

## RURAL EXCEPTIONS AND LOCAL NEEDS HOUSING

### Housing and Health Advisory Committee - 4 June 2024

**Report of:** Deputy Chief Executive, Chief Officer People and Places

**Status:** For information

**Also considered by:** Not applicable

**Key Decision:** No

**This report supports the Key Aims of:**

Housing Strategy 2022-2027, the Core Strategy 2011, and the emerging Local Plan 2040

**Portfolio Holder:** Councillor Perry Cole

**Contact Officer:** Alison Simmons, Extension 7272

**Recommendation to Housing and Health Advisory Committee:**

To note the report

**Reason for recommendation:**

To raise awareness of local needs housing and the delivery of exception sites in rural areas of the District

### Defining rural exceptions and local needs housing

- 1 The Sevenoaks District is a very popular and well connected place to live, but this also makes it expensive. This means there is a high level of need for affordable housing. The Targeted Review of Local Housing Needs 2022 identifies an annual need for 423 new affordable homes in the District. In February 2024, there were 989 applicants on the Housing Register who are in need of affordable housing for rent.
- 2 The opportunity to develop new housing in the District is highly constrained as 93% of the District is within the Green Belt and over 60% is within a Natural Landscape (formerly known as Areas of Outstanding Natural Beauty). These factors make it is very difficult to develop new affordable housing and this is especially true in rural areas of the District.
- 3 Rural exceptions housing schemes are small developments of affordable housing (normally less than 10 homes) built in response to an independently assessed evidenced need and in a location where planning constraints mean development would not normally be permitted. The homes are provided for local people in perpetuity, enabling them to stay in their community, benefit from family and friends'

networks and contribute to local life. This can make a real difference to the sustainability of communities and the vitality of local services and amenities. Core Strategy Policy SP4 and emerging Local Plan 2040 policy H3 make provision for rural exceptions housing in the District.

- 4 Rural exceptions housing can only be developed in locations where affordable housing can be retained for the benefit of local people in perpetuity. This forms part of the planning consent and is included in the Section 106 legal agreement and recorded as a local charge at Land Registry.
- 5 Locations where affordable housing can be retained in perpetuity are known as Designated Protected Areas (DPAs) as per the Housing Act 1996 (as amended). In DPAs, Housing Association tenants are unable to buy their home under the statutory Right to Acquire and shared ownership lessees are unable to exercise their statutory right to staircase their ownership to 100%. Within the District, some parishes are within a DPA, some parishes are partially within a DPA and some are outside of a DPA. Appendix A provides a breakdown of DPA coverage by Parish in the District.
- 6 An extract of the Council's template S106 legal agreement is attached at Appendix B. This shows how "local people" is defined, ie someone who is considered to have a local connection to a Parish. Prior to the use of the agreed Section 106 template there may be slightly different local connection criteria.
- 7 The Council's Allocations Policy 2022-2027 sets out the allocation of homes on rural exception sites which is a departure from the adopted policy because priority for vacant homes is given to those with a local connection to the Parish rather than housing need.
- 8 To meet identified needs in areas that are not within a DPA and therefore unable to be considered for rural exceptions housing, Local Lettings Plans are used to secure "local needs housing" for local people. In addition, Local Lettings Plans are used on allocated and windfall sites in rural areas (whether inside or outside a DPA) where Core Strategy Policy SP3 has triggered the provision of onsite affordable housing. Local Lettings Plans are agreed between the Council and the partner Housing Association and require approval by the Portfolio Holder. The Local Lettings Plans apply to first letting and relets, replicating the position of rural exceptions housing. Local Lettings Plans are not registered as a local charge at Land Registry, they can be withdrawn at any time subject to agreement by the parties and in areas outside a DPA, they cannot prevent a tenant or lessee exercising their statutory rights.

#### **The role of the Rural and Community Housing Enabling service (RACE)**

- 9 RACE is an independent service for Kent and Medway, providing expertise and working directly with communities to deliver housing that matches what local people need. It is hosted by the Kent Housing Group (of which the Council is a member). The service is fully funded until April 2025 through contributions from Local Authorities (including the Council) and Housing Associations. The RACE Steering Group is currently exploring how the service may be funded and continued after April 2025.
- 10 RACE works with Parish Councils, communities, housing teams at District and Borough Councils, Housing Associations, and local developers to identify rural communities where action needs to be taken to meet the housing needs of local

people and facilitate any development. It supports the delivery of local needs affordable housing, community led housing options and housing for older owner occupiers in rural communities.

- 11 RACE undertakes housing needs surveys, including the Council's 5 year programme of surveys, helps the Parish Council and Housing Association identify potential sites and acts as an honest broker between all partners. It supports, advises, and steers communities, Town and Parish Councillors from scheme inception to completion.

#### Local housing needs survey programme

- 12 In April 2020, Cabinet approved a 5 year programme of local housing needs surveys across all 31 parishes in the District. The 5 year programme with the identified housing need is attached as Appendix C. A copy of each parish needs survey has been uploaded to the Local Plan 2040 evidence page.
- 13 Surveys provide a snapshot of need within a Parish. In conjunction with other supplementary data, eg the housing register and registrations of interest held by Housing Association, surveys provide an independently assessed evidence of need. Such evidence is essential to support and justify the development of new rural exceptions or support Local Lettings Plans for local needs housing.

#### How sites are found for rural exceptions and local needs housing

- 14 Kent Housing Group has developed a *Guide to developing affordable homes in rural communities*, which is provided as a background paper. The process map on page 31 sets out how sites are found. Housing and Planning colleagues from the Council work very closely with RACE, the Parish Council, the partner Housing Association and other development partners in identifying potential sites. Any site to be taken forward is subject to the usual planning process.
- 15 The Council has been successful in securing new local needs housing on developments which are not rural exceptions housing sites. This includes Housing Association led developments (eg Gilchrist Cottages in Sevenoaks Weald – Local Lettings Plan) and on sites where affordable housing is triggered under Core Strategy Policy SP3 (eg Foxbury Farm in Seal – local connection criteria incorporated in the Section 106 legal agreement). It is anticipated new local needs housing will soon be secured via Local Lettings Plans at Egerton Nursery, Hextable and Salts Farm Depot, Fawkham.

#### Schemes delivered and in the pipeline

- 16 A full breakdown of schemes delivered and in the pipeline is shown below. The breakdown shows affordable housing only. A number of more recent schemes include a small number of open market homes, as allowed for under national policy, as these are required to provide necessary cross subsidy.

#### Schemes delivered as at February 2024

Primary Parish	Address	Housing Association	Rented homes	Shared Ownership
Chiddingstone*	The Slaters, Bough Beech, Chiddingstone	Moat	10	0

Chiddingstone	Redleaf Close, Chiddingstone Causeway	WKHA	7	3
Chiddingstone/ Leigh**	Charcott Green, Chiddingstone	WKHA	4	0
Leigh	Gibbs Field, Leigh	WKHA - Rent and English Rural Housing Association - Shared Ownership	7	3
Eynsford	Knight's Field, Bowers Lane, Eynsford	English Rural Housing Association	3	4
Fawkham	Six Acre Cottages, Valley Road, Fawkham	Moat	3	0
West Kingsdown	Maws Meadows, West Kingsdown	Orbit	16	4
Sundridge	Chapmans Close, Sundridge	WKHA	6	2
Farningham	Centenary Court, Braeside	WKHA	0	5
Sevenoaks Weald*	1A & 1B Gilchrist Cottages, Sevenoaks Weald	WKHA	2	0
Halstead/Knockholt **	Concorde Close, Halstead	English Rural Housing Association	2	0
Seal	Foxbury Close, Stone Street, Seal	English Rural Housing Association	6	0
Westerham*	St Mary's Court, Westerham (over 55s)	Moat	5	0
		<b>TOTAL</b>	<b>71</b>	<b>21</b>

#### Permitted schemes in the pipeline

Primary Parish	Address	Housing Association	Rented homes	Shared Ownership
Seal	Mills Crescent	WKHA	9	0
Chiddingstone	Chequers Barn, Bough Beech	English Rural Housing Association	8	0
Chiddingstone***	New Tyehurst Farm, Chiddingstone Hoath	To be confirmed	3	1
Fawkham*	Salts Farm Depot	WKHA	5	2
Hextable*	Egerton Nursery	Town and Country Housing	5	0
Halstead	Yew Tree Cottages- Clarks Lane	English Rural Housing Association	10	0
		<b>Total</b>	<b>40</b>	<b>3</b>

\* via Local Lettings Plan    \*\* shared nomination rights    \*\*\* private developer led

English Rural Housing Association have applied for planning permission for a site in School Lane, West Kingsdown, where the affordable housing comprises 7 rented homes and 3 shared ownership homes. The application has encountered difficulties because it constitutes major development (10 homes or more) and, as such, Kent County Council (KCC) Developer Contributions are triggered. Although independent viability testing demonstrates the application is unable to support any contribution, KCC are seeking a claw back clause within the S106 agreement.

Unlike private developers, our Housing Association partners are not for profit organisations and therefore no profit is made on any individual scheme. The continued imposition of KCC Developer Contributions in these circumstances is of grave concern to our Housing Association partners. The application is awaiting determination.

## **Key Implications**

### Financial

The service provided by RACE is crucial in assisting Sevenoaks District Council to deliver new rural exceptions and local needs housing. Should funding not be forthcoming to secure the RACE service beyond April 2025, the District Council will be unable to maintain its current levels of delivery.

### Legal Implications and Risk Assessment Statement

Should emerging Local Plan 2040 policy H3 be diluted or removed, eg as a result of feedback received at the Regulation 18/19 consultation or during public Examination, it would adversely impact our ability to continue the delivery of new rural exceptions housing.

The imposition of KCC Developer Contributions on all major development sites, including rural exceptions housing sites, will impact the future delivery of new affordable housing in locations where reliance is placed on delivery through rural exceptions housing. Rural exception housing is already under tremendous financial strain and schemes rely on the inclusion of a small number of open market homes to provide cross subsidy. Cross subsidy allows scheme viability to be achieved but it does not allow for KCC Developer Contributions. KCC Developer Contributions are sought on 100% affordable housing schemes where these are major development sites. Consideration should be given to seek exemption from KCC Developer Contributions for rural exceptions housing schemes and 100% affordable housing schemes, which would place them in a similar to CIL exemptions for affordable housing schemes.

### Equality Assessment

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. The decisions recommended through this paper directly impact on end users. Vacancies arising in rural exceptions and local needs housing are allocated to those with a local connection to the parish and are unlikely to be allocated to the applicant in highest housing need. The impact has been analysed and varies between groups of people. The impact is monitored through the regular review of the Sevenoaks District Housing Register Allocations Policy 2022-2027.

## Net Zero Implications

The decisions recommended through this paper have a remote or low relevance to the council's ambition to be Net Zero by 2030. There is no perceived impact regarding either an increase or decrease in carbon emissions in the district or supporting the resilience of the natural environment.

## **Conclusions**

The District Council has been successful in delivering new rural exceptions and local needs housing, which is helping local people remain in the local communities. The Housing Strategy and emerging Local Plan recognise the importance of this work continuing. In order for this to happen, it is essential robust policy is included in the emerging Local Plan 2040 and new funds are secured to continue the RACE service beyond April 2025. Exemption from KCC Developer Contributions would also assist ongoing and future delivery of rural exceptions housing and 100% affordable housing schemes.

### **Appendices**

Appendix A – Breakdown of Designated Protected Areas coverage by parish

Appendix B – How local connection to a parish is defined

Appendix C - Five-year programme of local housing needs surveys and need identified

### **Background Papers**

[Kent Housing Group's Guide to developing affordable homes in rural communities](#)

**Sarah Robson**

**Deputy Chief Executive and Chief Officer – People and Places**