



Committee Report

To:	Warden Hicks and Members of Grey County Council
Committee Date:	June 23, 2022
Subject / Report No:	Report on Housing Planning Tools / PDR-CW-22-22
Title:	Affordable Housing Planning Tools Report
Prepared by:	Liz Buckton and Scott Taylor
Reviewed by:	Randy Scherzer, Michael Letourneau, and Kim Wingrove
Lower Tier(s) Affected:	All municipalities within Grey County
Status:	

Recommendation

1. That Report PDR-CW-22-22 regarding Affordable Housing Planning tools be received; and
2. That Report PDR-CW-22-22 be shared with member municipalities in Grey County for information purposes; and
3. That Report PDR-CW-22-22 be used as background materials to inform the County's delegation request to the Ministry of Municipal Affairs and Housing as part of the coming Association of Municipalities of Ontario conference.

Executive Summary

Grey County and member municipalities need additional affordable housing.

This report provides a background of the existing planning policies and legislative tools available to municipalities. It also summarizes the work the County is taking action on to address the need for additional affordable housing.

Staff recommend that the County support member municipalities who wish to update their planning policies, zoning by-laws, and/or pursue a development permit system to enable inclusionary zoning. Staff further recommend that the County continue to advocate for more affordable housing funding and tools to empower municipalities to support the development of additional affordable housing.

Background and Discussion

Additional affordable housing is needed in Grey County and across the province. This issue has been an important focus during this term of Council. County Council has taken leadership on this topic by establishing an Affordable Housing Taskforce and implementing a Community Improvement Plan program. Additional detail on the County's actions on affordable housing are provided later in this report. The County's member municipalities have also shown great leadership on affordable housing, including but not limited to; updating their official plans and zoning by-laws, establishing Community Improvement Plans (CIPs) to partially fund new housing, and working with local attainable and not-for-profit housing corporations to develop housing.

County staff acknowledge that to address affordable housing it will take action at all levels of government. Staff further applaud any municipality that is attempting to 'think outside the box' on this topic. That said, staff are cognizant of the existing legislative and policy framework we operate within. Should these frameworks change, it could empower the County and member municipalities to have more tools available to support the development of affordable housing, and staff would bring any such changes to the attention of Council. Staff are recommending that Council continue to advocate for additional funding and tools to support the creation of affordable housing.

Legislation – The Planning Act

The *Planning Act* provides the legislative framework for all planning activities within the Province of Ontario. Section 2 of the Act outlines matters of Provincial interest which all municipalities shall have regard for. Under subsection (j) it states; *"the adequate provision of a full range of housing, including affordable housing."*

Section 51(24) of the Act provides criteria which approval authorities shall have regard for, as it pertains to plans of subdivision and the *"welfare of the present and future inhabitants of the municipality."* More specifically 51(24)(d.1) states; *"if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing"*.

The *Planning Act* is clear that the Province wants municipalities to consider affordable housing, though the Province has not required municipalities to include affordable housing in all new subdivisions. Section 51(24)(d.1) notes that the consideration of suitability of any proposed units for affordable housing should be undertaken *"if any affordable housing units are being proposed"*. To staff this indicates that inclusion of affordable units remains at the discretion of municipalities, and that it is not a firm requirement under the *Act* that one shall include affordable housing in all subdivisions.

Section 51(25) of the Act allows an approval authority to impose conditions on a plan of subdivision. However, staff do not believe that this section includes the ability nor authority to require affordable housing in a subdivision. Staff are also cognizant of the need to be equitable with respect to how any such conditions would or could be imposed on private developments. Furthermore, the implementation of such conditions to maintain private ownership units at an affordable rate is expected to be logistically challenging. While units may be offered on an affordable basis to the first owner, limited tools exist to maintain this affordability over time and with subsequent sale of the lands.

There are three key tools under the *Planning Act* which may aid municipalities in seeking the creation of affordable housing. A quick summary of these three tools has been provided below.

- 1) Community Benefits Charges (CBCs) under the revised section 37 of the *Planning Act* – CBCs are a power under the Act that only exists for local municipalities. No municipalities in Grey have opted to pursue CBCs yet. CBCs are not a direct replacement of the former height and density bonusing that municipalities had access to under the former Section 37 of the *Planning Act* and work in a manner similar to Development Charges (DCs). The restrictions attached to the use of CBCs make them of limited benefit for many Grey County communities since they can only be applied in relation to:
 - development of a proposed building or structure with five or more storeys at or above ground, or
 - development of a proposed building or structure with ten or more residential units.
- 2) Inclusionary Zoning under section 35.2 of the *Planning Act* – Inclusionary zoning allows a municipality that has completed an Assessment Report and has official plan policies in place, to require a specified amount of new housing units within a development project to be affordable.

Unfortunately, the Province has placed restrictions on where inclusionary zoning can be used through Bill 108, which state that municipalities that are not prescribed to provide inclusionary zoning may only do so in protected major transit station areas (PMTSA) or where the lands are subject to a development permit system (DPS). Grey County is not in an otherwise prescribed area, or in a PMTSA.

In order to use this tool, Grey's municipalities must first implement a development permit system (DPS) as a replacement of their zoning by-law. They must also amend their official plan. County staff are not aware of any Grey County municipalities currently pursuing a DPS and inclusionary zoning. Town of The Blue Mountains did have a presentation to their Council on this topic a while ago. County staff are happy to work with any municipalities that wish to explore this topic further including the implementation of a DPS as a means of supporting additional affordable housing creation. Municipalities may choose to apply a DPS to some sections of their community and not others (e.g. it appears it could be targeted to those areas where affordable housing is most suited).

- 3) Community Improvement Plans (CIPs) under section 28 of the *Planning Act* – CIPs allow municipalities to offer incentives and grants within a CIP project area. Items like façade improvement, brownfield redevelopment, affordable housing, or accessory apartments can all qualify for grants in a municipal CIP. Grey County has developed a CIP template program and partially funds municipal CIPs. Affordable housing is a key matter that the County and member municipalities seek to encourage through their CIPs. CIPs also provide a key tool with respect to acquisition, demolition, improvement and/or sale of lands (at or below market value) not otherwise available under limitations of the *Municipal Act*. CIP incentives are funded via tax revenues of the municipality

(with contributions from the County) and they facilitate leveraging of significant improvements/private investment dollars through their strategic application and stacking. Return on investment from a triple-bottom-line perspective, can be substantial. Currently 7 of 9 municipalities in Grey have a CIP in place, and staff understand that the other 2 municipalities are working towards a CIP.

Other tools in the *Planning Act* include more standard planning instruments like zoning by-laws and official plans, which may permit varying densities, as well as being required to permit additional residential units (ARUs) in dwellings and accessory structures. County staff are also exploring whether the new Bill 109 accelerator tool could also be used in support of affordable housing on a site or area-specific basis.

Policy – The Provincial Policy Statement (PPS) 2020

Like the *Planning Act*, the PPS promotes a wide range of housing types across municipalities. All municipal planning decisions need to be consistent with the PPS. Section 1.4.3 of the PPS states:

“Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents of the regional market area by:

- a) *establishing and implementing minimum targets for the provision of housing which is affordable to low and moderate income households and which aligns with applicable housing and homelessness plans. However, where planning is conducted by an upper-tier municipality, the upper-tier municipality in consultation with the lower-tier municipalities may identify a higher target(s) which shall represent the minimum target(s) for these lower-tier municipalities;”*

The PPS also provides definitions for owned and rental affordable housing as follows:

“Affordable: means

- a) *in the case of ownership housing, the least expensive of:*
 1. *housing for which the purchase price results in annual accommodation costs which do not exceed 30 percent of gross annual household income for low and moderate income households; or*
 2. *housing for which the purchase price is at least 10 percent below the average purchase price of a resale unit in the regional market area;*
- b) *in the case of rental housing, the least expensive of:*
 1. *a unit for which the rent does not exceed 30 percent of gross annual household income for low and moderate income households; or*
 2. *a unit for which the rent is at or below the average market rent of a unit in the regional market area.”*

Staff would note that in recent years, the above thresholds for affordable housing are rarely met by private developers and are more common to see through not-for-profit housing or County-owned housing. Staff have seen some developers propose ‘attainable’ housing i.e. housing that does not meet the threshold for affordable, but is still more attainable to low to moderate income households than many other housing types on the market.

Policy – Recolour Grey 2019

The County's Official Plan, Recolour Grey, provides policy direction on affordable housing similar to the PPS and the *Planning Act*. To implement the direction of the Province, the County Plan provides policies on residential density, ARUs, CIPs, definitions of affordable housing, and varying housing types including tiny homes, rental housing, seniors housing, and special needs housing. In order to be consistent with the PPS, section 4.2(f) of the Plan states:

“The goal of providing housing opportunities to moderate and lower income households. The County would like to achieve a minimum target of 30% of new housing, or units created by conversion, to be affordable in each local municipality. Local municipalities are encouraged to have regard for the Grey County Housing and Homelessness Plan (2014-2024) when setting targets in their local official plan. Local municipalities will be encouraged to set a minimum target similar to the County for affordable units.”

While the County provides for the above-noted 30% target, the County has very few mechanisms to 'enforce' such a target i.e. the County does not have the ability to use inclusionary zoning. As a result, the County Plan has used the wording “would like to achieve” rather than “shall achieve”, in recognition of the fact that such housing cannot be strictly required.

Although the County targets do not have strength of a 'shall statement', staff have attempted to utilize other tools such as allowing for as-of-right ARUs, having no upset limit on residential density in serviced settlement areas, Development Charges (DC) exemptions, and using CIPs, to encourage a wide range of housing types. Further changes are also being proposed through Official Plan Amendment (OPA) 11 with respect to housing types and residential density.

In recent years the County has seen an increase in the number of semi-detached, townhouse, and purpose-built rental units. Although many of these units were not 'affordable' as per the PPS definition, the County is encouraged by the wider range of living options being built, some of which fall into an attainable category.

Abbots Ontario Land Tribunal Hearing Decision

On June 10, 2022, the County received the OLT's decision on the Abbots development in Town of The Blue Mountains. A copy of this decision has been linked to in the Attachments section of this report.

The OLT approved the development but did not approve the Town's request to have 6 affordable units included in this development. In the OLT decision, the Tribunal found as follows with respect to the Town's request.

“[162] The Tribunal finds that the Town's request, although heartfelt and sincere, is not reasonable, is not relevant and is not equitable in the case of this proposed development.”

In reaching this finding, the Tribunal noted:

“[155] There is no question that municipalities must consider how best to accomplish the task of providing affordable housing. There are many tools available to assist in

accomplishing this, such as Inclusionary Zoning, incentives and/or the use of Section 37 or Community Benefits provisions.

[156] However, the Town has not provided any tools by which the Tribunal can adjudicate on this matter. In the absence of OP policies providing direction, the Tribunal is not in a lawful position to grant or approve the Town's request.

[157] Subsection 51(25) of the Planning Act states that:

"The approval authority may impose such conditions to the approval of a plan of subdivision as in the opinion of the approval authority are reasonable, having regard to the nature of the development proposed"

[158] Not only must the Tribunal consider the test of reasonableness, it must also consider whether the proposed condition is relevant, necessary and equitable.

[159] With respect to reasonableness, there is no policy basis for this request and the Town's OP is silent, therefore the Tribunal does not consider this request reasonable.

[160] With respect to relevancy, the request is not tied to the development or the nature of the subdivision. Unlike servicing requirements which are clearly connected, the issue of affordable housing is a broader community issue and did not arise as a result of this proposal.

[161] With respect to equity, prior planning applications have not been asked to provide affordable housing, and yet this one developer is now being asked to set aside 6 units or 30% for affordable housing."

County staff would generally concur with the OLT's decision on this matter. Staff respect the fact that the Town, and other municipalities across Ontario, are all looking to increase the amount of affordable housing. Furthermore, staff appreciate that solutions or partial solutions to this matter may require some 'outside the box' thinking. That said, staff are cognizant of the need to operate within the current legislative and policy framework, until such time as the framework changes.

Staff recommend that there be continued discussions with senior level governments with respect to funding, as well as additional legislative tools to empower municipalities to require affordable housing. At the June 9th, 2022 County Committee of the Whole meeting, staff were directed to submit a delegation request to the Ministry of Municipal Affairs and Housing to "request for additional tools to support the development of affordable housing." Staff recommend using this report as background to that delegation request. The Abbotts OLT decision can also form a piece of this information, to note the current difficulties with respect to requiring affordable housing.

Voluntary Approaches with Respect to Affordable Housing

Through the leadership shown by Grey County and member municipal councils on affordable housing, it further empowers staff to request (but not require) affordable or attainable housing in new developments. To be fair to developers, staff believe that this is best done very early in the development process, ideally at the pre-submission consultation stage. If a developer wishes to consider this request, they can then build it into their plans and development budgets moving

forward. Staff are aware that a number of local developers and consultants were watching the Abbotts development with respect to the impacts it could have on their own development applications. The Abbotts file has again 'shone a light' on need for affordable housing, and its importance to municipalities. Recently there have been some developers that have made commitments to municipalities to provide some lower cost residential units as part of their developments. Staff will continue to raise this matter with developers and highlight the priorities that have been set by Grey County and member municipal councils on affordable housing.

County Leadership on Affordable Housing

County Council has shown great leadership on the affordable housing portfolio. In 2020 the County established an Affordable Housing Taskforce to take action on this topic. Since the first meeting in March of 2020, a number of actions have been taken including but not limited to;

1. the creation of a Housing Action Plan,
2. establishing an Affordable Housing Fund consisting of 1% of the levy,
3. investigating using surplus County and Municipal lands for future affordable housing purposes,
4. establishing the CIP template and partially funding municipal CIPs,
5. providing Development Charges exemptions for purpose-built rentals and not-for-profit housing,
6. planning policy updates,
7. providing comments on Provincial initiatives and legislation such as Bill 109, and
8. constructing a supportive housing development in Owen Sound.

The Attachments section of this report provides links to a number of reports presented to the Affordable Housing Taskforce which provide more detail on the above 8 items.

Legal and Legislated Requirements

As discussed above.

Financial and Resource Implications

There are no anticipated financial, staffing or resource considerations associated with this report.

Relevant Consultation

- Internal: Planning, Housing, Legal Services, and CAO
- External: Erroll Treslan, Alliance Lawyers

Appendices and Attachments

[Abbotts Ontario Land Tribunal Decision](#)

[Addendum to PDR-AF-01-20 Updated Housing Action Plan and Next Steps](#)

[PDR-AF-19-21 Rental Housing Update and Next Steps](#)

[PDR-AF-09-22 Public Lands for Housing Project – Intro and Workplan](#)

[PDR-AF-17-22 Bill 109 More Homes for Everyone Act](#)