



Affordable Housing Code of Practice

Adopted March 2004

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AFFORDABLE HOUSING CODE OF PRACTICE

SECTION 1 - INTRODUCTION

- 1.1 A key objective of the Government is to ensure that everyone has the opportunity of living in a decent home. To help meet this objective, the planning system is expected to provide housing that is genuinely affordable to a wide range of people. Planning Policy Guidance 3 'Housing', which is supplemented by Circular 6/98, makes it clear that '*a community's need for a mix of housing types, including affordable housing, is a material planning consideration which should be taken into account in formulating development plan policies and in deciding planning applications involving housing*'. Additionally, there is an expectation that new residential schemes should be planned to provide '*... mixed and inclusive communities, which offer a choice of housing and lifestyle*'. (PPG3, Para 10).
- 1.2 Meeting the housing needs of local people and ensuring a sufficient variety of house types and sizes to achieve mixed and balanced communities is a priority objective of the District Council. The commitment to providing affordable housing is embodied in the Community Strategy 'North Devon First', although the detailed measures to achieve its provision are contained in the North Devon Local Plan and Housing Strategy.

PURPOSE OF THE CODE

- 1.3 The North Devon local Plan establishes the policy framework to ensure affordable housing is provided through the planning system. The purpose of this Code of Practice is to provide detailed guidance and practical advice to supplement the policies contained in the Local Plan to ensure that they are consistently and effectively implemented. The Code of Practice is adopted as Supplementary Planning Guidance. As such, it has been subject to public consultation. A summary and analysis of all representations received is available from the Planning Policy Unit. The affordable housing policies contained in both the Adopted and Revised Deposit North Devon Local Plans are attached at Appendix 1 of this document.
- 1.4 The Code of Practice reflects the Council's enabling role in providing affordable housing through both its statutory planning and housing functions. The Code should be considered in the context of this enabling role and the availability of financial and other resources. The Code will be reviewed on a regular basis to take account of emerging national and regional policy agendas as well as changes to local housing needs and the housing market.

THE HOUSING NEEDS IN NORTH DEVON

- 1.5 A Housing Needs Assessment for North Devon was published in July 2001 following extensive research and survey work. It provides a detailed assessment and overview of the general housing needs across North Devon to the year 2011. The Assessment concludes that at least 150 affordable homes should be provided each year within North Devon. This figure has been translated into the Revised Deposit North Devon Local Plan as a target that at least 1,200 affordable homes should be provided between the years 2003 and 2011. The Assessment will be regularly reviewed given that housing needs are likely to change over time.
- 1.6 If house prices in North Devon continue to rise, it is anticipated that the housing needs in the District are likely to increase. Whilst the Housing Needs Assessment provides a conclusive overview that there is considerable need for affordable housing in North Devon, more recently a national study by Professor Steve Wilcox for the Joseph Rowntree Foundation (*Can Work – Can't Buy: Local Measures Of The Ability Of Working Households To Become Home Owners (2003)*), ranks the District 6th in the UK as having the highest proportion of households who are unable to purchase the cheapest homes available. Further evidence to demonstrate the continuing extent of housing needs in North Devon is contained in the Housing Register and the results of Parish surveys and appraisals which are carried out by the Rural Housing Enabling Officer and through the community planning process. Evidence of housing need is also demonstrated by a range of national, regional and local statistics especially those relating to incomes and the housing market, including data from the Land Registry.

SECTION 2 – GENERAL PRINCIPLES

- 2.1 This section focuses on the general principles applying to all forms of affordable houses provided through the planning system. It includes definitions of the terms affordable housing and local housing need.

DEFINING THOSE IN HOUSING NEED

- 2.2 Any affordable home provided as a consequence of North Devon's planning policies should, so far as practicable, be restricted both initially and in the future to those in housing need. Such a restriction recognises the deep rooted difficulties experienced by many of North Devon's residents in securing a decent home and the requirement to dramatically increase the stock of affordable homes to meet future needs.
- 2.3 For the purpose of North Devon's policies and this Code of Practice, a person or household is defined as being in '*housing need*' if they are currently occupying accommodation that is either sub-standard or unsuitable for their requirements and with an income too low to either buy or rent a dwelling more appropriate to their circumstances on the open market. A person or household will also be considered in '*housing need*' where they meet the definition contained in the Council's Housing Allocation Policy. In assessing whether existing accommodation is unsuitable for a particular household, account will be taken of the size of the household and any impairment, medical condition or age of the occupants. In assessing whether the existing accommodation is sub-standard, account will be taken of the standards contained in the Housing Act 1985 and the relevant Environmental Health legislation. Further advice on these issues is available from the Council's Housing Advice Centre and Environmental Health Unit.
- 2.4 Any person or household in housing need should apply for inclusion on the Housing Register. In order to assess individuals or households, the Council will need a range of information relating to their income, savings and present circumstances including current accommodation. Further information on this matter can be obtained from the Council's Housing Enabling Manager at the point of contact provided at the end of this document.

DEFINING AFFORDABLE HOMES

- 2.5 The term '*affordable home*' embraces all forms of tenure, accommodation type and size of dwelling. Set out below are definitions of the most common forms of affordable homes provided through the planning process. Whilst there is scope for other tenure models to meet the housing needs of local people, to ensure they are truly affordable they should normally be based on the principles defined below.

1. Affordable Homes for Rent

The rent of these properties should not exceed the levels recommended by the Housing Corporation.

2. Affordable Homes for Sale

These should be sold at a price that does not exceed three times the average annual working household income for North Devon¹ to ensure that such homes are generally affordable to the majority of people living and working in North Devon. This price guideline will normally apply to subsequent re-sales of the property.

<p>¹ Information on household income is contained in the Joseph Rowntree Foundation Report and the Housing Strategy and can also be obtained from the Council's Policy, Performance and Information Unit.</p>
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A planning obligation will be used to restrict the future price of the property and ensure it is sold to those in housing need. Alternatively, the freehold or a minimum 1% equity share of such a property may be retained by a Registered Social Landlord², the Council, Parish/Town Council or any other organisation provided they are registered with the Housing Corporation. In these cases, the resale of a property may be varied from the

price guideline defined above. All of these measures will ensure that such homes will remain affordable and be available to local people in housing need in perpetuity.

² An RSL is a non-profit organisation registered with the Housing Corporation with the purpose of providing and managing affordable homes.

3. Affordable Homes for Shared Ownership or Retained Equity

Shared ownership schemes allow payments to be split between a mortgage and an affordable rent. Percentage share of ownership will vary depending on the individual circumstances of the person or household in housing need. In settlements of less than 3,000 population, shared owners do not have the right to 'staircase' up to full ownership of the property (the maximum being 80% of its ownership). In retained equity schemes, a minimum of 10% equity is retained through an RSL, the Council, Parish/Town Council or any other organisation registered with the Housing Corporation.

PLANNING CONDITIONS AND OBLIGATIONS

2.6 Planning permission for residential schemes involving affordable housing will only be permitted where the Council is satisfied that secure arrangements are in place to ensure that it will be delivered and always remain available for those in housing need. The appointment of an RSL or similar organisation registered with the Housing Corporation will be the most effective way of ensuring that affordable housing will remain available for those in housing need in perpetuity. However, it is recognised that the involvement of an RSL or similar organisation is not the only means of providing affordable housing. Consequently, any residential schemes approved by the Council involving affordable housing, especially where an RSL or similar organisation is not involved, will usually be subject to a planning obligation to secure the following:-

- ◆ *That the affordable housing is used for the purposes of meeting local housing needs only in perpetuity (see also paragraphs 2.8 to 2.12);*
- ◆ *Agreement with the Council on the siting, number and type of affordable housing to be provided (see also paragraphs 3.5 to 3.12); and*
- ◆ *A phasing and implementation programme to ensure the delivery of affordable housing (see also paragraphs 3.12 to 3.17).*

2.7 Appendix 2 sets out the heads of terms for a model legal agreement that will be used to secure the delivery of affordable housing.

RESTRICTING OCCUPANCY

2.8 As most of the affordable homes will be built in Barnstaple, Ilfracombe and South Molton in the interests of sustainability, these towns will normally be expected to meet the wider housing needs of North Devon. Affordable housing provided outside the three main towns will be expected to meet a more localised housing need. Affordable housing within North Devon's villages and rural settlements will generally therefore be restricted to those with a connection to a particular 'locality'. Depending on local circumstances, 'locality' could mean a specific settlement or parish. In the most sparsely populated parts of North Devon, the term 'locality' may extend to the adjoining parishes including those on Exmoor.

2.9 A local connection will usually apply to a person or household in housing need as defined at paragraph 2.2 and include those:-

1. Who currently live in the relevant locality and have done so for a continuous period of at least five years; or
2. Who have worked in the relevant locality for a continuous period of at least five years; or someone currently employed in an agricultural related activity, the emergency services, as a professional healthcare or social worker or as a qualified primary or secondary school teacher and working within the parish; or

3. Who have moved away but have strong established and continuous links with the relevant locality by reason of birth or family and still have a parent or guardian living there.
- 2.10 Ensuring affordable homes provided outside the three main towns is restricted to those persons or households displaying both a housing need and local connection is consistent with the objectives of sustaining mixed and viable rural communities. It also recognises the particular difficulties of meeting the housing needs of rural communities, which are exacerbated by the limited opportunities to build new homes in such areas. Where the housing is to be allocated via the Housing Register, the Housing Allocations Policy definition of 'local' will be applicable.

THE CASCADE APPROACH

- 2.11 All affordable housing provided outside the three main towns will be subject to a planning obligation in order to restrict occupancy to those with a connection to a particular locality. The planning obligation will also include provision for a cascade approach so that if a property is not let or sold to a household from the specified locality within a reasonable period, it will become available to those in housing need from a wider catchment area eventually culminating in North Devon as a whole. As a guide, this vacancy period should usually be for a minimum of one month in the case of a rented scheme, or six months in the case of properties for sale, including shared ownership and equity schemes. The cascade approach may be applied more flexibly where an RSL, the Council, Parish/Town Council or similar organisation registered with the Housing Corporation retains control of a property.
- 2.12 The purpose of the cascade approach is to ensure that affordable homes do not remain unoccupied, provides a degree of flexibility to the owner or manager of a property and is intended to satisfy the requirements of the lending institutions. In order to comply with the cascade approach and avoid any abuse of this mechanism, the Council will usually expect documented evidence to be provided to prove that a property has been adequately and genuinely marketed at an appropriate rent or cost reflecting its restriction before it becomes available to a household in need from a wider area.

SECTION 3 – PROVIDING AFFORDABLE HOUSING THROUGH THE PLANNING SYSTEM

- 3.1 Local Plan policies seek the provision of affordable housing to meet identified needs in two main ways:-
1. Requiring an element of affordable housing on both '*allocated*' and '*windfall*' residential sites; and
 2. Adopting an '*exceptions*' approach by allowing, in certain circumstances, affordable housing on sites in villages and rural settlements that would not normally be permitted for residential development.
- 3.2 The application of affordable housing policies will inevitably influence land values. Where developers are required to provide an element of affordable housing they are advised to take the cost of this provision, as well as other requirements and constraints into account, when negotiating the purchase of land for development. In the case of exception schemes, the value of land is likely to be substantially depressed to reflect the fact that open market housing will not normally be permitted on such sites

PROVIDING AFFORDABLE HOMES IN RESIDENTIAL SCHEMES

- 3.3 An element of affordable housing will be required in residential schemes on both '*allocated*' and '*windfall*' sites provided a housing need exists within the locality (see paragraph 2.8) and the size of the site meets the appropriate thresholds set out below:
- In the case of Barnstaple, Ilfracombe and South Molton the size of the site should be at least 0.5 hectares or provide 15 dwellings or more;

- In the case of Braunton the size of the site should be at least 0.2 hectares or provide 5 dwellings or more; and
 - Elsewhere affordable housing will be required on any site capable of providing more than 1 dwelling.
- 3.4 In determining whether a particular site meets the appropriate size site threshold to trigger the provision of affordable housing, the Council will assess not only the proposed scheme, but also the potential capacity of the site. Where, in the opinion of the Council, a developer has deliberately avoided the appropriate threshold by sub-dividing or phasing the site into smaller plots or through the inefficient use of the land by reducing the potential number of dwellings that could be built, an element of affordable housing will still be sought within the scheme. On sites falling below the size site thresholds, developers will be encouraged to provide an element of affordable housing, the benefits of which will be taken into account when considering the proposal.

What Should be Provided?

- 3.5 The number, type and size of affordable homes required on a site will be subject to negotiations with the potential developer based on an assessment of need. Negotiations will be based primarily on the latest District wide Housing Assessment, although information from a variety of other sources will also be taken into consideration including:
- ♦ *Current information held on the Housing Register;*
 - ♦ *Information from Parish Surveys or Appraisals;*
 - ♦ *Information resulting from national, regional and local research;*
 - ♦ *The opportunities for meeting the identified housing needs on other sites in the locality;*
 - ♦ *The existing number and type of affordable housing in the locality, including any losses through the 'right to buy' and the 'right to acquire'.*
- 3.6 Where appropriate, sites identified for residential development in the Local Plan have an affordable housing target which will be reviewed at the time a planning application is submitted. As a guide, the Council will expect between 35 to 50% of dwellings on 'greenfield' sites to be affordable with at least 25% on 'previously developed sites'. The lower requirement for affordable housing on previously developed land is in recognition of the generally higher costs in redeveloping such sites. In the villages and rural settlements, the expectation will be that at least 50% of all homes will be affordable.
- 3.7 Depending on the need identified, the mix may also include a proportion of lifetime homes (i.e: housing which is designed to be readily adaptable to meet the changing needs of a household over the years) and special needs housing for specific groups, including those for the elderly. However, it should be recognised that housing which caters for specific groups will not necessarily be affordable. For example, there are likely to be elderly households who cannot afford sheltered housing provided by the market. The size and type of any special needs housing that may be required will be determined in consultation with the relevant organisation including the health authority and social services.
- 3.8 In the case of outline planning applications where the total number of dwellings is not known, a percentage of affordable houses will be negotiated to ensure that the amount secured is proportionate to the subsequent number of dwellings approved. The percentage sought will be based on an assessment of need in accordance with paragraph 3.5 above.

The Siting and Design of Affordable Homes

- 3.9 The siting and design of the affordable dwellings will need to be agreed by the Council before the development commences and must comply with the relevant Local Plan Policies including DVS1A, DVS1 and DVS2. Detailed advice on design will be contained within the North Devon Design Guide and within development briefs applying to specific sites.
- 3.10 The Government's intention is that new housing should help create mixed and inclusive communities. It does not accept that different tenures or types of housing make bad neighbours. To reflect the Government's intention, affordable homes should be well

integrated in a residential scheme by virtue of their design and siting. Affordable homes should be 'pepper potted' or distributed in small groups throughout the development rather than concentrated into large clusters. To achieve seamless integration, it is vital to ensure that there is no obvious visual distinction or social separation between the affordable and open market housing.

- 3.11 Affordable housing should be subject to high standards of design and landscaping. Where a developer builds the units for an RSL to manage, they should normally be built to the Housing Corporation's Scheme Development Standards unless otherwise instructed. These standards can be viewed at [*link removed 2016 as Housing Corporation no longer exists*](#). Additionally, individual RSLs may also have their own standards and requirements. Depending on the size of dwellings being proposed, the intended occupants and location of the development, off street parking standards set out in Policy TRA8 of the Local Plan may be reduced.
- 3.12 The design and use of materials in any affordable housing scheme should ensure that future maintenance and running costs are low. A practical example of how to achieve sustainable design and construction in affordable housing is illustrated by the affordable housing scheme at Livarot Walk, South Molton. Further information on this scheme can be obtained by contacting Devon And Cornwall Housing Association.

The Options and Costs of Providing Affordable Homes

- 3.13 Developers have a range of options to meet the affordable housing requirement. The option used to provide the affordable housing requirement will need to be agreed through negotiations between the Council, developer and, where appropriate, an RSL or similar organisation registered with the Housing Corporation. The Council's preferred option is that the affordable housing requirement should be provided on the development site itself to help create mixed and inclusive communities. The options available for providing affordable housing on the development site itself are set out below:-
1. The developer builds and transfers the completed units to an RSL or similar organisation registered with the Housing Corporation at a nominal cost reflecting their construction only;
 2. The developer builds and retains responsibility for directly providing the units to those in housing need in accordance with a scheme approved by the Council;
 3. The developer transfers serviced plots or land to an agreed RSL or similar organisation, at nil or nominal value, together with a financial contribution to enable the building of each unit. A serviced plot or land is defined as having all services provided up to the frontage of each plot and must include all those that are provided on the other parts of the site such as utilities, telecommunications, roads and footpaths. The number of plots or the amount of land to be provided must be sufficient to enable the development of the agreed number and type of affordable units for the site.
- 3.14 Whatever option is chosen, the developer should not expect any public subsidy to be available to assist in the provision of affordable homes. As a guide for developers to assess the costs of providing affordable housing, the Housing Corporation publish Total Cost Indicators (TCI) which are re-appraised on an annual basis. TCI provide a national benchmark on the expected building costs of a house, varying according to the size, type and location. The TCI applying to North Devon is attached at Appendix 3.

Off Site Contributions

- 3.15 If a site is suitable in planning terms for housing, it should also be acceptable for affordable housing. Consequently, providing affordable housing 'off site' rather than providing it directly on site, will only be acceptable in exceptional circumstances. If a developer considers that there are sound planning grounds for not physically providing affordable housing on a particular site, they should enter into discussions with the Council at the earliest convenient date. Off site provision will only be acceptable if both the developer and Council agree that this is the preferred approach to providing affordable housing for a particular community. In assessing the acceptability of this approach, the Council will expect a detailed assessment

from the developer indicating why off site provisions would be a more appropriate response to meeting local housing needs. This assessment should also indicate the availability of alternative sites or proposals to accommodate the affordable housing requirement to meet the local need.

3.16 Where, in exceptional circumstances, off site provision is considered acceptable, the options for delivering the affordable housing will be as follows:-

1. The developer builds completed units on an alternative site in the same settlement and either transfers them to an RSL or similar organisation or retains responsibility for directly providing the units to those in housing need in accordance with a scheme approved by the Council;
2. The developer provides a financial contribution towards the provision of affordable housing elsewhere in the settlement;
3. The developer transfers serviced plots or land to an agreed RSL or the Council elsewhere in the settlement, together with a financial contribution to enable the building of each unit.

The financial contribution will be based on the TCI of providing the total amount of affordable housing that would have normally been required on the site. A formula for calculating the appropriate financial contribution is contained in Appendix 3. The financial contribution will be held and utilised by the Council to fund the provision of affordable housing on an alternative site. Payments should be made within an agreed timescale set out in a planning obligation. As TCI rates are reviewed annually, the contribution will be based on the figures applicable in the financial year at which the payment is actually made.

The Delivery of Affordable Housing

3.17 To ensure that affordable housing is delivered as quickly as possible, they should be completed prior to the occupation of a specified number or percentage of dwellings to be sold on the open market. On large sites where the affordable housing is to be distributed throughout the scheme, or where the overall development is to be phased, the provision of affordable housing should be proportionately phased.

The Viability of a Scheme

3.18 In negotiating for an element of affordable housing, the Council will take account of any abnormal costs associated with the development and whether its provision would prejudice other planning objectives that will need to be given priority in development of the site. Where developers raise the viability of a scheme as an issue, they will be requested to submit full financial details and valuations of the proposed development to enable the Council to assess and, if appropriate, review the requirement sought. This information should be provided as early as possible. No planning application will be determined until this information has been properly assessed. Standard development costs including travel and transport, drainage, landscaping and other infrastructural requirements such as education contributions will not usually be considered as being abnormal. Further guidance on the issue of viability is contained at paragraphs 3.6 to 3.8 of the Best Practice Note relating to developer contributions.

AFFORDABLE HOUSING IN RURAL AREAS

3.19 In the absence of sufficient affordable housing opportunities arising through Policies HSG2, HSG3, HSG4 and HSG7, the Local Plan contains a specific policy to augment the provision of affordable homes in rural areas. Policy HSG8 allows affordable housing on sites not normally permitted for residential development in villages and rural settlements specifically identified in the Local Plan. The 'exceptions' approach of Policy HSG8 applies to both groups of houses as well as single dwellings.

3.20 The exceptions approach relies on the willingness of landowners to provide land at an appropriate cost to ensure that the housing provided is genuinely affordable. Although a landowner may achieve a price above the value of agricultural land, it will be significantly lower than the value of an open market residential site. However, even a nominal value

above the normal price of agricultural land should be viewed as a financial gain given the planning restrictions that apply to such sites.

- 3.21 To avoid attempts to abuse these concessions to normal policies of restraint, affordable housing schemes permitted in villages and rural settlements must satisfy a range of criteria as set out in Policy HSG8. The main requirements of this policy are explained below.

Establishing a Local Housing Need

- 3.22 To justify affordable dwellings provided through the exceptions approach, a local housing need must already exist within the community that is not capable of being met in any other site in accordance with Policies HSG2, HSG3 and HSG4. Applicants promoting a group of affordable houses must seek the advice of the Rural Housing Enabling Officer and will need to demonstrate that there is a genuine need for the affordable housing within a community usually through an up to date survey. Such a survey must be verified by the Rural Housing Enabling Officer and Housing Enabling Manager and take account of any other known alternative provision. The onus will be on the applicants promoting a scheme to demonstrate that their proposal will meet the housing needs identified for a particular community effectively in terms of the number, tenure and size of dwellings being proposed. Where appropriate, evidence to demonstrate the landowner's intentions to sell the land at an appropriate price reflecting its development value will also be required.
- 3.23 In the case of a single affordable dwelling, equally clear evidence will be required to demonstrate that such a proposal is an appropriate response to the housing needs of the local community. Sufficient information will also be required to ensure that the occupants have a genuine local housing need in terms of their present accommodation and financial circumstances and that the proposed house provided is genuinely affordable taking into account the size of the dwelling and likely construction costs. All information provided must be verified by both the Rural Housing Enabling Officer and the Housing Enabling Manager.

The Location of Rural Exception Schemes

- 3.24 Affordable housing exception schemes will be restricted to those rural villages and settlements where a local housing need has been identified in accordance with paragraph 3.21. Proposals for exception schemes must be sited either within or adjoining the main built up area of a settlement. In assessing proposals, full account will be taken of environmental considerations and Local Plan policies.
- 3.25 The design, layout and landscaping of any proposal should reflect the sensitive character and nature of any exception site. All schemes must also comply with normal site planning requirements including highway, drainage, infrastructure and amenity considerations.

Controlling Occupancy

- 3.26 Secure arrangements must be made to ensure that critical and subsequent occupancy of the dwellings is restricted to those having an identified local housing need in accordance with the measures contained at paragraphs 2.6 to 2.12 of this Code. It is anticipated that rural exception schemes will normally be developed by an RSL. However, landowners, private developers, parish councils or any other organisation registered with the Housing Corporation are not excluded from developing exception schemes provided all the requirements contained in Policy HSG8 and this Code are met.

Removing Permitted Development Rights

- 3.27 A planning condition will usually be imposed removing permitted development rights on extensions and enlargement to retain control of the size of all affordable properties. This control will further help ensure that dwellings remain affordable to meet the future housing needs of the local community.

SECTION 4 - POINTS OF CONTACT AND FURTHER INFORMATION

- 4.1 Developers will be encouraged to meet with the District Council before and during the life of the application in order to establish a good dialogue. Where appropriate, an agreed RSL(s) should also be involved at the earliest opportunity.
- 4.2 Further information and advice can be obtained from the following District Council Officers:-

Planning Policy Issues

Contact Andrew Austen, Lead Officer Planning Policy on:-
01271 388392 or e-mail localplan@northdevon.gov.uk

Housing Needs Issues

Contact Jaimie Jeyes, Service Lead - Housing Market Balance
on:- 01271 388410 or e-mail
jaimie.jeyes@northdevon.gov.uk

Rural Housing Issues

Contact Joanne Cox, Rural Housing Enabler on:-
01398 323665 or e-mail jkcox@exmoor-nationalpark.gov.uk

Appendix 1

Affordable Housing Policies

Affordable Housing Policies

Adopted Local Plan (December 2000)

POLICY DH4

- A) THE COUNCIL WILL SEEK TO NEGOTIATE FOR AN ELEMENT OF AFFORDABLE HOUSING ON RESIDENTIAL SITES OF 1.0 HECTARE OR MORE (OR PROVIDING AT LEAST 25 DWELLINGS) IN BARNSTAPLE, BRAUNTON, ILFRACOMBE AND SOUTH MOLTON AND ON RESIDENTIAL SITES OF 0.5 HECTARES OR MORE (OR PROVIDING AT LEAST 15 DWELLINGS) IN ANY RURAL SETTLEMENT HAVING REGARD TO THE FOLLOWING FACTORS WHICH WILL ALSO INFLUENCE THE NUMBER AND TYPE OF DWELLINGS SOUGHT:
- I) THE LEVEL OF HOUSING NEED IDENTIFIED;
 - II) THE CHARACTERISTICS OF THE SITE AND SURROUNDING AREA AND THE PROXIMITY TO LOCAL SERVICES, FACILITIES AND PUBLIC TRANSPORT;
 - III) ANY ALTERNATIVE PROVISION AVAILABLE OR PLANNED IN THE SETTLEMENT; AND
 - IV) WHETHER THE PROVISION OF AFFORDABLE HOUSING PREJUDICES THE REALISATION OF OTHER PLANNING OBJECTIVES THAT NEED TO BE GIVEN PRIORITY IN THE DEVELOPMENT OF THE SITE.
- B) THERE ARE SECURE ARRANGEMENTS TO ENSURE THAT THE BENEFITS OF LOW COST PROVISION WILL NOT ONLY BE TO THE INITIAL, BUT ALSO TO ALL THE SUBSEQUENT OCCUPANTS.

POLICY DH5

AS AN EXCEPTION TO THE RURAL SETTLEMENT POLICIES, PROPOSALS FOR AFFORDABLE HOUSING TO MEET LOCAL NEEDS IN RURAL AREAS WILL BE PERMITTED WHERE:

- A) THE SITE IS WITHIN OR IMMEDIATELY ADJOINING THOSE VILLAGES WITH A POPULATION OF 3000 OR FEWER TO WHICH POLICIES DH1, DH2 AND DH3 APPLY;
- B) THERE IS A DEMONSTRABLE LOCAL HOUSING NEED WHICH CANNOT BE MET IN ANY OTHER WAY;
- C) THE NUMBER, TYPE AND SIZE OF DWELLING(S) PROPOSED ARE THE BEST SUITED TO MEET THE HOUSING NEED(S) IDENTIFIED;
- D) THERE ARE SECURE ARRANGEMENTS TO ENSURE THAT THE BENEFITS OF LOW COST PROVISION WILL NOT ONLY BE TO THE INITIAL, BUT ALSO TO ALL THE SUBSEQUENT OCCUPANTS;
- E) THE DEVELOPMENT IS OF A SCALE AND DESIGN WHICH RESPECTS THE CHARACTER OF THE SETTLEMENT AND SURROUNDING COUNTRYSIDE; AND
- F) THE SETTLEMENT HAS SOCIAL FACILITIES TO SERVE THE DEVELOPMENT AND ACCESS TO PUBLIC TRANSPORT.

Revised Deposit Local Plan (October 2003)

POLICY HSG6 (MIXED ACCOMMODATION)

~~WHERE A VARIETY OF ACCOMMODATION SIZES AND TYPES IS REQUIRED TO MEET THE HOUSING NEEDS OF THE LOCAL COMMUNITY, RESIDENTIAL DEVELOPMENT WILL ONLY BE PERMITTED WHERE A PROVISION IS MADE FOR A CHOICE AND MIX OF DWELLINGS IS INCORPORATED INTO THE SCHEME TO ADDRESS THIS NEED TYPES AND SIZES TO MEET THE HOUSING NEEDS OF THE LOCAL COMMUNITY BASED ON TABLE 8.~~

POLICY HSG7 (AFFORDABLE HOUSING IN RESIDENTIAL SCHEMES)

1. **AT LEAST 1200 AFFORDABLE HOMES SHOULD BE PROVIDED IN NORTH DEVON DURING THE PLAN PERIOD. IN ORDER TO ACHIEVE THIS TARGET, WHERE ON A SITE THAT SATISFIES THE TRIGGER THRESHOLD ~~AND WHERE A LOCAL HOUSING NEED HAS BEEN IDENTIFIED~~, RESIDENTIAL DEVELOPMENT WILL ONLY BE PERMITTED WHERE AN ELEMENT OF AFFORDABLE HOUSING IS PROVIDED TO ADDRESS ~~THAT IDENTIFIED NEEDS~~.**
2. **THE AFFORDABLE HOUSING WILL BE SUBJECT TO SECURE ARRANGEMENTS TO ENSURE IT REMAINS AVAILABLE TO MEET THE NEEDS OF THE COMMUNITY BOTH INITIALLY AND IN PERPETUITY.**

POLICY HSG8 (AFFORDABLE HOUSING IN RURAL AREAS)

A PROPOSAL FOR AFFORDABLE HOUSING TO MEET A LOCAL HOUSING NEED IN A RURAL AREA WILL ONLY BE PERMITTED WHERE:-

- A) **THE SITE IS WITHIN OR IMMEDIATELY ADJOINING THE MAIN BUILT UP AREA OF AN IDENTIFIED VILLAGE OR RURAL SETTLEMENT ~~WITH A POPULATION OF 3000 OR FEWER~~ TO WHICH POLICIES HSG2, HSG3 AND HSG4 APPLY;**
- B) **THERE IS AN ESTABLISHED LOCAL HOUSING NEED WHICH CANNOT BE MET IN ANY OTHER WAY;**
- C) **THE NUMBER, TYPE AND SIZE OF DWELLING(S) PROPOSED ARE THE MOST SUITABLE TO MEET THE HOUSING NEED(S) IDENTIFIED;**
- D) **THE SITING, SCALE AND DESIGN OF THE DEVELOPMENT RESPECTS THE CHARACTER OF THE SETTLEMENT AND SURROUNDING COUNTRYSIDE;**
- E) **IN THE CASE OF A SINGLE AFFORDABLE DWELLING, IT IS AN APPROPRIATE SIZE TO MEET THE IDENTIFIED LOCAL NEED ~~DOES NOT EXCEED 80 SQUARE METRES IN FLOORSPACE MEASURED EXTERNALLY;~~ AND**
- F) **SECURE ARRANGEMENTS ARE MADE TO ENSURE THE AFFORDABLE HOUSING REMAINS AVAILABLE TO MEET THE NEEDS OF THE COMMUNITY BOTH INITIALLY AND IN PERPETUITY.**

Appendix 2

Model Legal Agreement

DATED

200

Land known as:

NORTH DEVON DISTRICT COUNCIL

and

and

A G R E E M E N T

made under Section 106 of the Town
and Country Planning Act 1990

B Evans,
Legal Services Manager
N.D.D.C.,
Civic Centre,
Barnstaple,
North Devon.

File Ref:
Doc. Ref: affordable housing scheme S106

- (4) The Owner is the Estate Owner in fee simple in possession free from incumbrances of the Land/subject to _____ dated _____ and made between _____ but otherwise free from incumbrances of the Land
- (5) The Applicant has by the Application applied to the District Council for planning permission for the Development
- (6) The Owner enters into this Planning Obligation at the request of the Applicant
- (7) The parties hereto in accordance with the provisions of Section 106 of the 1990 Act as amended have agreed to enter into a Planning Obligation the terms of which are contained in this Agreement

N O W THIS DEED WITNESSETH as follows:-

1. THIS Agreement is made in pursuance of Section 106 of the 1990 Act and all other enabling powers in that behalf to the intent that it shall be binding not only on the parties hereto but also their successors in title and any persons deriving title through or under them

2. THE District Council in consideration of the covenants on the part of the Applicant and the Owner herein contained is minded to grant and issue unto the Applicant planning permission for the Development (hereinafter called "the Planning Permission") within twenty-one days of the date hereof Subject to such conditions as may be set out in the Planning Permission Together With such other conditions as may be implied by statute or statutory instrument

3. THE Applicant and the Owner hereby jointly and severally covenant with the District Council to observe and perform the provisions and restrictions set out in the Schedule hereto

4. THE Mortgagee hereby consents to the owner entering into this Agreement and hereby consents to the Land being burdened by the provisions and restrictions contained herein

5. FOR the avoidance of doubt and notwithstanding the terms of the Mortgage/Legal Charge or any rule of law incidental thereto the Mortgagee shall be bound by the terms of this Agreement upon exercising any power to take possession lease sell or otherwise deal with the land or any part thereof

6. **IT IS HEREBY EXPRESSLY AGREED AND DECLARED** as follows:

(a) that no compensation shall be payable by the District Council in respect of any provision of this Agreement

(b) This Agreement is made with the intent that it shall be enforceable without any limit of time against the Owner and any persons having an estate in the Land as if the District Council were possessed of adjacent land and as if this Agreement had been expressed to be made for the benefit of such land

(c) Where the expression "The Owner" comprises two or more persons or bodies the covenants and agreements expressed herein shall be deemed to have been jointly and severally made or given

(d) Nothing in this Agreement is or amounts to or shall be construed as a planning permission within the meaning of Section 336 of the 1990 Act

(e) For the avoidance of doubt nothing herein contained or implied shall prejudice or affect the District Council's rights powers duties and obligations in the exercise of its functions

as a Local Authority and the rights powers duties and obligations of the District Council under all public and private statutes byelaws orders and regulations may be as fully and effectually exercised in relation to the Land as if this Agreement had not been executed by the District Council and nothing herein contained or implied shall be taken to be a covenant or warranty or representation on the part of the District Council that the Applicant's proposals are lawful

7. THE Applicant shall prior to the execution hereof pay the District Council's costs in connection with the completion of this Agreement amounting to £

IN WITNESS whereof the parties hereto have caused their respective Common Seals to be hereunto affixed the day and year first before written

IN WITNESS whereof the parties hereto have hereunto set their hands and Common Seals the day and year first before written.

THE SCHEDULE

(Restrictions)

- 1 As part of the Development to provide Affordable Units at a proportion of at least of the overall number of Dwellings PROVIDED THAT where the application of this calculation arises at a number which is not a whole number the figure shall be increased to the nearest whole number
- 2 Not to commence any part of the Development until such time as a plan and details of the Affordable Units has been provided to and approved in writing by the District Council
- 3 Not to commence the construction of more than of the General Market Dwellings until such time as the Affordable Units Scheme has been submitted to and approved in writing by the District Council
- 4 Not to charge a rent for any of the Affordable Units which exceeds the amount set out in or calculated in accordance with the approved Affordable Units Scheme
- 5 Not to sell allocate or other wise dispose of any of the Affordable Units or part share of any such Unit at a price which exceeds the amount set out in or calculated in accordance with the approved Affordable Units Scheme
- 6 Not to sell allocate or otherwise dispose of any of the Affordable Units or part share of any such Unit other than in accordance with the approved Affordable Units Scheme.
- 7 Not to occupy or permit the occupation of any of the General Market Dwelling until the Affordable Housing has been completed and allocated or disposed of in accordance with the Affordable Units Scheme
- 8 To notify the District Council as soon as construction of [Tie in with 3 above] of the Dwellings has been commenced.

THE COMMON SEAL of NORTH DEVON)
DISTRICT COUNCIL was hereunto)
affixed as a Deed in the presence of:)

THE COMMON SEAL of _____)
 was hereunto affixed as a _____)
 Deed in the presence of: _____)

SIGNED and DELIVERED as a Deed by the said)
in the presence)
of:)

Appendix 3

Formula for Calculating Off Site Financial Contributions

FORMULA FOR CALCULATING OFF SITE FINANCIAL CONTRIBUTIONS

The formula for calculating off site financial contributions is based on the Housing Corporation's 'Total Cost Indicator' (TCI). The TCI guidance published by the Housing Corporation identifies a number of different groups which draw together districts with similar building costs. North Devon falls within TCI band C2. The house types are defined by the size of floor area measured in square metres, against which a total cost is applied.

Extract from 2004/05 and 2005/06 TCI Base Table for Self Contained Accommodation

<u>Unit Floor Area</u> <u>(m²)</u>	<u>Probable Occupancy</u> <u>(Persons)</u>	<u>TCI Group C2</u> <u>(£1 Per Unit)</u>
Up to 25m ²	1	47,300
Exceeding-not exceeding		
25-30m ²	1	52,100
30-35m ²	1 and 2	56,900
35-40m ²	1 and 2	61,700
40-45m ²	2	66,400
45-50m ²	2	71,200
50-55m ²	2 and 3	76,000
55-60m ²	2 and 3	80,800
60-65m ²	3 and 4	85,500
65-70m ²	3 and 4	90,300
70-75m ²	3, 4 and 5	95,100
75-80m ²	3, 4 and 5	99,900
80-85m ²	4, 5 and 6	104,600
85-90m ²	4, 5 and 6	109,400
90-95m ²	5 and 6	114,200
95-100m ²	5 and 6	119,000
100-105m ²	6 and 7	123,700
105-110m ²	6 and 7	128,500
110-115m ²	6, 7 and 8	133,300
115-120m ²	6, 7 and 8	138,100

The Housing Corporation funding model assumes that the difference between the grant provided and the total cost of the unit can be raised by the RSL through private finance, which is effectively offset by the rents received. If the rent was required to cover the full cost of producing the unit without subsidy, then the rents would need to be higher and would not be 'affordable'.

The applicable grant is calculated using a complex Grant Calculator model, which effectively calculates the grant for each unit individually. Based on this model, the average subsidy for general needs housing in North Devon is approximately 60% per unit.

Working Example Showing TCI Methodology

Through negotiations it has been agreed that a financial payment equivalent to 30 affordable homes is required in lieu of on site provision. All of the affordable homes to be provided will be for rent. Of these, 15 will be 2 bed 4 person houses at 80m² and 15 will be 3 bed 5 person houses at 90m² to reflect the housing needs of the locality.

Basic TCI per 2 bed unit: £99,900

Basic TCI per 3 bed unit: £109,400

100% TCI ($£99,900 \times 15$) + ($£109,400 \times 15$) = £3,139,500

Total Scheme Costs: £3,139,500

Actual financial contribution payable = total scheme costs x 60% = £1,883,700

The Housing Corporation has indicated that the TCI system may be reviewed. The TCI methodology may, therefore, need to be reviewed and updated.