

Affordable Housing Supplementary Planning Document

April 2014



Exeter City Council

www.exeter.gov.uk

Exeter Local Development Framework

1.0 INTRODUCTION

Purpose of the Supplementary Planning Document

- 1.1 It is important that everyone living in Exeter has the opportunity of a decent and affordable home. One of the nine themes of the Sustainable Community Strategy¹ is 'a *City with homes for everyone*', reflecting the Council's commitment to helping local people who cannot afford to buy or rent a home on the open market in Exeter.
- 1.2 Where there is an assessed need for affordable housing, the Government allows local authorities to deliver affordable homes by requiring developers to provide them within new housing schemes. Policy CP7 of the *Core Strategy*² sets out the Council's approach towards achieving this.
- 1.3 This SPD provides more detailed guidance on how Policy CP7 will be implemented, in order to deliver affordable homes and to help promote mixed and sustainable communities. The SPD forms part of the Exeter Local Development Framework and is a material consideration in the determination of planning applications. Its contents will need to be taken into consideration from the earliest stages of the development process, including in the purchase of sites and the negotiation and preparation of residential schemes.
- 1.4.1 Applicants for planning permission are expected to consider the overall cost of development, including affordable housing and all other requirements of the development plan, prior to negotiating the purchase of land or an option. The Council wishes to avoid situations where developers purchase land without taking the requirement to provide affordable housing into account. Developers should not expect that the requirement will be waived where this has not been accounted for in the land purchase price.

The Policy Context

- 1.5 Government policy on planning for affordable housing is set out in paragraphs 47 and 50 of the *National Planning Policy Framework (NPPF)*³. Annex 2 of the *NPPF* defines affordable housing as comprising social rented, affordable rented and intermediate housing (see Appendix 1 of this SPD for more detail). For the purposes of planning policy, the *Core Strategy* and this SPD use the *NPPF*'s definition of affordable housing.
- 1.6 Policy CP7 of the *Core Strategy* reflects the provisions of the *NPPF* at a local level and is set out below:

Policy CP7: On sites capable of providing 3 or more additional dwellings (irrespective of the number of dwellings proposed) 35% of the total housing provision should be made available as affordable housing for households whose housing needs are not met by the market. At least 70% of the affordable housing should be provided as social rented housing. The overall percentage of affordable housing and the tenure split will be subject to considerations of viability and feasibility. Where it is not possible for viability reasons to provide the full requirement of social rented housing, affordable rent provision would be considered, let as far as possible at social rented levels. The remaining balance of the affordable housing should be delivered as intermediate affordable housing.

¹ *Exeter Vision*, Exeter Vision Partnership. www.exeter.gov.uk/visionstrategy

² *Core Strategy (adopted February 2012)*, Exeter City Council (2012). www.exeter.gov.uk/corestrategy

³ *National Planning Policy Framework (2012)*, Department for Communities and Local Government. <http://www.communities.gov.uk/publications/planningandbuilding/nppf>

2.0 AFFORDABLE HOUSING NEED IN EXETER

Strategic Housing Market Assessment

- 2.1 In 2007, Exeter City Council and neighbouring authorities⁴ commissioned a *Strategic Housing Market Assessment (SHMA)*⁵ to assess the need for both market and affordable housing across the Exeter and Torbay Strategic Housing Market Area. An update to the *SHMA* was produced in 2010, specifically for Exeter (*2010 SHMA*)⁶. A new SHMA is currently in preparation.
- 2.2 To meet housing needs in Exeter between 2010 and 2015, the *2010 SHMA* identifies a requirement for 5,294 additional dwellings to be provided, of which 3,165 dwellings (nearly 60%) should be affordable. This demonstrates a significant need for affordable housing in the City. Of the 3,165 affordable dwellings, the *2010 SHMA* concludes that around 70% need to be provided as social rented housing.

Housing Register

- 2.3 The Housing Register for Exeter provides more detail about the level of affordable housing need experienced by households in Exeter. The Housing Register currently shows a high overall requirement for small affordable dwellings. However, the Register also shows that larger households tend to have a more acute degree of affordable housing need.

⁴ Devon County Council, East Devon District Council, Mid Devon District Council, Teignbridge District Council, Torbay Council and Dartmoor National Park Authority.

⁵ *Exeter & Torbay Strategic Housing Market Assessment (2007)*, ORS.

⁶ *Exeter Strategic Housing Market Assessment (2010)*, ORS.

3.0 AFFORDABLE HOUSING PLANNING POLICY

3.1 The following section explains in more detail how Policy CP7 will be applied. Appendix 2 summarises the process as an ordered series of questions that the planning officer and applicant will need to address when considering/preparing a proposed scheme of development.

Applying the policy

3.2 The requirement to provide affordable housing will apply to all proposals for residential development, including:

- new build, conversions and mixed use schemes;
- phased developments (whether the result of one or more than one planning application) where the threshold of 3 dwellings will be exceeded by cumulative totals;
- developments by Registered Providers (RPs);
- schemes providing housing for people receiving care or support, including supported housing developments;
- schemes involving non-self contained dwellings and the sharing of amenities, including houses in multiple occupation.

3.3 Proposals for, and limited to, purpose built student accommodation will not be subject to affordable housing requirements.

Amount of affordable housing

3.4 Policy CP7 sets out the Council's intention to negotiate 35% affordable housing on all sites capable of providing 3 or more new dwellings (net), subject to considerations of viability and feasibility.

3.5 In some cases, the percentage of affordable housing required will not equate to a whole number of dwellings⁷. In order to make up the balance, the Council will require a financial contribution to provide 'part' of an affordable home, based on the formula provided in Table 1 of Appendix 3. A worked example is provided in the same Appendix (Worked Example 1).

3.6 Where the Council considers that the number of new dwellings proposed is inappropriate for the site area or the building to be converted, a revised scheme will be negotiated at the more appropriate density. This may alter the affordable housing requirement under Policy CP7.

Size Mix

3.7 The Council will require the mix of new affordable housing on each development site, to be representative of the mix of market dwelling types and sizes (including number of bedrooms) being provided. Exeter Core Strategy Policy CP5 sets out the Council's approach to housing mix.

3.8 Appendix 3 includes a worked example showing how the mix would apply to a scheme incorporating 25 affordable homes (Worked Example 1)

⁷ For example, 35% of a 90 dwelling scheme equates to 31.5 affordable homes. In addition to 31 affordable homes, the Council would seek a financial contribution equivalent to half (0.5) of an affordable home.

Tenure Mix

- 3.9 As set out in paragraph 2.2 above, the 2010 SHMA shows that around 70% of households in need of affordable homes can only afford social rented housing provided by RPs or the Council. On each qualifying site the Council will therefore expect at least 70% of the the 35% affordable housing requirement to be social rented housing. The remaining balance of the affordable housing should be provided as intermediate affordable housing.
- 3.10 Worked Example 1 in Appendix 3 shows how the tenure mix would be applied to a scheme incorporating 25 affordable homes.
- 3.11 If the applicant can demonstrate that this balance is not viable, the Council will require 35% affordable housing with an element affordable rent as part of the mix. The affordable rented units should be let as near as possible, to social rent levels.

Supported and Wheelchair Accessible Housing

- 3.12 The supporting text to Policy CP7 states that the affordable housing mix should include specialist housing, where there is an evidenced need. Where an evidenced need exists, the Council may therefore seek an element of affordable specialist / supported housing in its negotiations.
- 3.13 The Council's Housing Register demonstrates that there is also a clear need in the City for affordable housing that is wheelchair accessible. To help meet this need, on qualifying sites, 5% of the affordable housing should be wheelchair accessible.
- 3.14 The wheelchair accessible housing will be those sizes and types of dwellings that most effectively meet the greatest need (at the time of reserved matters or full application) of those on the Council's Housing Register at that time. Wheelchair accessible housing is to be built in accordance with the Council's Wheelchair Accessible Housing Design Standards 2011⁸ or any amended version in force at the time of reserved matters of full application submission.

Distribution and Design

- 3.15 Affordable housing should conform to the design standards normally required by any funding bodies (e.g. the Homes and Communities Agency (HCA)) in order to qualify for grant. These standards may be higher than those applicable to market housing, reflecting the needs of the occupants and the implications of the difference in tenure.
- 3.16 Innovative design of affordable homes and their environment will be encouraged, within the context of overall planning policies (and guidance from the Exeter Residential Design Guide SPD). To promote inclusive communities, it should not be possible to ascertain the difference between market and affordable housing in any one scheme - the affordable housing must integrate seamlessly into the layout of the development. To help create more varied patterns of house types and ownership in the City, the affordable housing should be distributed amongst the market housing in clusters of no more than 10 units and spread across the site.

Timing of provision

- 3.17 The timing of the delivery of affordable housing is a key issue in securing mixed and balanced communities. This is particularly important on larger schemes, where poor timing can result in isolated pockets of development and cause problems with infrastructure

⁸ *Exeter Wheelchair Accessible Housing Design Standards 2011*, (2011), Exeter City Council.
www.exeter.gov.uk/index.aspx?articleid=12340

delivery, leading in the short term to a poor living environment for new residents. On all development schemes, the affordable housing must be completed proportionately with the market housing.

Commuted provision

- 3.18 Where affordable housing is required under Policy CP7, the Council will expect it to be provided on the development site.
- 3.19 Commuted provision will only be agreed in exceptional circumstances and at the Council's discretion, in the following order of priority:

Off-site provision

- 3.20 The first priority will be to seek provision on an alternative site in Exeter. The 35% affordable housing target will be applied across both sites to ensure a pro-rata contribution. However, it is unlikely that the Council will accept a proposal that results in an inappropriate mix of tenures or excessive dominance of affordable housing within a particular location.
- 3.21 The Council must also be satisfied that there is a suitable and available alternative site to accommodate the affordable housing. The site should be identified by the applicant during pre-application discussions and either:
- already have planning permission for housing, in which case the Council will need to be satisfied that the site can, in principle, accommodate the off-site provision; or
 - be acceptable to the Council for housing in principle. In this case, the site will need to be the subject of a concurrent planning application. The two planning permissions will be tied together by means of a Section 106 Agreement, to ensure delivery of the affordable housing.
- 3.22 Worked Example 2 in Appendix 3 shows how the Council would calculate the level of off-site provision arising from a scheme of 50 market dwellings.

Off-site purchase

- 3.23 If the applicant is unable to provide the affordable housing off-site, as a second priority they may buy dwellings of an equivalent number and size on the open market for use as affordable housing. The dwellings should be in a location agreed by the Council at the pre-application stage and have the potential to meet all required standards. The applicant will be required to sell each dwelling to the Council or one of the Council preferred RPs for £1.

Financial contribution

- 3.24 Finally, the Council may agree to the provision of affordable housing by way of a financial contribution, calculated using the formula set out in Table 1 of Appendix 3. The 35% financial contribution will be calculated on the basis that the proposed dwellings on the application site represent 65% of the total number of dwellings to be provided. The contribution will be spent on the provision of affordable housing in the City.
- 3.25 Worked Example 3 of Appendix 3 shows how the Council would calculate the financial contribution arising from a scheme of 40 market dwellings.

Section 106 Agreement

- 3.26 On qualifying sites, a draft Section 106 Agreement to secure the affordable housing will need to be addressed as part of the process of determining the planning application. The application will be refused if the Section 106 Agreement is not signed within a certain period of time (usually within 3 to 6 months of the application being considered by Planning Committee).
- 3.27 The Council will be pleased to supply a draft agreement to the applicant once the relevant details have been provisionally agreed. A specimen agreement and sample clauses are displayed on the Council website at www.exeter.gov.uk/planningobligations, but note that these are liable to change from time to time. Further details of the matters likely to be covered by the Agreement are also contained in Appendix 5.

4.0 MANAGEMENT AND OCCUPANCY

Management

- 4.1 The Council's preference is for affordable housing to be transferred to either the Council's Housing Department or an RP, once it has been built. It will then be managed as affordable housing in accordance with HCA guidelines. A list of the Council's preferred RPs is provided at Appendix 6.
- 4.2 In certain circumstances, developers may choose to retain ownership of the affordable housing and manage it directly. In such cases, the Council will ensure that appropriate management arrangements are in place.

Control of occupancy

- 4.3 The Council will ensure that occupancy of affordable housing provided under Policy CP7 is restricted to eligible households in housing need. The eligibility of any household will be based firstly on its ability to afford suitable market housing and secondly on its level of housing need relative to other households. To assess this and to fulfil its statutory obligations, the Council jointly operates the Devon Home Choice (DHC) choice-based letting system, which not only allows for the registration of need and waiting time, but also gives applicants greater opportunity to choose which home they live in when they reach the front of the waiting list.
- 4.4 All RPs in Exeter contribute to the costs of running Devon Home Choice. If an applicant wishes to let or sell affordable homes without involving an RP, the Council will ensure that they are available to successive occupiers nominated by the Council through DHC, and in these circumstances the applicant will be required to bear a fair share of the running costs of the DHC scheme.

Affordability

- 4.5 Before granting planning permission, the Council will need to be satisfied that rental levels, service charges and shared ownership costs will be affordable both initially and in the long term to occupants.
- 4.6 For social rented housing, rents should be in line with the HCA calculation for 'target rents', as set out in the HCA's latest Capital Funding Guide⁹. Increases should be limited annually according to the HCA's requirements on annual rent and service charge increases.
- 4.7 Affordable rented housing is not subject to the national rent regime, but requires a rent no greater than 80% of the local market rent. This figure will be inclusive of service charges and based on the Royal Institute of Chartered Surveyors' approved valuation methods. A guidance note can be found on the Homes and Communities Agency website¹⁰.
- 4.8 Outgoings on intermediate low cost home ownership should in no case exceed the average market rent for comparable properties. The mortgage element of the outgoings should be assessed on the basis that there is a 30 year repayment mortgage at standard variable rates (i.e. ignoring any introductory discounts). The initial share of the equity in shared equity dwellings will not exceed an average of 40% of the Open Market Value of the affordable dwelling, with the opportunity (but no obligation) for the purchaser to acquire

⁹ E.g. *Affordable Housing capital funding guide 2013-14 (2013)*, Homes and Communities Agency.
http://www.homesandcommunities.co.uk/cfg?page_id=&page=1

¹⁰ www.homesandcommunities.co.uk/ourwork/affordable-rent

additional equity shares. Any rents payable on low cost home ownership homes will be dependent upon the viability of an individual site, but should not exceed 2.75% of the retained equity. This is to ensure that as much income as possible is available to occupants to pay off mortgage costs.

- 4.9 For intermediate rented housing, rents should be set at 80% of local market rents and not exceeding Local Housing Allowance Rates. In every case, rents must fall within any relevant ceiling set within the Housing Benefit system (e.g. Local Reference Rents or Local Housing Allowance).
- 4.10 Schemes should be designed to ensure that service charges applicable to any affordable housing are kept as low as reasonably possible. Failure to take affordability issues into account within the scheme design could be grounds for refusing planning permission. In any event, service charges should not exceed the maximum amount an eligible household would be entitled to claim under the housing benefit regulations in force at the time.

Perpetuity

- 4.11 In accordance with the *NPPF* definition of affordable housing, the Council will ensure that affordable homes delivered under Policy CP7 either remain available at affordable rents in perpetuity, or their value is recycled to provide other forms of affordable housing to meet an identified local need.
- 4.12 All money received as a result of occupants purchasing either their property (e.g. through the 'right to acquire') or a further equity share (e.g. through 'staircasing') will, subject to any statutory restrictions, be used to provide affordable housing within the City. If dwellings that have benefitted from City Council housing grant are purchased, the grant should be paid back to the Council's Housing Department. Recovered HCA grant must either be paid back to the Agency or recycled to provide affordable housing in the same market area, in accordance with the HCA's guidance on recycled capital grant funding¹¹.

¹¹ *Affordable Housing Capital Funding Guide 2013-14 (2013)*, Homes and Communities Agency. http://www.homesandcommunities.co.uk/cfg?page_id=&page=1

APPENDIX 1

(Para refs. 1.5, 3.9-3.11, 4.6-4.9)

WHAT IS AFFORDABLE HOUSING?

The following text is extracted from Annex 2 of the *NPPF*.

Affordable housing: *Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision*

Social rented housing is owned by local authorities and private registered providers (as defined in Section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.

Affordable rented housing is let by local authorities or private registered providers of social housing to households who are not eligible for social rented housing. Affordable rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).

Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.

Homes that do not meet the above definition of affordable housing, such as 'low cost market housing', may not be considered as affordable housing for planning purposes.

APPENDIX 2

Affordable Housing Policy made simple: 10 Questions to ask

1. Is the policy applicable to this proposal? (paras 3,2-3.3)
2. How much affordable housing is required? (paras 3.4-3.6)
 - a. What happens when the affordable housing requirement does not equate to a whole unit? (para. 3.7, Appendix 3)
3. What mix of affordable housing is required? (paras 3.7-3.8)
4. What is the required tenure? (paras 3.9-3.11)
5. Is there a requirement for any specialist affordable housing (paras 3.12-3.14)
6. What are the design requirements for affordable housing? (paras 3.15 – 3.16)
7. When is the affordable housing required to be developed? (para 3.17)
8. Is there an exceptional reason to justify commuted provision of the affordable housing? (para. 3.19). If the answer to this question is yes then:
 - a. Firstly, can the affordable housing be provided on an alternative site? (paras 3.20– 3.22);
 - b. Secondly, can the affordable housing be provided via off-site purchase? (para 3.23)
 - c. Finally, can the affordable housing be provided via a financial contribution? (para 3.27-3.28, Appendix 3)
9. Who will manage the affordable housing? (para. 4.1–4.4, Appendix 5)
10. Will the affordable homes 'be affordable'? (paras 4.5-4.10)
 - a. Will services charges be affordable? (para 4.10)

In addition to the above questions which the Planning officer will need to clarify, the developer may want to know the answer to the following questions.

11. What is affordable housing? (Appendix 1)
12. What is the Council's policy basis for requiring affordable housing? (para 1.5-1.6)
13. What is a wheelchair accessible unit? (paras 3.12-3.14 and ref. 8)
14. What is the legal mechanism for securing the affordable housing? (para 3.26-3.27, Appendix 5)
15. Who will occupy the affordable housing? (para 4.3 – 4.4)
16. What rent can I charge? (paras 4.5-4.10)
17. Do I need to provide the affordable housing in perpetuity? (paras 4.11-4.12)

APPENDIX 3

(Para refs 3.7, 3.10, 3.13.12, 3.25, 3.27-3.28)

CALCULATING FINANCIAL CONTRIBUTIONS

Financial contributions sought by the Council in lieu of the provision of affordable housing will be calculated based on the financial contribution per dwelling figures contained in column D of the table below. The table below shows how the sum has been calculated.

Table 1	A	B	C	D
	Average Size m2	Typical Build Costs m2	Average Plot Value	Financial Contribution per dwelling
1 Bed Flat	55	£1,247	£22,217	£90,802
2 Bed Flat	72	£1,247	£22,217	£112,001
2 Bed House	83	£1,247	£22,217	£125,718
3 Bed House	91	£1,247	£22,217	£135,694
4 Bed House	103	£1,247	£22,217	£150,658
5 Bed House	114	£1,247	£22,217	£164,375

The Breakdown

Average Size – These are average sizes (+10% for communal space for flats) taken from the *Residential Design Guide SPD*, page 60.

Typical Build Costs – Based on the analysis of a number of schemes taken from BCIS online and co-ordinated by a local Chartered Quantity Surveyors practice. The schemes are typical estate type housing schemes in similar city locations to Exeter. The figure of £1,247 per m2 is an average of the schemes investigated and includes building works, external works, preliminaries and design fees. It is a figure that was first used by the Council in February 2013 and should be indexed from that date.

Plot Value – An average per acre figure derived from recent land sales in and around Exeter during 2011-2012, as investigated by an external development consultant. This per acre figures is then divided by an average density figure of 26.5 dwellings per acre, based on the midpoint of per acre densities listed in the Strategic Housing Land Availability Assessment Methodology (August 2011)¹². – 12 to 41 = midpoint of 26.5. Detail in table below.

Build costs are index linked to BCIS online, which is updated quarterly. The Council will accordingly update the financial contribution set out above on a quarterly basis. Applicants are advised to ascertain the current sum from the Council during pre-application discussions.

¹² ETHMA Authorities, *Methodology for SHLAAs: Exeter Housing Market Area (2013)*.

WORKED EXAMPLES

1. **A developer proposes to build 73 dwellings comprising 24 one bed, 27 two bed, 9 three bed and 13 four bed. This results in an on-site affordable housing requirement of 25.55 dwellings (73 x 35%).**

The Council requires provision of 25 affordable homes, plus a financial contribution to provide 0.55 of a dwelling.

The size mix and tenure split of the 25 affordable homes would be calculated as follows:

Dwelling size	Housing mix proportion	Step 1: calculate the no. of affordable dwellings	Step 2: round up/down to the nearest whole no. of dwellings	Step 3: calculate the tenure split		Step 4: round the tenure split up/down to the nearest whole no. of dwellings	
				Social rented (70%)	Intermediate (30%)	Social rented (70%)	Intermediate (30%)
1 bed dwelling	24/73 = 0.33	25 x 0.33 = 8.25	8	8 x 70% = 5.6	8 x 30% = 2.4	6	2
2 bed dwelling	0.37	25 x 0.37 = 9.25	9	10 x 70% = 7	10 x 30% = 3	7	3
3 bed dwelling	0.12	25 x 0.12 = 3.0	3	3 x 70% = 2.1	3 x 30% = 0.9	2	1
4 bed dwelling	0.18	25 x 0.18 = 4.5	5	4 x 70% = 2.8	4 x 30% = 1.2	3	1
Total		-	25			18	7

The financial contribution would be calculated as follows:

$$\begin{aligned}
 & 0.55 \times ((0.33 \times \pounds 90,802) + (0.37 \times \pounds 125,718) + (0.12 \times \pounds 135,694) + (0.18 \times \pounds 150,658)) \\
 = & 0.55 \times \pounds 119,882 \\
 = & \pounds 65,935
 \end{aligned}$$

2. A developer proposes to build 50 dwellings. There are exceptional reasons to justify commuted provision of the affordable housing. The Council requires off-site provision of the affordable housing (see paragraphs 3.22-3.23).

The number of affordable homes is calculated on the basis that 50 dwellings represent 65% of the total number of dwellings to be built.

- 50 dwellings = 65% of the total number of dwellings required
- $(50 \text{ dwellings} / 65) \times 35 = 26.92 \text{ dwellings}$

The Council will require 26 affordable homes to be provided off-site, plus a financial contribution to provide 0.92 of an affordable home.

The financial contribution will be calculated by the same method as Example 1 (i.e. with reference to the mix of market dwellings being built)

3. A developer proposes to build 40 dwellings (15 one-bed, 15 two-bed, 5 three-bed and 5 four-bed). There are exceptional reasons to justify commuted provision of the affordable housing. Off-site provision and off-site purchase are not possible. Therefore, a financial contribution towards the provision of affordable housing elsewhere in the City is required.

The 35% financial contribution is calculated on the basis that 40 dwellings represent 65% of the total number of dwellings to be built.

- 40 dwellings = 65% of the total number of dwellings required
- $(40 \text{ dwellings} / 65) \times 35 = 21.54 \text{ dwellings}$

Dwelling size	Housing mix proportion	Step 1: calculate the no. of affordable dwellings	Step 2: calculate financial contribution per dwelling type
1 bed dwelling	$15/40 = 0.375$	$21.54 \times 0.375 = 8.078$	8.078 x £90,802
2 bed dwelling	0.375	$21.54 \times 0.375 = 8.078$	8.078 x £125,718
3 bed dwelling	0.125	$21.54 \times 0.125 = 2.692$	2.692 x £135,694
4 bed dwelling	0.125	$21.54 \times 0.125 = 2.692$	2.692 x £150,658
Total		-	£2,519,908

The contribution is again calculated with reference to the mix of market dwellings being built and a financial contribution of £2,519,908 towards affordable housing provision is therefore required.

APPENDIX 4

(Para ref 3.27)

CONTACT DETAILS

City Development

TEL: 01392 265223

FAX: 01392 265431

citydevelopment@exeter.gov.uk

Housing Development Team

TEL: 01392 265685

FAX: 01392 265859

Housing.development@exeter.gov.uk

Website: www.exeter.gov.uk

Address:

Exeter City Council

Civic Centre

Paris Street

Exeter

EX1 1NN

APPENDIX 5

(Para ref 3.27)

SECTION 106 AGREEMENT – MODEL HEADS OF TERMS

A The Section 106 Agreement will contain some or all of these terms, subject to site by site negotiations:

- define the amount of affordable housing or, in the case of full permission, specify specific units and detail the breakdown between different tenures and amount of wheelchair accessible housing, all in accordance with Policy CP7;
- require the affordable housing to comprise a representative mixture of dwelling types and sizes, to be integrated with and indistinguishable from market housing;
- set a timescale for the affordable housing to be provided, usually that it shall be available for occupation by the time a percentage of the market housing is available;
- include a mechanism for selecting an RP, unless another approach has been agreed;
- limit the rent and outgoings which can be charged to occupants and the price at which an initial share can be sold under a shared ownership arrangement;
- include a mechanism for limiting and selecting the occupants of the affordable housing, which will require supplementary agreements to entered into as follows:
 - where the Council provides grant aid, the RP or other provider will be required to enter into a nomination agreement;
 - in the case of a provider that is not an RP, or in other special cases (e.g. an unusually large grant payment), the Council will require additional security for repayment of grant on disposal of the land;
 - where the provider is not an RP, the S106 Agreement will include provisions governing letting and management arrangements.
- provide for the housing to remain affordable in perpetuity, subject to:
 - any statutory right to acquire, buy or 'staircase';
 - a mortgagee in possession clause, where the affordable housing is transferred to an RP.

B The applicant will be required to pay the Council's reasonable legal costs in connection with the Agreement. The Council's costs in connection with any related Agreement (e.g. a nomination agreement) shall be paid by the applicant, RP or other provider, depending upon which of those parties is involved in negotiating the terms of that Agreement.

C Where the Council has refused an application which, if allowed, would have been subject to a requirement for affordable housing, it will endeavour to negotiate a Section 106 Agreement on a 'without prejudice' basis, to take effect in the event that an appeal is allowed.

D In the case of an outline application, the Section 106 Agreement will require the applicant to agree with the Assistant Director of Housing and Contracts (in practice, delegated to the Housing Development Manager), prior to the commencement of development, the physical locations, type, layout and tenure of the affordable dwellings.

E The agreement will require the applicant to notify the Assistant Director of Housing and Contracts of the anticipated date(s) when the affordable housing will be available for occupation, a specified period(s) in advance.

F Section 106 Agreements will include mechanisms to record when key stages are reached in the development and requirements are triggered.

G The Council will use its enforcement powers if a Section 106 Agreement is not complied with. In addition, the fact that a development is taking place despite non-compliance with a Section 106 Agreement will be included as a standard response to searches from prospective purchasers.

APPENDIX 6

(Para ref 4.1)

LIST OF PREFERRED REGISTERED PROVIDERS (RPs)

- Cornerstone Housing Ltd
- Aster
- DCH
- Home Group
- YMCA
- Sovereign
- Guinness
- Sanctuary
- Spectrum

The above RPs and Exeter City Council form the Exeter Homes Housing Partnership. The partnership works together to maximise the delivery of good quality affordable homes, deliver innovative development opportunities that meet local housing priorities and create sustainable communities in the City of Exeter.

GLOSSARY

Affordability

A measure of whether housing may be afforded by certain groups of households.

Affordable Rent

This refers to rented housing let by RPs of social housing to households who are eligible for social rented housing. Affordable Rent is not subject to the national rent regime, but is subject to other rent controls that require rent of no more than 80 per cent of the local market rent.

Affordable housing

Affordable housing includes social rented, affordable rented and intermediate housing, provided to specified eligible households whose needs are not met by the market.

Community Infrastructure Levy (CIL)

A charge that allows local authorities to raise funds from developers undertaking new building projects in their area. The money collected can be used to help provide a wide range of infrastructure that is needed as a result of development.

Homes and Communities Agency (HCA)

The [non-departmental public body](#) that funds new [affordable housing](#) in [England](#).

Intermediate affordable housing

Housing at prices and rents above those of social rent, but below market prices or rents. It can include shared equity products (e.g. New Build HomeBuy), other low cost homes and intermediate rent, but does not include affordable rented housing.

Local Development Framework

The name for the portfolio of Local Development Documents (LDDs) that provide the planning policy framework for a local authority area. It comprises of the Core Strategy, Development Plan Documents (DPDs), Supplementary Planning Documents (SPDs), a Statement of Community Involvement (SCI), the Local Development Scheme (LDS) and Monitoring Reports.

Market housing

Private housing for rent or for sale, where the price is set in the open market.

National Planning Policy Framework (NPPF)

Sets out the Government's planning policies for England and how these are expected to be applied.

Registered Provider (RP)

An independent, registered, non-profit making organisation to build, improve and manage affordable housing for sale or rent. An RP must be registered with and regulated by the current government regulating authority.

Section 106 Agreement

Planning obligations are agreements entered into between the Council and developers, usually in conjunction with the granting of planning permission. Planning obligations apply to land, binding it and whoever owns it. They are made using powers under section 106 of the Town and Country Planning Act 1990, which is why they are also called "section 106 agreements."

Social Rented Housing

Rented housing owned and managed by local authorities and RPs, for which guideline target rents are determined through the national rent regime. It may also include rented housing owned or managed by other persons and provided under the same rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency as a condition of grant.

Strategic Housing Land Availability Assessment (SHLAA)

An assessment of sites across a local authority area, to determine whether or not they have the potential to be developed for housing. Production of a SHLAA by the local authority is a requirement of the NPPF.

Strategic Housing Market Assessment (SHMA)

A cross-boundary study of the operation of a Housing Market Area. Planning Policy Guidance Note 3: Housing, which has been superseded by the NPPF, required local authorities to prepare SHMA as part of the evidence base to inform LDFs and the development of planning and housing policy.

Supplementary Planning Documents (SPD)

These provide amplification in respect of policies in the LDF Core Strategy and other DPDs. They are not subject to independent examination.

Sustainable Communities Strategy

A document prepared by a Local Strategic Partnership - a collection of organisations and representatives working voluntarily to represent key interests in an area's economy, society and environment. The Strategy should set out a sustainable 'vision' for an area and highlight measures to achieve it.