up houses that are under occupied. The future need for specialist accommodation, including that within Class C2, for older people broken down by tenure and type should be assessed.

The publication of the Housing White Paper provides a clear commitment from the Government to increase the numbers and choice of housing for older people. It recognises the significant social and economic benefits of providing housing for older people and indicates support for such housing near local services such as town and village centres. It also recognises that increasing the supply of such housing frees up more homes for other buyers.

POLICY H15 SPECIALIST OLDER PERSONS HOUSING

Flowing from the above Policy H15 seeks to address the issue of an ageing London population. The reasoned justification for the policy notes that London’s older population aged 65 or over is forecast to rise by 37% by 2029 and for the those aged 75 or over by 42%. It is therefore essential that Policy H15 enables viable development to be delivered to meet the needs of older Londoners.

Whilst the retirement housing Group welcomes the intention of the policy it is concerned that the requirements set out in B and C will impact on the ability of specialist housing providers to deliver viable schemes. In particular the threshold approach embodied in Policy H6 will inevitably lead to protracted issues of viability testing and the requirement for a Late Stage Viability Review will act as a deterrent to many providers.

Achieving a viable development is particularly challenging for specialist housing providers. Nearly all types of specialist housing for older people are impacted on financially by communal space and also a slower sales rate than other residential development. Typically, such developments have between 25% and 35% of their internal floor areas devoted to necessary communal areas and facilities, such as residents' lounges, laundries, guest suites, dining rooms and kitchens. It is these specific communal areas and facilities that differentiate older peoples' housing developments from other forms of accommodation for the wider population. These communal areas are a necessary part of a retirement housing development that are non-saleable floor space which the developer has to build but does not receive any direct revenue from. Typically, on average there is 70% net saleable area to acquire revenue from, compared to other forms of residential accommodation that would have 90-100% net saleable floor area. This places those providers of retirement housing at a disadvantage in land acquisition when compared to other forms of residential accommodation. A further distinguishing feature which flows from the above is the level of service charges needed to support the care and support provided. The annual service charge for an Extra Care apartment is between £4,730 and £5,200 and £1,400 to £1,820 for a conventional category II sheltered housing scheme. In addition to service charges it has been estimated that the additional build cost of say an Extra Care development over and above over market apartments based on a 50 unit scheme is in the region of £1.8million. Thus it follows that specialist housing providers are unable to compete with open market providers in land acquisition and therefore in normal circumstances the principle that the full affordable housing requirement can be met through land values is untenable.

Turning to C and that statement that extra care accommodation is considered as being Use Class C3 as a matter of law whether or not a particular development falls within Class C2 or Class C3 turns on fact and degree.

There are numerous appeal decisions that have examined this issue. In an appeal decision (AP/D0121/A/12/2168918) in Portishead the Inspector noted that *"Each of the apartments would have its own living room, bathroom and toilet and fully equipped kitchen"* Each apartment, in common with all Extra Care developments also had its own front door. The Inspector went on to state *"On their own , and looked at in isolation, I have no doubt that each of the apartments, is capable of being seen as falling squarely within Use Class C3 because they would provide all the necessary attributes of a separate dwelling. However, it is necessary to look at the interrelationship between the apartments and the rest of the building, and this goes beyond the physical arrangement, and involves an examination of the use of the separate parts of the building as a whole."* Having done that the Inspector concluded that *"It seems to me that the provision of care pervades the whole of the development."* He found that the development fell within Class C2.

Similarly conclusions were reached by an Inspector in an appeal in Sidmouth (APP/U1105/W/17/3177340) involving “113 self-contained apartments with their own front doors, private space and facilities.” that the facts of the case led him to conclude that “the proposed development is properly to be considered as a C2 use” It is worthy of note that in coming to this decision he acknowledged the Mayor of London’s Housing SPG (March 2015) which suggested that Extra Care accommodation is normally a C3 use.

Policy H15 should be tempered to recognise the particular viability challenges facing specialist housing providers.