

Affordable Housing Supplementary Planning Document

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Section 1: Introduction and Context

Introduction

This Affordable Housing Supplementary Planning Document (SPD) sets out Newcastle-under-Lyme Borough Council's approach to securing affordable housing, primarily through the development control process. It is based on the most up-to-date research on the need for affordable housing in the area.

Until relatively recently affordability was not a significant issue within the Borough. However, the gap between house prices and incomes has widened. The rise in average earnings has not been matched by the steep rise in borough-wide house prices over the last decade, particularly within the rural area, where affordability is a real issue. Furthermore, the availability of social housing stock has been reduced due to the 'Right to Buy' Scheme. The issues of price/income ratio still prevail in the Borough in spite of the recent housing recession, which has resulted in a fall in house prices across the country. This is because the primary cause of the house price recession is not lack of need but is due to changes and uncertainty in the global and national economic climate resulting in a narrowing of access personal mortgage finance. In other words the need for affordable housing has not diminished. Furthermore any reduction in the rate of market supply is likely to exacerbate problems both for first time buyers and those looking to rent, and hit areas hardest where the market is already weak, e.g. in the housing market renewal areas.

The planning system must help to deliver the Government's priority of building more affordable homes in sustainable communities whatever the state of the housing market and the Council is strongly committed to meeting the need for affordable housing. This will be pursued through striving to achieve positive negotiations on development proposals, including section 106 agreements, working directly with RSLs to secure additions to the social stock and monitoring the effectiveness of affordable housing when provided.

The Council in June 2007 joined with partners to commission a Strategic Housing Market Assessment, to ensure that it has a robust evidence base to support the development of a consistent policy framework. The results of that work appear in this SPD and are reflected in the Core Spatial Strategy for Newcastle-under-Lyme and Stoke-on-Trent, approved by both planning authorities and the North Staffordshire Regeneration Partnership for submission purposes.

More recently the Council commissioned consultants to undertake a health –check of the likely impact of the proposed affordable housing policy on residential site viability. The study did not consider individual site viability, but was used to test the soundness and robustness of the Council’s approach to affordable housing outlined in the SPD. The Study has demonstrated that the affordable housing policy is economically viable.

The aim in the Borough, as for the whole of North Staffordshire, is to provide a balanced housing offer in a well functioning housing market. It is a question of quality as much as quantity.

When property values fall the delivery of affordable housing is going to be that much harder, not only because sites may not come forward, but because the viability of some sites may be affected. This is particularly true in the Borough, where ground conditions can sometimes give rise to abnormal costs and house sale prices, at least in comparison with the rest of the Region and nationally, are low, leading to low profit margins.

In these circumstances, made worse by the state of current housing market, it is particularly important that the Council provides the best guidance it can to assist the delivery of good quality affordable housing to meet the requirements of local people and support the creation of balanced and integrated communities.

The Council’s aim in preparing this SPD is therefore to:

- Ensure the supply of affordable housing meets the needs of the borough.
- Provide guidance on affordable housing requirements to ensure that private developers get a consistent and clear message from the Council at as early a stage as possible.
- Provide a clearer picture to housing associations and other partners about the local requirements in terms of the type of housing necessary to meet local requirements and the design standard.
- Drive forward the delivery of higher quality homes
- Support good practice
- Show how the Council has interpreted the results of the Strategic Housing Market Assessment, undertaken on the advice of DCLG and the Regional Assembly.

The SPD will outline actual proportions, types and thresholds and will establish firm targets. This will ensure developers are well informed of the Council’s expectations relating to the provision of

affordable housing, including the level of affordable housing required; tenure, and the design standard, all prior to purchasing land and submitting a planning application. In this way developers will be in a good position to reflect the Council's requirements when negotiating land values, or planning to develop a site. It will also assist RSL's in bidding for funding and developing their business plans.

Status of the SPD

An SPD does not set new policy, but provides more details on policies already in the Development Plan. This SPD amplifies the relevant strategy and emerging policies of the Core Spatial Strategy for Newcastle and Stoke-on-Trent. The evidence set out in the SPD has been used to inform its affordable housing policy and as such it also forms an important background document to the Core Spatial Strategy.

The Core Spatial Strategy is to be submitted to the DCLG by the end of the year for public examination. It is anticipated that the public examination will take place in March 2009 and the Core Spatial Strategy will be adopted before October 2009. The timing of the adoption of the Core Strategy is a key issue as the statutory procedures for adopting an SPD would normally require an SPD to wait until the policy it is derived from to be adopted first, unless there is a saved Local Plan Policy. However given that Affordable Housing is a key priority for both the Government and the Council it is considered necessary to proceed in order to help achieve national (as expressed in 'Delivering Affordable Housing' November 2006 and PPS3), regional and local objectives for affordable housing. It is therefore the intention to adopt this SPD by the end of January 2009 unless the Secretary of State intervenes. Alternative existing policy support for this SPD is to be found in Policy IM1, one of the "saved" policies of the Local Plan, which sets out the requirement for developers to contribute to "infrastructure or essential services" that would make a development acceptable. This was the principal support for the adopted SPD on developer contributions, which, in its turn, makes specific reference to affordable housing as one of the appropriate items to be considered.

This Affordable Housing SPD forms part of the Newcastle Development Framework and as such is an important material consideration in the determination of planning applications.

It replaces the Affordable Housing SPG adopted by the Council in 2004 prepared under the old planning system.

Local policies and programmes

This SPD gives specific support to the key objective identified in the Council's Housing Strategy, 2008 – 2010, 'to provide a greater choice of housing in response to residents needs' and will take forward a key priority of the Sustainable Community Strategy, 2008, by ensuring 'a better choice of homes is provided and that a sufficient number of new homes are affordable.'

Section 2: Definition of Affordable Housing – and the scope of this SPD

The term “Affordable Housing” is defined in Planning Policy Statement 3: Housing (PPS3) (November 2006):

“Affordable housing includes social rented and intermediate housing, provided to specific eligible households whose needs are not met by the market”. Affordable housing should:

- *Meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices.*
- *Include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative provision.*

The two types of affordable housing identified in this definition are described below:

Social Rented

Social Rented Housing is housing owned and managed by registered social landlords (RSLs), for which guideline target rents are determined through the national rent regime. The level of rent and service charges levied by RSLs is generally treated as being affordable by those in greatest need. Social rented affordable housing should be available, in perpetuity, to those in housing need. It may also include rented housing owned or managed by other persons and provided under equivalent rental arrangements to the above, as agreed with the Local Authority or with the Housing Corporation as a condition of grant.

Intermediate Housing

This is housing at prices and rents above those of social rent, but below market prices or rents, and which meet the criteria of affordable housing set out above. These can include shared equity products, other low cost homes for sale and intermediate rent. The most common model of intermediate housing is shared ownership and it refers to housing which is partly sold to the occupiers and partly rented to them by an RSL. It is tailored towards a specific income group that is

correctly targeted to address specific local housing needs. In most cases the purchaser may buy additional shares ('staircasing') and own the whole property.

Other types of housing available at lower cost

General Low Cost Housing is not classed as affordable housing in PPS3 and therefore does not count towards the overall provision of affordable housing. Typically this is likely to be smaller units or starter homes of a lower build standard and specification that although provides a cheaper option for the first occupier, does not mean further provision is available to ensure that the property remains affordable to subsequent occupiers or for any subsidy to be recycled. Although cheaper than new-build market housing, it is still likely to be more expensive than private rented accommodation and could not therefore be considered to be housing available to people who cannot afford to rent or buy houses generally available in the open market.

Similarly, housing provided at a discount by the developer to the first occupier only is unlikely to constitute a suitable form of affordable housing. Discounted housing means a price of no more than 60% of the Open Market Value price of the affordable housing units. To be affordable, it would need to be demonstrated that the accommodation would be priced below the current average price paid by first time buyers in the Borough for properties of a corresponding size in similar areas. The developer must be able to demonstrate that the discount will be retained for subsequent purchasers. Such housing could be considered as "affordable housing" but would only be accepted as a last resort.

Housing that is not "affordable housing" is that provided by the general housing market – mostly for owner occupation. There is also a growing private rented sector, estimated in the Borough to be around 7%. Although this can be offered right across the market, it is mostly represented in the lower cost sector. Although it may make a contribution to the need for cheaper housing, like low cost market housing to buy, it is outside the scope of this document.

The Council's Preference

The majority of new "affordable housing" needed in the Borough will be "social" housing. This reflects the fact that North Staffordshire is a low priced housing area, and there would appear to be no shortage of low priced housing on the open market. The issue of low house prices needs further explanation. It is often felt that because house prices are low, there is little need for "affordable

housing”. This is clearly not the case, as the results and analysis of the SHMA and other evidence contained in appendix 1 show. In fact there has been a significant increase in house prices within the Borough in the last five years which has not been matched by average income rises, the average affordability ratios range from 3.81 to 6.57. This means housing is clearly unattainable for a large number of people, with 2528 active applicants on the housing register, it is unlikely such householders will be able to access other forms of tenure than social rented.

Section 5: “Facilitating the proportion of affordable housing” outlines the minimum proportion of social rented housing to be provided as part of the requirement for affordable housing.

Supported Housing Needs

There may be needs identified that require the provision of facilities such as housing for the elderly, supported housing or hostels to serve people with a variety of special needs. In some cases it may be possible to require the inclusion of such provision as part of a housing development, in the same way that affordable housing can be required. The Council will aim to secure an appropriate proportion of special needs housing, to meet identified local needs, as part of the affordable housing element of sites.

In terms of use class, depending on their precise nature, such developments may be regarded as residential or institutional. Although it can be important in decision making how such schemes are considered in terms of the Use Classes Order, there is as yet no consensus as to whether some innovative types of housing, such as Extra Care, should be considered as C2 (residential institutions), or C3 (ordinary dwelling house), or perhaps sui generis (a use on its own, for which any change of use will require planning permission. The key policy challenge is that the constituent elements of extra care developments can straddle these boundaries. This causes uncertainty as whether they should count towards overall housing land supply. The interpretation of Use Classes Order definitions has varied according to the particular circumstances of proposals and the range of services and facilities provided.

Unlike residential care homes, extra care housing is not registered by the Commission of Social Care Inspection (CSCI) (though the delivery of the domiciliary care component to individual residents is registered.) For the purposes of this SPD, the housing requirements will be set aside when an establishment is C2. A decision will be made case-by-case basis, assessing the specific realities of the development and whether as a matter of ‘fact and degree’ it is C2.

Finally, it should be noted that all references to housing in this SPD concern permanent dwellings, including apartments. Clearly there are other forms of accommodation, including boats and, particularly caravans. This SPD does not cover the needs and requirements of Gypsies and Travellers. These need attention but they raise different issues not covered in this guidance. The Core Spatial Strategy includes a policy which seeks to meet the needs of Gypsies and Travellers within the North Staffordshire sub-region.

Summary of Key Issues:

- The Council's preference is for Social Rented and Shared Ownership Housing, with a greater emphasis on Social Rented units.
- An assessment of whether Extra Care facilities should be classed as either residential institutions or dwelling houses, will be undertaken on a case-by-case basis, assessing the specific nature of each development.

Section 3: Assessing Housing Need

For the avoidance of doubt, in this document, “housing need” refers to the amount of affordable housing required, whereas “housing demand” refers to the requirement for market housing

As explained in section 2 on the definition of the term, affordable housing is intended to meet the needs of households that are unable to enter the general market without some form of intervention by public service providers are defined as in need. PPS3 defines housing need as:

“The quantity of housing required for households who are unable to access suitable housing without financial assistance”.

Assessing housing need is a matter of looking at the availability of housing at different prices and the range of incomes. It is easy to deduce from this that there are a large number of people who will not be able to afford to buy a house. To this must be added a consideration of the particular needs for different types of house. For instance, a large family may have sufficient income to enter the housing market but not enough to secure a home large enough for their needs.

Another aspect is the condition of existing housing. There may be a high level of housing need in an area because of the low quality of housing condition which will lead people on low incomes to seek better accommodation.

These aspects are referred to as the drivers for housing need. Appendix 1 sets out an analysis, based primarily on the sub-regional Strategic Housing Market Assessment that was produced in April 2008. This included the use of a Housing Needs Model, a dynamic tool that measures progress towards achieving policy aims and balancing housing markets. It looks at alternative scenarios to measure impacts of market change or market intervention and calculates the current housing need, future housing need and affordable housing supply as annual flows to arrive at a net figure for the number of additional affordable dwellings required.

The result of the analysis is striking. It estimates that over the next 20 years, there could be a need of 269 new affordable units each year.

Section 4: Local Need

In some circumstances, it is appropriate to consider whether there is a "local need" within a defined area for affordable housing, or for a particular type of affordable housing. Information to address this issue would be available from the housing register, where people indicate their preferences as to where they would like to secure accommodation. It would also be available from a Parish Needs Survey, where people already living in a locality are asked specifically whether they, or a family relation, would be interested in affordable housing nearby.

However, there is no similar process when market housing is planned and provided. The quantum of provision is informed by national, regional or sub-regional trends and strategies, and broad locations for development sites are selected according to a wide range of criteria, including urban form. Higher or lower targets for general house building are often informed by deliberate policies in regard to migration. For instance, efforts may be made to increase house building in one area to prevent out-migration; on the other hand, regional policy is to restrict development in rural areas so as to encourage more people to live in (and move to) urban areas. The provision of affordable housing cannot be considered in a vacuum and must pay regard to the same issues.

Within the urban part of the Borough, supply and demand for general needs affordable housing would be expected to be balanced over a wide area. There may be localities where, to create a more balanced provision, and therefore a more mixed community, it may be advisable to provide as part of new development more of a certain type of property (such as flats, family housing, large dwellings etc). There would also be an issue of tenure balance in many localities, so that a higher or lower proportion of social rented housing in new development might be required if there was already a strong imbalance. Even then, however, there would be no attempt to make all areas consistent; the variety of the different neighbourhoods is part of the character of the area. But we would not expect to set down, at the outset, a different quantitative requirement for affordable housing in, say, southern Newcastle, or Kidsgrove. In those terms, we would not be assessing "local need".

The issue of local need is generally only explored in the rural areas, where house prices make local needs difficult to satisfy. There is another concern, however, and that is "sustainable development". Government policy (and regional policy) is geared to concentrate development in the urban areas. Rural locations are less "sustainable" because of their tendency to encourage

greater transport demands – particularly the use of the private car. There is therefore a need to control the development of housing in the rural area. For this reason, where affordable housing is justified by an assessment of local need, this assessment must be clear and subject to careful scrutiny.

The issue of local need is highlighted in the RSS (both the current RPG version adopted in 2004 and the 2008 Phase II review), but care needs to be taken in interpreting the policies.

Policy CF2 (d) of the RSS adopted in 2004 - "Housing beyond MUAs" states:

"In rural areas, the provision of new housing should generally be restricted to meeting local housing needs and/or to support local services, with priority being given to the re-use of previously developed land and buildings within existing villages enhancing their character wherever possible".

And CF2 (e) indicates that:

"Local housing needs constitute needs arising from the immediate area, excluding migration from elsewhere"

In the RSS review, this has been amended in CF2(c):

"Development in villages should support the need to meet local housing requirements particularly needs for affordable housing; and promote local regeneration or support the retention or creation of local services. Development should be prioritised in villages which still have a range of services and within these, priority should be given to the reuse of previously developed land and the conversion of buildings".

The revised wording helps to clarify what is intended in the original policy. Reference to "local needs" is concerned mainly with the scale of development; development on too great a scale would directly encourage in-migration. (This interpretation has been supported in the Borough by recent appeal decisions). Any requirement to demonstrate a specific local need for a new development would only arise where the issue was supporting new *affordable* housing, either in terms of housing strategy or to justify the use of a site where general market housing might not be acceptable.

The issue raised in the RSS will be clarified in the Core Spatial Strategy, which identifies those settlements which are considered more sustainable locations - Madeley, Loggerheads and the Audley Parish villages. The Core Spatial Strategy will note that the growth proposed in the RSS will take place "primarily" within designated village envelopes in those areas. This will not exclude the possibility of small scale development elsewhere; "rural exceptions", in particular, may be released for affordable housing and in such cases, "local need" will be an issue.

Section 5: The Requirements for Affordable Housing

This section clarifies the way the Council will facilitate the provision of affordable housing, largely through requiring affordable housing to be part of any new housing development.

Thresholds

PPS3 lays down a threshold for requiring affordable housing as part of general housing development. This is **15 dwellings**. No attempt is being made here, or in the Core Spatial Strategy, to justify a lower threshold in the urban area. **In the rural area, however, a threshold of 5 dwellings is to be used**, and this is set out in the Core Spatial Strategy. In accordance with the strategy of the RSS, it is unlikely, at least in the short and medium term that any significantly large areas of land in the rural area will be developed for housing. Thus a much lower threshold is needed.

One of the key housing policy objectives of PPS3 is that new housing should make efficient and effective use of land. Accordingly, sites will normally be measured to the natural perimeters of the site defined by physical characteristics. It will not be appropriate for developers to divide a site into smaller components, even to reflect ownership boundaries, taking the site area below the threshold and expect not to be required to provide affordable housing. It may be necessary to consider the development of the whole site comprehensively to ensure that the provision of affordable housing, as well as other essential facilities, is made. Similarly, where schemes are submitted under the threshold, account will be taken of the need to provide affordable housing and whether best use is being made of the site. Where land is used inefficiently to avoid having to provide affordable housing, this will lead to the refusal of planning permission.

In considering whether a development meets the threshold for providing affordable housing, the Council will consider the gross number of proposed dwellings, not the net increase. As an example, on a site, within the urban area, where a proposed new development might consist of 15 new dwellings while also requiring the demolition, or loss by conversion, of say 2 dwellings on the proposal site, affordable housing would be expected from the proposal because the gross number of dwellings meets the 15 dwelling urban threshold.

The quantity of affordable housing required

The analysis reproduced in Appendix 1 indicates a need for 269 new affordable dwellings per year. In the HMA, this figure is then applied to the proposed development rate of about 285 new dwellings per year set out in the RSS, and the anticipated housing demand of 356 dwellings per year. This results in an indication that between 75 and 95% of all the new dwellings to be built should be affordable housing.

It is clear that a requirement on this scale would be impracticable. It would be economically unfeasible and it would produce unbalanced communities. It would also run counter to the strategy of the RSS and the North Staffordshire Regeneration Partnership to raise incomes, the quality of employment opportunities, educational aspirations and so on. It has been acknowledged by the DCLG that the findings of SHMAs are designed to inform the development of planning and housing policy. In other words, their findings should not necessarily be interpreted as the level of housing need or demand that plans should address.

Following the evidence base activities like the SHMA, it is the role of the subsequent plan-making stages to make the most equitable judgement as to the level of market and affordable housing that can be delivered in an area, having regard to the Government's housing ambitions. (Quoted from the DCLG advice given in 2008 in the North East Region)

However, what the analysis does is to indicate how crucial the provision of affordable housing is for the future sustainability of the community. A target in the region of 75% could be justified by this analysis before the other issues referred to above come into play. What is needed is a considered target that would be regarded as financially viable in most cases but would ensure the continued supply of a balanced housing offer.

One of the most important drivers is the need for balanced, mixed communities. It is generally regarded that around 40% social rented is the "tipping point" at which communities begin to exhibit indicators of deprivation. Even a figure at that level would thus be inappropriate for large developments. In terms of financial feasibility, even before the current downturn in the housing market, house prices in North Staffordshire do not give developers a high rate of return. Thus the imposition of too high a target would be likely to discourage investment.

Taking all these issues into account, and economic viability, a figure of 25% has been selected as fair, realistic, and likely to make a positive impact on housing provision. Within this proportion, there must still be a strong emphasis on the social rented sector. Therefore, within that 25%, at least 15% should be social rented, with the remainder being intermediate housing - largely forms of shared ownership. The 25% affordable target will not differ across the Borough, but there may need to be negotiation in respect of type (apartments, family housing etc) and possibly tenure in response to unmet local needs. These figures, derived from the above analysis, are included in the Core Spatial Strategy.

Data on completions over the last five years in the urban area shows that nearly 26% of development has been on sites under 15 dwellings, and would "escape" the requirement for affordable housing. This reduces the effect of the 25% to an operational 19%. This effect will be ameliorated in future by large sites being identified, and will in part be compensated for by development by RSLs on their own terms. However, it also indicates the need for the Council to apply the target consistently and with not too much flexibility. (The equivalent analysis on the rural area, in relation to the threshold of 5 dwellings, reduces the operational proportion to 14%. This could be compensated for by provision on "rural exceptions".)

Summary of Key Issues:

- The Council will seek the provision of affordable housing on all residential schemes of 15 or more dwellings, or 5 dwellings in the rural area.
- The target is 25% of the total number of dwellings, of which at least 15% should be social rented with the remainder shared ownership.

Housing types

As a general principle, developers would be expected to provide the affordable housing within a development across the same range of housing types as the market housing on a pro rata basis. For example, if the development consisted of 20% apartments and 80% family houses, the same proportions should be represented - as far as the arithmetic allows - within the affordable housing.

This will be the starting point, but where there is an opportunity within the development to provide for specific dwelling types where evidence indicates a particular need, this will be pursued.

The analysis of the housing register in Appendix 1 identifies acute unmet need for two particular types of housing.

- Bungalows of 2 bedroom spaces
- Houses with 4 bedroom spaces
- Although, there is a high need for 1-bed flats, due to a significant level of single person household on the housing register, there is a considerable rate of re- lets for this type of accommodation.

The need for two bedroom space accommodation is further reinforced by the aspirations of the single person households, in particular single pensioner households and families who have expressed the requirement for additional space to accommodate family visitors and guests. The modern tendency for older people to live alone, separated from their families brings with it the need to allow visitors. The figures also show a high turn over and take up of single bed flats, but again this only serves to underline the importance of the 2 bed accommodation.

When individual schemes are assessed, and where the character of the development makes this possible, on the basis of this current evidence, accommodation of the above types will be sought. However, the situation will be monitored and the requirement may change over time.

Section 6: Design Requirements

Design and Layout Requirements

The Council will expect high standards of design, layout and landscaping for all developments which respect the character of the area and reflect local distinctiveness in accordance with key planning principles outlined in Planning Policy Statement 1: (Sustainable Development), Planning Policy Statement: Planning and Climate Change (Supplement to PPS1) and emerging design guidance in both the North Staffordshire Design Guidance SPD and the Core Spatial Strategy.

To ensure the creation of mixed and integrated communities the affordable housing should be seamlessly integrated and distributed throughout the development scheme consisting only of small groups. It should not be distinguishable from market housing in terms of location, appearance, levels of amenity space, privacy and build quality and materials.

The affordable housing should be tenure blind and fully integrated with the market housing. It is recognised that for the purposes of RSL management that the affordable housing, which consists of flats and apartments, should be clustered together. These clusters should provide the tenures in single blocks, and not mix tenure, for reasons of maintenance and management. There should generally be no more than 10 affordable units in one cluster. There will however be a certain degree of flexibility and the Council will negotiate the distribution of the affordable dwellings across the site with the developer to ensure the creation of balanced and sustainable communities, whilst also taking into account housing management and overall site development issues. Tenure blind integration should be considered at an early stage of the detailed design and layout of the site. Care should be taken to maintain the quality of the affordable housing. Material specifications should not be to a lower standard than private sale housing and levels of privacy, car parking, access and open space provision should not be compromised.

Quality and Accessibility Standards

To achieve a consistent high standard, all affordable housing developments will be required to be built to the relevant Design and Quality Standards, or their replacement, published by the Housing Corporation. If the Design and Quality Standards (DQS) are not met, RSLs would not receive funding from the Housing Corporation. Applicants should therefore consider these standards

before submitting the application. Close working with the Housing Corporation, the Council and the affordable housing provider, will ensure the appropriate standards are met.

The Council will expect a statement from the developer, when the application is submitted, confirming that the dwellings comply with the applicable and most up-to-date Housing Corporation standards. Failure to supply this statement could delay determination of the application or completion of the legal agreement.

Developers should be aware of the relevant Housing Corporation standards that apply to the development. The latest standards can be downloaded from the corporation's website www.housingcorp.gov.uk.

Sustainable Construction

Affordable housing will be required to be of sustainable construction in accordance with the Government's 'Code for Sustainable Homes'. The Code for Sustainable Homes sets six levels of sustainability for new build housing in England. The Code uses a 1 to 6 star rating system to communicate the overall sustainability performance of each new home.

This is a key requirement, and over time schemes will be expected to achieve increasingly higher ratings under this scheme. To ensure that sustainability requirements are met, developers will be expected to work with the Council to ensure the most necessary, and most recent, standards, are being complied with.

Parking

In addition to the principles set out above, the affordable housing element of any development should provide an appropriate level of parking equivalent to at least that of market housing.

Section 7: Mechanisms for securing provision

Where affordable housing is provided, the Council believes that long-term affordability can be best secured through the involvement of an RSL from the Council's current list of providers attached in **Appendix 4** – this provides a list of housing associations that have stock within North Staffordshire. The list ranks those who have the greatest number of housing units in the area. This is not an approved list of registered social landlords. Developers are advised to contact the organisation and appropriately select their 'development partners'. Any RSL seeking to deliver and manage affordable housing in the Borough will be expected to demonstrate to the Council that they can provide a good housing service and have facilities locally to deliver the service.

Unless a planning condition is considered appropriate, affordable housing will generally be secured through a Section 106 legal agreement. Affordable housing is one of the aspects listed as appropriate for Section 106 agreements in the Council's adopted SPD on Developer Contributions and is expressly allowed by Circular 05/2005.

Section 106 agreements will be used:

- To secure affordable housing as part of a larger housing scheme
- Where social housing development is permitted as a "rural exception"
- Where commuted payments are sought for off-site provision.

The Council will ensure through the use of legal agreement or conditions that the affordable housing built is occupied in perpetuity only by people that fall within the identified categories of need for affordable housing.

On larger proposed schemes the Council will work with the developer to ensure that the affordable housing is provided as far as practicable at the same time as the market housing. Developers should be aware that there will be trigger and phasing clauses in the S106 agreement or conditions on the planning permission to ensure the phased delivery of affordable housing. Where it is proposed to deliver affordable housing out of phase with the market housing, it will be for the developer to demonstrate why, having regard to material planning considerations, this is an appropriate strategy.

On all sites, the S106 agreement will cover control to ensure that the accommodation will benefit subsequent as well as initial occupants. Details of land transfer, including cost, may also be included.

The Council has produced a Model Section 106 legal agreement on affordable housing, the current version of which can be found at Appendix 2. It provides for a sequential approach whereby the Council's preferred types of housing are to be considered in the first instance and resort is only to be had to other types when efforts have been exhausted. For instance, if the developer makes reasonable efforts to sell to an RSL for social housing, but is unable to do so, a shared ownership model may be able to be considered. The Appendix also includes an explanatory flowchart.

Economics of Development

It is recognised that requiring developers to develop or allow part of a site to be used for affordable housing will result in a cost to the land owner and/or developer when compared with no affordable housing requirement. In order to offset these costs, developers will be expected to take the requirement for affordable housing into account in negotiating land values with site owners.

Off-site provision and Financial Contributions

In accordance with Government guidance, the Council will seek to ensure that affordable housing is provided on site in the first instance. Only in very particular, agreed circumstances will either another site, or payment in lieu of on site provision be considered as an acceptable alternative.

The provision of units on an alternative site may apply where the Council considers that the provision of completed units elsewhere would enable it to apply the contribution more effectively to meeting the Borough's housing need. Provision of completed units on an alternative site will be in addition to any applicable affordable housing requirement arising from the development of the alternative site. It is important that off-site provision does not compromise the aim of creating mixed, balanced communities. This is supported by the Core Spatial Strategy which states:

“In some areas the local need for affordable housing may be for less than 25%. In this case a financial contribution to off-site affordable housing provision will be required at the equivalent rate to meet priority needs elsewhere”.

Where Section 106 agreements are used to secure off-site provision of affordable housing, this would be done by requiring a financial contribution (commuted sum) to be made towards the provision of that element of affordable housing elsewhere in the Borough. In such circumstances, the payment will be collected to help finance the development of the relevant proportion of affordable housing equivalent to that which would have been required on site.

Planning Policy Statement 3: Housing (Para 29) states that–

‘...where it can be robustly justified, off-site provision or a financial contribution in lieu of on-site provision (of broadly equivalent value) may be accepted as long as the agreed approach contributes to the creation of mixed communities in the local authority area’

The identification of what is deemed to be ‘of broadly equivalent value’ (and therefore the exact level of commuted sum payment) for specific developments will be determined on a case by case basis. As a starting point, it is the Councils understanding that RSL’s would normally be able to contribute somewhere in the region of 40% of the OMV of a property.

The calculation of commuted sum payments will be made at the time of the application and will be included in a S.106 agreement. To ensure that contributions reflect conditions applicable at the time the contribution becomes payable, the S.106 agreement will include an index linking formula. The expectation is that the commuted sum will be payable on commencement of the development. However, in recognition of the need to generate cash flow, the Council and the developer may agree an alternative trigger.

Affordable Housing Fund

Payments received in-lieu of affordable housing on site will be held by the Council in a ring-fenced Affordable Housing Fund and will be used for capital funding to enable the provision of affordable housing, in accordance with Circular 05/2005.

The following are indicative examples of the possible uses of commuted sums generated from affordable housing:

- Purchase of the land by the Council for the development by an RSL partner
- Grant contribution to RSL partners towards site development and/or construction costs

- Bringing private sector empty properties back to use for affordable housing
- Purchase of existing satisfactory dwellings (ESD's) for transfer to a RSL partner
- Grant contributions to other local housing initiatives e.g. Homebuy schemes

As the use of commuted sums is to enable the provision of affordable housing, it will be inappropriate to spend commuted sums in the following ways:

- For repair or refurbishment of existing RSL housing stock
- To bring RSL Housing stock to the Decent Homes Standard
- To fund development work by the Council/RSL partners unless they are specifically directed to the provision of additional affordable units.

An element of the commuted sum may also be used to contribute towards the Council's revenue and associated administrative costs in facilitating or developing a strategic approach to affordable housing.

The commuted sums will not be spent exclusively in the geographical areas where the financial obligation has been generated, an inclusive approach will be taken and the commuted payments will be spent within Newcastle-under-Lyme on schemes that are considered appropriate.

The decision of allocating the commuted sums will be delegated to the Head of Service.

Procedure for Negotiations

As specified in the Council's adopted Developer Contributions SPD (September 2007), entering into discussions with the Planning Authority at a very early stage is strongly advised, to establish the policy requirements for affordable housing on a site. Pre-application discussion should take place as early as possible during the formulation of development proposals. Prospective applicants who come forward with proposals during this stage will be advised by the Planning Officer of the merits of the case and the requirement to provide a Section 106 Agreement or Unilateral Undertaking. With advice from the Planning Officer and relevant policy, it will be possible to specify the nature of the obligation and what is required.

To aid this process, the Council has adopted an internal Affordable Housing Protocol, which seeks to clarify the roles and responsibilities of each service area within the Council involved in

negotiating, securing and monitoring affordable housing provided as part of private sector development. This has been produced to ensure that the process for achieving affordable housing will be streamlined, thereby allowing the Council to optimise the provision of affordable housing. A copy can be found in Appendix 3.

Viability

It is acknowledged that in some circumstances an applicant may believe that what is being asked for will render a development unviable, probably in financial terms, but sometimes in practical terms. In such circumstances, for the Council to be persuaded to reduce its requirements, the onus will be on the applicant to justify why and how special circumstances apply. Where the issue is purely financial, it is acknowledged that there are issues of confidentiality. However, to ensure fairness and transparency any information provided would have to be made available to the public.

Negotiation over the level of and nature of contributions will be assessed on a site-by-site basis, having regard to the financial appraisal. It will take account of the economics of the development and other national, regional and local planning objectives that may affect the economic viability of the proposal.

For further information, on both the procedures for negotiation and viability arrangements, reference should be made to the Developer Contributions SPD (2007).

Section 8: Monitoring

Quantity

The Government expects Local Authorities to monitor the provision of all housing through the planning system. Under the Planning and Compulsory Purchase Act 2004, the amount of affordable housing provided will be monitored by the Council on an annual basis through its Housing Development Monitoring Report undertaken in August each year. The results will also be reported in the Council's Annual Monitoring Report (AMR) published in December each year. Copies of which are available to download from the Council's Local Development Framework website: www.newcastle-staffs.gov.uk/LDF

If the Council finds that the policies of the Core Spatial Strategy and the processes set out in this SPD fail to deliver sufficient amounts of affordable housing, consideration will be given to revising the approach.

Information from a variety of sources will need to be linked to any review of affordable housing requirements, and subsequently any review of this SPD. These will include targets outlined in the Local Area Agreement (LAA), Regional Spatial Strategy (RSS) and the Core Spatial Strategy:

- The Regional Spatial Strategy Phase Two Revision Preferred Option (December 2007) identifies the need for gross indicative minima targets of 500 affordable housing units per year in the West Midlands North Housing Market Area (consisting of the five districts in the north of the county).
- The Core Spatial Strategy is proposed to include a figure of 25% to cover the generality of the combined areas of the Borough and the City, with provision for significant local variation. This proportion would theoretically translate into just over 60-70 per year, if applied to the RSS allocation for the Borough.
- LAA targets. The Local Area Agreement delivery plan in relation to the indicator on provision of affordable housing sets out specific targets for the Borough for the three year period from 2008 to 2011. For the current year, the target is only 9, reflecting the low level of permissions already in the pipeline. For the subsequent two years, the targets are more aspirational:

144 for 2009/10

117 for 2020/11.

These targets may be subject to change, particularly the RSS numbers; this could theoretically increase the number of affordable units to be delivered annually.

Quality

The Council will also assess and monitor the quality and standards of the affordable units that are built. This is essential to ensure that affordable housing is built which is appropriate and effective.

This will be monitored against the design requirements outlined in section 7 of this SPD and the relevant design policies of the Core Spatial Strategy.

Glossary and Summary of Terms

Term	Meaning
Affordable Housing	Affordable housing includes social rented and intermediate housing provided to specified eligible households whose needs are not met by the market.
Affordable Rented Value	This is based on the amount that a RSL or other recognised body could afford to pay from its own resources (i.e. without the aid of public subsidy or grant) for the purchase of a social rented property as verified with RSLs at the time of a planning application.
Affordable Sale Value	This is an agreed value that takes account of the price of each intermediate housing unit.
Annual Monitoring Report (AMR)	A report submitted to CLG by Local Planning Authorities and regional planning bodies assessing the progress and effectiveness of the Local Development Framework.
Code for Sustainable Homes	A national standard for sustainable design and construction of new homes. This was launched in December 2006.
Housing Needs Survey	A survey that is undertaken in order to ascertain the level, type and distribution of housing needs within a Local Authorities administrative boundary.
Housing Association	An independent, non-profit organisation registered and regulated by the Housing Corporation who provide and manage housing for rent and sale.
Housing Corporation	A national Government Agency that funds new affordable housing and regulates housing associations in England.
Housing Demand	Housing 'demand' is essentially the pressure for new housing that arises from those households that are able to afford housing at market prices or rents.
Housing Need	Housing 'need' refers to households that are unable to access suitable housing without some form of financial assistance.
Local Development Framework (LDF)	Is a collection of Local Development Documents produced by the Local Planning Authority which collectively delivers the spatial planning strategy for its area. The Core Strategy is the key plan within the Newcastle LDF.
Lifetime Homes	Homes that are built to be flexible enough to deal with changes in life situations of occupants, for example, caring for young children, temporary injuries, or declining mobility with age.
Open Market Value	This is the value of the property on the open market, as established by an independent and professional valuation.

Planning Condition	A condition attached to a planning permission.
Planning Policy Statement (PPS)	National Planning Policy Guidance issued by the Government covering a range of issues, including housing and sustainable development.
Registered Social Landlord (RSL)	A body that manages affordable homes, both social rented and intermediate. Most housing associations are RSLs. A housing association must be registered with the Housing Corporation to be an RSL.
Social Housing Grant (SHG)	A capital grant provided by the Housing Corporation to fund Registered Social Landlord to develop social housing.
Supplementary Planning Document (SPD)	A Local Development Document, which contains further detail of policies or proposals in a Development Plan Document. An SPD may be thematic or site-specific.
Section 106 Legal Agreement	A legal agreement under Section 106 of the Town and Country Planning Act 1990. They are legal agreements between a Local Authority or developer, or undertaking offered unilaterally by a developer, to ensure that certain extra works relating to a development are undertaken.
Strategic Housing Market Assessment (SHMA)	An assessment which provides information on the level and demand and need for housing and the opportunities that exist to meet it. The assessment forms a key piece of evidence to inform the LDF.

Appendix 1 – Evidence Base

Introduction

A sub-regional Strategic Housing Market Assessment (SHMA) was completed by Outside Consultants in April 2008. It covered the whole of the North Housing Market area, comprising the Borough, the City of Stoke on Trent, Staffordshire Moorlands District, Stafford Borough and East Staffordshire District. It provides an analysis of housing demand and housing need, identifying the key drivers in the North Housing Market area.

A copy of the full SHMA is available on the Council's website: www.newcastle-staffs.gov.uk

The SHMA forms the primary evidence base for affordable housing within the Borough. Selected data from the assessment is reproduced below together with some additional data and a discussion on the findings leading to precise recommendations. It should be stressed that a strategic housing market assessment does not, in itself, provide a clear cut conclusion as to how much affordable housing should be required through the planning system. The evidence needs to be assessed, interpreted and applied in the context of economic, spatial and other considerations. This appendix is intended to provide a comprehensive analysis of the evidence and how it has been used to deliver the precise requirements set out in Section 5.

Drivers for affordable housing

House Prices

The HMA provides an analysis of the 'active market'. There has been a significant increase in houses prices within the Borough in the last five years.

NEWCASTLE-UNDER-LYME HOUSE PRICE CHANGE 2001-2006						
Year	Mean		Median		Lower Quartile	
	£	%	£	%	£	%
2001	67927	-	55000	-	38000	-
2002	79620	17.2%	64000	16.4%	44000	15.8%
2003	101070	26.9%	82000	28.1%	59000	34.1%
2004	122071	20.8%	99950	21.9%	77500	31.4%
2005	130331	6.8%	110750	10.8%	84950	9.6%
2006	139053	6.7%	120000	8.4%	92950	9.4%
5 year change		104.7%		118.2%		144.6%

Source: CLG Live Tables 585, 586 and 587

The change in lower quartile house prices over the whole 5-year period is considerably greater than the change in mean and median house prices. This indicates that entry-level properties have become more expensive over the period.

Average Local Incomes to Local House Prices

Affordability ratios are a measure of house prices against household incomes. These ratios are indicative of households' financial capability to access home ownership. A household is considered unlikely to be able to afford to buy a home that costs more than 3.5 times the gross household income for a single income household or 2.9 times the gross household income for two-income household. If possible, any allowance for existing equity that could be used towards the cost of home-ownership should be taken into account.

MEAN INCOMES BY WARD			
WARD	MEAN INCOME	MEAN HOUSE PRICE	AFFORDABILITY RATIO
Audley and Bignall End	£30,801.99	£120,848.69	3.92
Bradwell	£29,030.44	£134,950.89	4.65
Butt Lane	£25,335.03	£110,090.58	4.35
Chesterton	£29,701.48	£119,563.75	4.03
Clayton	£29,280.26	£142,954.86	4.88
Cross Heath	£22,885.79	£126,303.16	5.52
Halmerend	£30,566.53	£178,823.01	5.85
Holditch	£23,056.98	£94,695.48	4.11
Keele	£40,666.84	£160,876.46	3.96
Kidsgrove	£30,142.48	£123,837.02	4.11
Knutton and Silverdale	£24,102.28	£103,597.67	4.30
Loggerheads and Whitmore	£39,291.46	£258,304.46	6.57
Madeley	£32,744.54	£148,640.83	4.54
May Bank	£31,559.64	£145,752.57	4.62
Newchapel	£29,752.85	£158,147.02	5.32
Porthill	£28,843.98	£109,859.04	3.81
Ravenscliffe	£29,144.21	£118,627.26	4.07
Seabridge	£33,041.02	£162,870.55	4.93
Silverdale and Parksite	£26,306.76	£104,828.22	3.98
Talke	£26,077.46	£119,671.47	4.59
Thistleberry	£28,200.68	£144,843.83	5.14
Town	£27,131.42	£111,135.75	4.10
Westlands	£35,237.63	£211,663.92	6.01
Wolstanton	£29,022.50	£115,484.79	3.98

The Borough has a mixture of urban and rural wards with the greatest difference between house price and income. The ratio ranges from 3.81 to 6.57.

Source: CACI 2006 / Land Registry

Entry Level Housing

One important indicator of affordability is to look at the ratio of lower quartile incomes to lower quartile house prices.

In order to assess affordability, the price of an entry-level property is determined using the most recent year's data from the Land Registry. At the time of preparing the HMA, this was January – December 2006. The entry-level price is that which a household entering the market can be expected to pay on average.

In line with DCLG guidance, the entry-level property is calculated using the 25th percentile price of all properties sold. In the Borough this is £92,500. It should be borne in mind that in different locations entry-level property prices will vary. For example within the more remote rural areas, where the proportion of detached properties is likely to be higher the price of an entry-level property is likely to be higher

RATIO OF LOWER QUARTILE HOUSE PRICES TO LOWER QUARTILE INCOMES IN THE BOROUGH			
1997	2001	2006	% CHANGE 1997 - 2006
3.42	3.44	6.14	79.5%

Source: DCLG live tables 576 (Land Registry and ONS Annual Survey of Hours and

Earnings)

Key issues

- There has been a significant increase in houses prices within the Borough in the last five years.
- The average affordability ratios within the Borough range from 3.81 to 6.57.
- The ratio of lower quartile house prices to lower quartile incomes, which is an expression of whether those in the greatest housing need are able to access entry-level properties, is high - 6.14.

Social housing in the Borough

The Waiting List

On the 8th August 2008, there were 2528 active applicants on the waiting list and 597 applicants on the transfer list.

The most prominent household types on the waiting list were:

- Single Person Household 32.1%
- Families with one Child Household 17.6%
- Pensioner Single Household 8.7%
- Couple Household 6.3%
- Pensioner Couple Household 5.9%

Supply and Demand Analysis

An analysis of the housing need and the housing supply, the re-lets of social housing will indicate the level of both met and unmet need for social housing.

PROPERTY TYPE / BED SPACE	RE LETS HOUSING SUPPLY	HOUSING NEED – WAITING LIST / TRANSFER LIST	RATIO
Bungalow 1 bed space	76	426	1 : 5.6
Bungalow 2 bed space	13	172	1 : 13.2
Ground floor flat 1 bed space	112	278	1 : 2.4
Ground floor flats 2 bed space	36	163	1 : 4.52
Ground floor flat 3 bed space	10	41	1 : 4.1
Upper floor flat 1 bed space	179	1014	1 : 5.6
Upper floor flat 2 bed	73	365	1 : 5

space			
Upper floor flat 3 bed space	15	83	1 : 5.5
Houses 2 bed space	104	722	1 : 6.9
Houses 3 bed space	102	421	1 : 4.12
Houses 4 bed space	4	160	1 : 40

Key issues

There are a considerable number of applicants on the housing register - 2528 active applicants.

An analysis of the housing supply and housing demand reveals that there is an acute unmet need (high ratios in the right hand column) for:

- Bungalows of 2 bedroom spaces
- Houses with 4 bedroom spaces
- Although, there is a high need for 1-bed flats, due to a significant level of single person household on the housing register, there is a considerable rate of re- lets for this type of accommodation.

The need for two bedroom space accommodation is further reinforced by the aspirations of the single person households, in particular single pensioner households and families who have expressed the requirement for additional space to accommodate family visitors and guests. (*Life in Affordable Housing CIH Housing Corporation*).

Residential development in the Borough

The following is an analysis of the residential development for market housing only, within the Borough in the last five years.

	Market Residential Development 2003 -2008							
	1 Bed House	2 Bed House	3 Bed House	4 Bed House	1 Bed Flat	2 Bed Flat	3 Bed Flat	4 Bed Flat
2003-2004	0	11	46	156	8	0	0	0
2004-2005	0	3	19	85	8	49	1	0
2005-2006	0	9	60	45	10	90	13	0
2006-2007	1	12	92	43	38	28	1	0
2007-2008	0	8	39	43	40	54	1	0
Total	1	43	256	372	104	221	16	0

Over the last five years, the most prominent development has been the 4-bed house, which accounts for 36.7% of all residential development. The development of 2-bed houses has been very low – 4.2%. The development of 3-Bed Houses has been constant and steady at 25.3% of all residential developments.

The recent trend (2005-2008) indicates that flats have been intensively developed; with one-bed flats accounting for 10.3% and 2-bed flats accounting for 21.8% of all developments.

During this period, there has been very little development of affordable housing - around 3.8% of the total. This is due to the findings of the 2002 Housing Needs Survey, which indicated a surplus of general needs affordable housing. A breakdown of the types of affordable housing delivered during the period 2003 to 2006 is set out below.

Affordable Housing Development 2003 -2006								
	1 Bed House	2 Bed House	3 Bed House	4 Bed House	1 Bed Flat	2 Bed Flat	3 Bed Flat	4 Bed Flat
2003-2004	0	4	0	0	2	11	0	0
2004-2005	0	8	0	0	0	8	0	0
2005-2006	0	8	0	0	0	0	0	0
Total	0	20	0	0	2	19	0	0

Calculation of housing need - DCLG Model

The SHMA, using the methodology advocated by the DCLG forecasted the annual housing need for the Borough.

SUMMARY OF NET ANNUAL HOUSING NEED IN THE BOROUGH	
STAGE 1 CURRENT HOUSING NEED	
1.4 Total current housing need (gross)	2044
STAGE 2 FUTURE HOUSING NEED	
2.4 Total newly arising housing need	622
STAGE 3 AFFORDABLE HOUSING SUPPLY	
3.1 Affordable dwellings occupied by households in need	173
3.2 Surplus stock	0
3.3 Committed supply of new affordable housing	28
3.4 Units to be taken out of management	73
3.5 Total affordable housing stock available (3.1 + 3.2 + 3.3 – 3.4)	128
3.6 Annual supply of social re-lets (net)	736
3.7 Annual supply of intermediate affordable housing available for re-let or resale at sub market levels	0
3.8 Annual supply of affordable housing (3.6 + 3.7)	736
ESTIMATE OF NET ANNUAL HOUSING NEED	

$((1.4 \text{ minus } 3.5) * 20\% + 2.4) \text{ minus } 3.8$	269
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From the above analysis, the SHMA projects the level of affordable housing targets within the Borough in the context of the RSS. The RSS proposes an average of 285 units per annum in the Borough to meet the allocation (figures from the Preferred Option for the Phase II review). The SHMA also notes that demand is expected at a rate of 356 households per annum. Without further interpretation, therefore, the housing needs model suggests affordable housing targets of between 75% and 95%.

Appendix 2 – Prototype Section 106 Legal Agreement

This has been included in the draft SPD to give consultees the opportunity to make representations on the detail of the draft agreement as well as on the content of the SPD. Following the agreement, there is a diagram illustrating the sequential approach contained within it.

MODEL SECTION 106
AFFORDABLE
AGREEMENT

DATED 2008

THE BOROUGH COUNCIL OF NEWCASTLE-UNDER-LYME

- *and* -

Planning Obligation

Made pursuant to Section 106 of the
Town and Country Planning Act 1990
and all other enabling powers

LAND AT XXXXX

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DEED OF PLANNING OBLIGATIONS

2007

PARTIES

- (1) THE BOROUGH COUNCIL OF NEWCASTLE-UNDER-LYME of Civic Offices,
Merrial Street, Newcastle-under-Lyme, Staffordshire, ST5 2AG (“the Council”) and
(2)

IT IS AGREED THAT:

1 DEFINITIONS

- 1.1** “**Affordable Housing**” means subsidised housing that will be available to persons who cannot afford to rent or buy housing generally available on the open market
- 1.2** “**Affordable Housing Units**” means the Social Rented Housing Units and the Shared Ownership Housing Units which together shall comprise the total number of Dwellings to be constructed on the Site pursuant to the Planning Permission which will be made available in accordance with the provisions of the agreement
- 1.3** “**Application**” means the application made to the Council for full planning permission for the Development and given the reference XXXXX
- 1.4** “**Development**” means the development permitted by the Planning Permission
- 1.5** “**Discounted Price**” means a price of no more than 60% of the Open Market Value Price of the affordable housing units
- 1.6** “**Commuted Sum**” means a sum per affordable housing unit being no less than 60% of the Open Market value at the time of the payment of the commuted sum
- 1.7** “**Commencement of Development**” means the date upon which the Development shall be commenced by the carrying out on the Land pursuant to the Application of a “material operation” as specified in Section 56(4) of the Act subject to a “material operation” for the purposes of this Deed excluding nevertheless the carrying out of any archaeological works, service diversions site or soil investigations and/or site decontamination/ reconciliation works, demolition works and/or the erection of hoardings and fences
- 1.8** “**Commencement Notice**” means the notice in writing to be served on the Council by the Developer notifying it of the Commencement of the Development
- 1.9** “**Independent Valuer**” means a member of the Royal Institution of Chartered Surveyors appointed by the Developer at the Developer's own cost but first approved by the Council and the phrase “Independent Valuers” shall be construed accordingly
- 1.10** “**Index**” means All Items Group (Item Reference CHAW) of the Retail Prices Index published by the Office of National Statistics
- 1.11** “**Land**” means the land edged red on the plan annexed hereto being land at XXXXX

- 1.12** “**Open Market Dwellings**” means dwellings intended for sale in the private housing market
- 1.13** “**Open Market Value**” means the figure considered by the independent valuer to be the best price at which the sale of an unencumbered freehold interest or long leasehold interest (which here shall mean a leasehold interest in excess of 99 years at a premium and a peppercorn rent) in a Social Rented Housing Unit or a Shared Ownership Housing Unit would have been completed (as if it were an Open Market Dwelling) on the date of valuation assuming;
- a) a willing seller and a willing buyer, and
 - b) that prior to the date of valuation the property was freely exposed to the market there had been a reasonable period within which to negotiate the sale (having regard to the state of the market) and that values remained static through that period, and
 - c) that no account is taken of any bid a prospective purchaser with a special interest, and
 - d) that both parties to the transaction had acted knowledgeably prudently and without compulsion, and
 - e) that the property is in its existing state of repair.
- 1.14** “**Offer Letter**” means any written communication between the Developer for the purposes of the Developer offering the Affordable Housing Units to a RSL
- 1.15** “**Plan**” means the plan annexed hereto
- 1.16** “**Planning Act**” means the Town and Country Planning Act 1990 as amended from time to time
- 1.17** “**Planning Obligations**” means the planning obligations created by clause 7 of this deed and set out in Schedule 1
- 1.18** “**Planning Permission**” means the full planning permission of even date (reference XXXXXX) granted and issued by the Council pursuant to the Application subject to conditions in the form of the draft annexed to this deed
- 1.19** “**Price**” means in respect of the Affordable Housing means a percentage of the Open Market Value (as at the intended date of the exchange of contract in respect of the unit[s]) to be agreed between the Owner and the RSL (but on the condition that the Owner and the RSL use their best endeavours to agree the best price) being such a percentage to enable the Affordable Housing units to be made available] within Housing Corporation rent targets without the need for the RSL to apply for a Housing Corporation Social Housing Grant.
- 1.20** “**Nominated Person,**” means a person who satisfies the criteria set by the Council and set out in the Schedule 3 of this Agreement
- 1.21** “**Qualifying Person**” means any person;
- a) who is already occupying housing as a tenant of a Registered Social Landlord,
or

- b) who is on a housing register kept by the Council, or
- c) who as a result of his social and economic circumstances satisfies the Council that he is in need of housing,

and in all cases, persons who have a local connection with the Borough of Newcastle-under-Lyme or who has a family member residing within the Borough of Newcastle-under-Lyme will be prioritised.

1.22 "Registered Social Landlord" means a body approved by the Council and registered under Section 2 of the Housing Act 1996 or any statutory provision amending consolidating or replacing it for the time being in force and one which operates within the Borough of Newcastle-under-Lyme

1.23 "Design and quality standards" means the essential standards set out in the Housing Corporation publication "Design and quality standards" (or any such other document amending, consolidating or replacing it)

1.24 "Social Rented Housing Units" means those dwellings which are intended to be made available as affordable housing for rent by an RSL, adhering to the Housing Corporation Guidelines and which are to comprise XXXXX

1.25 "Shared Ownership Housing Units" means those units made available on a shared ownership basis, allowing part ownership of the unit by purchasing a share of the freehold (long leasehold) interest therein and then paying proportional rent on the non purchased shares (which shall not exceed 3% of the remainder of the market value) where the owner can purchase additional shares (stair casing) up to a level determined by the agreement in accordance with the provisions of the Schedules to qualifying persons to purchase initially either

(a) at 50% of the market value and to pay proportional rent (which shall not exceed 3% of 50% of the market value), or

(b) Subject to the prior approval of the Council, at more or less than 50% of the market value, and to pay proportional rent (which shall not exceed 3% of the remainder of the market value),

and in either case, with the option of staircasing to 100% of the market value, and which are to comprise XXXXX

1.26 "Practical Completion" means the issue of a certificate of a practical completion by the Developer's architect or in the event that the Development is constructed by a party other than the developer the issue of a certificate of practical completion by that other party's architect.

1.27 "Occupation of the Residential Development" means beneficial occupation of any part of the Residential Development for any other purpose other than carrying out the Development.

2 INTERPRETATION

2.1 In this deed:

- (a) words in the singular include the plural and vice versa
 - (b) a reference to any gender includes a reference to all other genders
 - (c) a reference to a person includes companies and all other legal entities
 - (d) references to clauses and schedules are to the clauses and schedules of this deed unless stated otherwise
 - (e) a reference to a paragraph is to the paragraph of the schedule in which the reference is made unless stated otherwise
 - (f) unless the context otherwise requires reference to the “Council” and “Developer” includes their respective successors in title
- 2.2 The headings and table of contents of this deed are for convenience only and shall not affect its interpretation
- 2.3 Unless this deed states otherwise any reference to a statute statutory instrument or other legislative provision includes any amendment extension or re-enactment of it for the time being in force
- 2.4 Where any party consists of more than one person covenants and obligations of that party are joint and several
- 2.5 The perpetuity period applicable to this deed shall be eighty years. It shall apply to any rights granted or reserved over or in respect of anything which is not now in existence
- 3 RECITALS**
- 3.1 The Council is the local planning authority and has on the XXXXX by its Planning Committee resolved to approve the Application subject to conditions and subject to the completion of this deed
- 4 ENABLING POWERS**
- 4.1 This deed is made pursuant to Section 106 of the Planning Act Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and all other enabling powers
- 4.2 The obligations created by this deed and which are set out in Clause 7.1 and the Schedules are planning obligations for the purpose of Section 106 of the Planning Act and are enforceable by the Council as a local planning authority for the area in which the Land is situated
- 5 LAND OWNERSHIP**
- 5.1 The Developer is the registered proprietor with title absolute of that part of the Land that is registered under Title Number XXXXX
- 5.2 The Developer is the owner of the freehold interest in that part of the Land that is unregistered
- 5.3 The Developer hereby warrants and confirms that apart from the parties hereto there are no other persons with a legal or equitable interest in the Land or any part thereof

6 CONDITIONALITY

6.1 This Deed is conditional upon:

- (i) the grant of the Planning Permission and
- (ii) the Commencement of Development;

save for the provisions of clauses 13, 17 and 18 which shall come into effect immediately upon completion of this Deed.

7 OBLIGATIONS

7.1 The Developer agrees with the Council to bind its interest in the Land in respect of the obligations set out in Schedule 1 hereto

7.2 The Council agrees with the Developer to comply with its obligations as set out in Schedule 2 of this deed

8 RELEASE FROM LIABILITY

8.1 No person shall be liable for a breach of any covenant agreement or obligation created by this deed after he shall have parted with all interest in the Land or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach prior to parting with such interest

9 THIRD PARTY RIGHTS

9.1 A person who is not a party to this deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed but this does not affect any right or remedy of a third party which exists or is available apart from that Act

10 SATISFACTION OF THE OBLIGATIONS

10.1 Registration as local land charge

The Planning Obligations in clause 7.1 and Schedule 1 shall be registered by the Council as a local land charge

11 DISPUTE RESOLUTION

11.1 Any dispute or difference arising between on the one hand the Council and on the other hand the Developer with regard to their respective rights and obligations arising out of or connected with this deed may be referred by any party to the decision of a single arbitrator who shall have experience in relation to developments in the nature of the Development and property in the same locality as the Land to be agreed by the parties or failing agreement between them within 21 days to be nominated by the President for the time being of the Law Society. Any such reference shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 1996 or any subsequent amending or replacing legislation

12 TERMINATION OF THE DEED

12.1 If the Planning Permission shall expire (or shall be revoked or be quashed in any legal proceedings) or (without the consent of the Developer) it is modified by any statutory procedure or expires before the Commencement of the Development then this deed shall forthwith determine and cease to have effect and the Planning Obligations shall be removed from the register of local land charges by the Council

or the Council will otherwise record the fact that it has come to an end and no longer affects the Land

13 PAYMENT OF COUNCIL’S COSTS

13.1 The Developer shall pay the Council’s costs for negotiating and preparing this deed in the sum of £XXXXX receipt of which the Council now acknowledges

14 NOTICE

14.1 Any notice required to be given under this deed shall be in writing and shall be delivered personally or sent by pre-paid first class post recorded delivery post or facsimile transmission

14.2 The address for service of any such notice shall be as set out as follows (or such other address for service as shall have been previously notified to the Council):

- (a) if to the Council: Legal Services, Civic Offices,
Merrial Street, Newcastle-under-Lyme, Staffordshire, ST5 2AG
Attention: The Legal Services Manager
- (b) if to the Developer: XXXXX
XXXXX
XXXXX
XXXXX
XXXXX
XXXXX

14.3 Any Notice under this deed shall be deemed to have been served as follows:

- (a) if personally delivered at the time of delivery
- (b) if by post on the second working day after the envelope containing the same was delivered into the custody of the postal authority within the United Kingdom
- (c) if sent by recorded delivery at the time the delivery was signed for
- (d) if sent by facsimile transmission at the time of successful transmission provided it was sent before 4pm and if sent after 4pm the next working day
- (e) and in proving such service it shall be sufficient to prove that personal delivery was made and a receipt obtained or that the envelope containing such notice consent or approval was properly addressed and delivered into the custody of the postal authority in a pre-paid first class recorded delivery envelope and a receipt obtained or that facsimile was successfully transmitted

15 AGREEMENT AND DECLARATION

- 15.1 Nothing in this Deed shall fetter or restrict the exercise by the Council as a local authority if any of its rights discretions duties powers or obligations under any statute statutory instrument orders regulations and byelaws

16. MISCELLANEOUS

- 16.1 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed
- 16.2 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed

17 JURISDICTION

- 17.1 This Deed is governed by and interpreted in accordance with the law of England and Wales

18 DELIVERY

- 18.1 The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated

IN WITNESS of which this deed has been executed and on the date set out above delivered as a deed

EXECUTED as a Deed by affixing)
THE COMMON SEAL of the BOROUGH)
COUNCIL OF NEWCASTLE-UNDER-LYME)
in the presence of:-)

Mayor/Councillor

:
:

Authorised Signatory:

THE COMMON SEAL of XXXXX was affixed to this
deed which was delivered when dated in the
presence of:

Director :

Director/Secretary :

SCHEDULE 1

Developer's Obligations

1. General Obligations

The developer covenants with the Borough Council of Newcastle-Under-Lyme as follows:

- 1.1 That it shall serve the Commencement Notice on the Council before the Commencement of Development.
- 1.2 That no more than 50% of the Open Market Dwellings will be occupied until all of the affordable housing has been constructed according to the planning permission and transferred to an RSL and written notice of such has been given to the Council.
- 1.3 To permit the Officers or the Representatives of the Borough Council of Newcastle-Under-Lyme access to the Land or any part of it at all reasonable times, on reasonable notice and in compliance with the Developers' reasonable requirements, and to permit them to inspect the Development and all materials intended for use in it.
- 1.4 To agree to abide by Practical Completion and to serve notice in writing to the Council of Practical Completion
- 1.5 To serve notice in writing of the Occupation of the Residential Development.
- 1.6 That the affordable housing units will be constructed at least to the Design and quality standards and should not be inferior or distinguishable from the equivalent Open Market dwellings on the Development.

2. Social Rented

The developer covenants with the Borough Council of Newcastle-Under-Lyme as follows:

- 2.1 To provide the Social Rented Housing Units on the development as stipulated within this agreement.
- 2.2 To exercise all best endeavours as soon as reasonably practicable to negotiate with RSLs to sell the Social Rented Housing to them at the Price and to ensure that the Council is copied into the Offer Letter and is forwarded any replies to the Offer Letter.
- 2.3 To transfer the Social Rented Housing to the RSL as soon as reasonably practicable after they are physically completed and ready for occupation or at such earlier time as may be agreed with the RSL
- 2.3 To ensure that the Rented Affordable Housing Units will remain as affordable housing in perpetuity by controlling their future use and occupation so as to require that they are managed by the RSL in accordance with its objectives and/or Articles

of Association. This will be achieved by the Developer including within the legal agreement of a Rented Affordable Housing Unit to the selected RSL, provisions which shall require that:-

- (a) the Rented Affordable Housing Units shall be let under an appropriate tenancy in accordance with the nomination rights stipulated within the agreement and the RSL's normal letting policy of such types of tenancy
- (b) the Rented Affordable Housing Units shall not be used for any purpose other than as set out in this Schedule
- (c) the Rented Affordable Housing Units shall not be occupied otherwise than in accordance with this Schedule

2.4 Upon:-

- (a) the Developer satisfying the Council and the Council having certified in writing that the Rented Affordable Housing Units have been offered for sale to a RSL in accordance with the restrictions contained in this Schedule for a period of six months from the date on which the Rented Affordable Housing Units were completed and available for occupation; and
- (b) there being any unsold Rented Affordable Housing Unit(s) at the end of that six month period;
The Developer shall offer the each of the Unsold Social Rented Units for sale as Shared Ownership Units in accordance with the provisions set out herein

3. Shared Ownership Housing Units

The developer covenants with the Borough Council of Newcastle-Under-Lyme as follows:

- 3.1 To provide the Shared Ownership Housing Units on the development stipulated within this agreement.
- 3.2 To exercise all best endeavours as soon as reasonably practicable to negotiate with RSLs to sell the Shared Ownership Housing to them at the Price and to ensure that the Council is copied into the Offer Letter and is forwarded any replies to the Offer Letter.
- 3.3 To transfer the Shared Ownership Housing to the RSL as soon as reasonably practicable after they are physically completed and ready for occupation or at such earlier time as may be agreed with the RSL
- 3.4 To ensure that the Shared Ownership Housing Units will remain as affordable housing in perpetuity by controlling their future use and occupation so as to require that they are managed by the RSL in accordance with its objectives and/or Articles of Association. This will be achieved by the Developer including within the legal agreement of a Shared Ownership Housing Unit to the selected RSL, provisions which shall require that:-

- (a) the Shared Ownership Housing Units shall not be used for any purpose other than as set out in this Schedule
- (b) the Shared Ownership Housing Units shall not be occupied otherwise than in accordance with this Schedule
- (c) the Shared Ownership Housing Units shall be made available to those that are deemed as qualifying persons.

3.5 Upon:-

- (a) the Developer satisfying the Council and the Council having certified in writing that the Shared Ownership Housing Units have been offered for sale to a RSL in accordance with the restrictions contained in this Schedule for a period of six months from the date on which the Shared Ownership Housing Units were completed and available for occupation; and
- (b) there being any unsold Shared Ownership Housing Unit(s) at the end of that six month period;

The Developer shall offer the Shared Ownership Housing Units for sale in accordance with the provisions of the Schedule 4 to this Deed

3.6 The provisions of these paragraphs hereof shall not be binding on a mortgagee in possession of the whole or any part of the Shared Ownership Housing Units or a bona fide purchaser for value thereof from such a mortgagee in possession (except a purchaser which is a selected RSL) PROVIDED THAT:-

- (a) such a mortgagee or chargee in possession exercising any power of sale or leasing shall first have used best endeavours over a period of six months, in consultation with the Council (through which ever officer or elected member the Council designates for the purpose) to dispose of the Shared Ownership Housing Units to a Preferred Partner RSL which shall covenant to comply with the provisions of paragraph (3) hereof; AND
- (b) the Council shall have certified in writing that it is satisfied that the mortgagee has without success used best endeavours to dispose of the Shared Ownership Housing Units at no more than the Price to a RSL over a six month period (for the avoidance of doubt, if the Council is not satisfied that the mortgagee has complied with the requirements of paragraph 6(a) hereof, the mortgagee shall not be released from the provisions of paragraph (3) hereof until such time as the Council is so satisfied and certifies such in writing)

SCHEDULE 2

Council's Obligations

1. Where the consent or approval of the Council is required by the terms of this Agreement such consent or approval shall not be unreasonably withheld or delayed

SCHEDULE 3

Nomination Rights

1. Subject to the Council promptly submitting full details of prospective nominees, the Registered Social Landlord shall ensure that
 - a) the Social Rented Housing Units are to be available for occupation by nominees of the Council in accordance with the Newcastle-under-Lyme Borough Council Joint Housing Allocation Policy
 - b) nominees of the Council shall occupy all of the Social Rented Housing Units as soon as reasonably practical following the date of practical completion of the Social Rented Housing Units (“the Initial Lettings”). On the Registered Social Landlord obtaining vacant possession of the Social Rented Housing Units on termination of the Initial Lettings, 75% of all subsequent lettings and re-lettings shall be so occupied by nominees of the Council unless the Council shall at any time fail within a reasonable period (being no later than one month after the units become vacant) to supply details of nominees or in the event that the Council shall be unwilling or unable to provide such details the Registered Social Landlord shall then be able to let such Social Rented Housing Units to such other persons as the Registered Social Landlord shall think fit
- 2 In the event of any disposal by the Registered Social Landlord of the Social Rented Housing Units (save any disposal pursuant to a statutory obligation) the Registered Social Landlord shall at its own expense forthwith on such disposal obtain for any such disponent a deed of covenant (which it will forthwith send to the Legal Services Manager for the time being of the Council) in which the disponent covenants with the Council in respect of the Social Rented Housing Units;
 - a) to observe and to perform the conditions set out herein as successor in title to and in substitution for the Registered Social Landlord, and
 - b) not to dispose of the Social Rented Housing Units as aforesaid without forthwith obtaining (and supplying to the Council) such deed of covenant as aforesaid from any further disponent

SCHEDULE 4

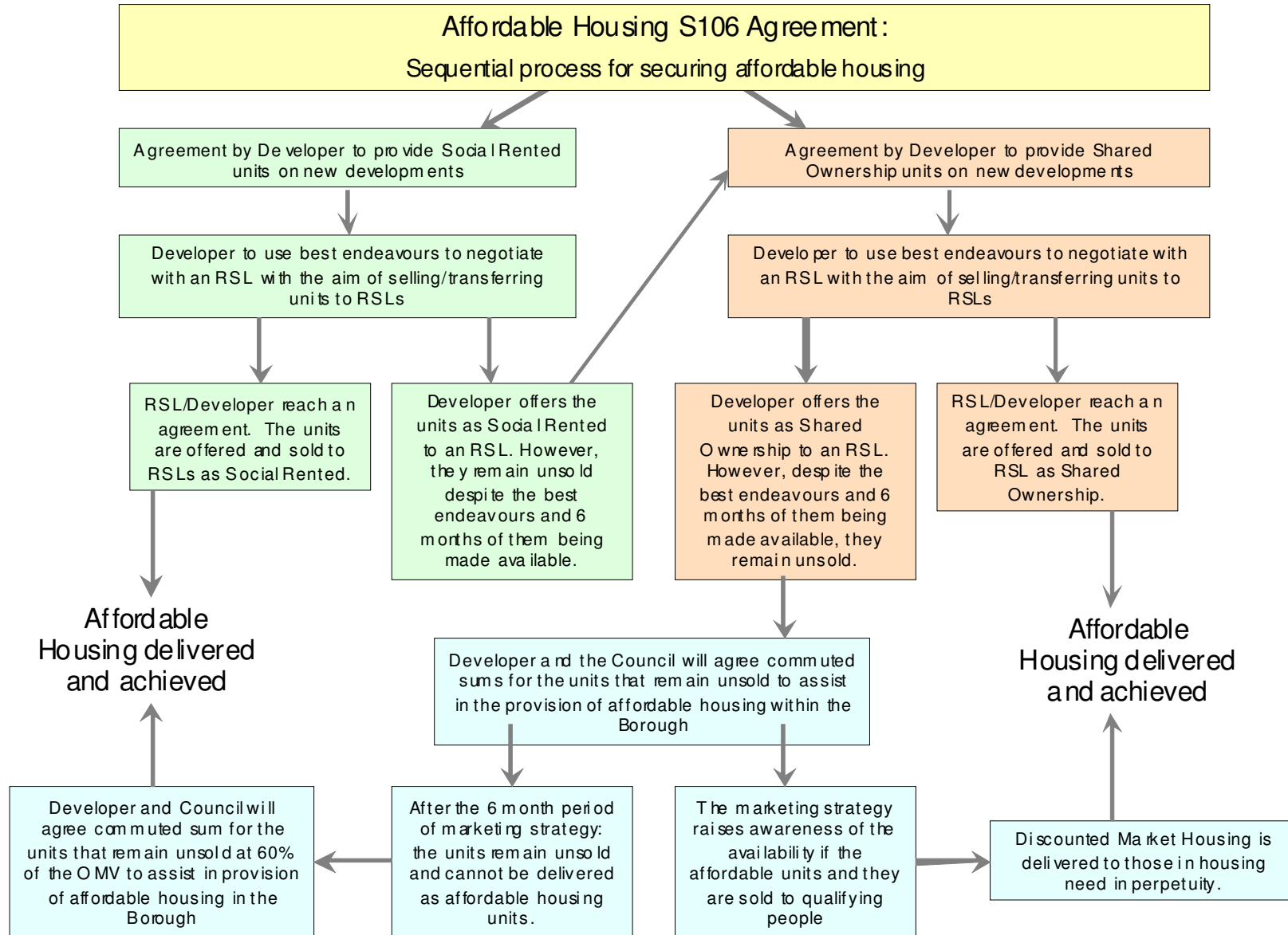
1 Further Provisions relating to Social Rented Affordable Housing Units and Shared Ownership.

- 1.1 Any of the Unsold Shared Ownership Units shall be offered for sale at no more than the Discounted Price and to those deemed to be qualifying persons.
- 1.2 The future selling price of the hereof shall be controlled and restricted to the discount price so as to ensure that Affordable Housing Units will remain as affordable housing in perpetuity. This will be achieved by the Developer including within the lease of each a direct legal covenant.
- 1.3 The Developer shall agree the Marketing Strategy with the Council no later than twenty eight days before marketing commences AND FURTHER that no Affordable Housing Units shall be marketed until the Owner receives the written approval of the Council to the Marketing Strategy PROVIDED THAT such approval or agreement shall be deemed to be given unless refused within two calendar months of the receipt of the Marketing Strategy by the Council (for the avoidance of doubt, it is confirmed that this requirement shall not apply to the second or any subsequent vendor of the Affordable Housing Unit)
- 1.4 Upon:-
- (a) the Developer having complied with the requirements of this hereof to the satisfaction of the Council and the Council having certified as such in writing; and
 - (b) there being any unsold Affordable Housing Unit(s) remaining after 6 months of marketing from the date of the implementation of the marketing strategy the Developer shall pay to the Council the Commuted Sum in respect of any unsold Affordable Housing Unit(s) whereupon the Developer and any future vendor shall be released from the obligations imposed by this Schedule in respect of the affordable housing units (for the avoidance of doubt, if the Council is not satisfied that the Developer has complied with the requirements of the agreement hereof, the Developer shall not pay the Commuted Sum until such time as the Council is so satisfied and certifies such in writing)

SCHEDULE 5
List of Annexures

Annex 1 -

Annex 2 - Plan



Appendix 3 – Affordable Housing Protocol

PROTOCOL FOR SECURING AFFORDABLE HOUSING

Aim of the protocol

- To clarify the roles and responsibilities of each service area within the Council involved in negotiating, securing and monitoring affordable housing provided as part of private sector development.

This protocol will ensure that the process for achieving affordable housing will be streamlined, thereby allowing the Council to optimise the provision of affordable housing.

Service Areas

The Service Areas involved in negotiating, securing affordable housing are:

- Development Control
- Planning and Housing Strategy - both planning and housing teams
- Legal Services

Key stages

- Developing the evidence base and strategy/policy framework
- Producing from this clear generic guidance
- Pre-application discussions with developers, landowners etc
- Agreeing heads of terms for S106 agreements
- Submission of planning application
- Post-application advice (including meetings of the Development Team)
- Drafting S106 agreements
- Monitoring S106 agreements

Developing the evidence base and policy framework

The Housing Strategy Team will be responsible for collating and updating the evidence base for affordable housing through the Housing Market Assessment, Housing Needs Surveys and any other sources where appropriate. The Team will also provide evidence for affordable housing disaggregated to a local level for specific applications where required.

The evidence base will be updated annually and the involvement of planning policy, economic development and others will be sought to build a comprehensive and strong understanding of the Housing Market.

From this evidence, the Planning and Housing Strategy Service will formulate clear generic guidance to be used in discussions with would be applicants. The Planning Policy Team will ensure that this guidance is made known to all involved in such discussions and take steps to encapsulate it through whatever is the most effective means within the LDF.

Pre-application discussions with developers, landowners etc

Developers and landowners may make contact with Development Control or Planning and Housing Strategy Services. Where any form of housing development is concerned, enquirers should be made aware immediately of the threshold for affordable housing (15 dwellings) and the basic policy guidance. The latter needs to be kept up to date on the website.

A. If the enquiry is made direct to Planning and Housing Strategy (either team), enquirers should be asked:

- Whether contact has already been made with Development Control
- Whether a specific site is involved

Where a specific site is involved, and no contact has previously been made, officers should advise enquirers to contact Development Control in the first instance. If contact has already been made, and/or discussion is unavoidable at this stage, officers must ensure that appropriate notes are recorded on the "208" record on uniForm. If contact has not been made and a specific site is being discussed a "208" case should be opened for the enquiry. The recording system will ensure that any further enquiries will either be allocated to the officer who has given the initial advice, or if that is not possible, that the officer now dealing with the matter is aware of the advice previously given. This should ensure that there is consistency in the advice given and an auditable record of that advice.

B. If the enquiry is made direct to Development Control, and a specific site is involved, any advice already given by Planning and Housing Strategy will be evident through the 208 system. Development Control officers should alert Planning and Housing Strategy (email to TC) where it is evident that an affordable housing issue will arise.

The Development Control Support Officer (SMJ) will ensure that any major development enquiry is discussed at the first appropriate meeting of the Development Team. Given the 15 house threshold below which affordable housing is not required, by considering all "major" residential developments all enquiries for developments where affordable housing may be an issue will thus be discussed at Development Team. Where the proposal is of an urgent nature, a meeting will be arranged before the meeting of the development team. This will be the responsibility of the Development Control officer, but wherever possible they should invite a member of the Planning and Housing Strategy section to attend.

C. It is also worth noting that occasionally direct approaches are made to RENEW North Staffordshire. Where this happens, RENEW staff would be expected to notify NBC staff immediately and also to advise the enquirer to make a direct approach. Such matters will be assisted by attendance at the Development Team meetings by RENEW personnel.

Within Planning and Housing Strategy, members of the Planning Team will ensure that members of the Housing Team (usually AR) will be brought in at an early stage.

All enquirers who are considering submitting an application should be encouraged to attend a pre-application meeting. This will allow all Council officers likely to be involved later on to be able to contribute at an early stage. Such a meeting will be minuted and actions arising will be appropriately allocated to specific officers. If affordable housing is to be provided, this will normally require a S106 agreement, and the process for this should be discussed, so that the developer can be made aware of the Council's agreed protocol, set out in the SPD on Developer Contributions:

"An agreed draft undertaking or agreement should be submitted along with the full planning application in order for the application to be validated. Unless there are special mitigating circumstances, without such an agreed draft undertaking or agreement, the application will not be validated." (Page 9)

The Local Validation Requirements List relevant to Affordable Housing will state that:

"Where development plan documents give details of likely section 106 requirements, a statement of the proposed Heads of Terms should be submitted with the application."

Local Thresholds/criteria

- Any applications where there is a need for a planning obligation
- Any development identified as requiring Planning Obligations/draft Head(s) of terms in pre-application advice

Affordable Housing Statement

Where an application requires the provision of affordable housing the application may be required to provide information concerning both the affordable housing and any market housing.

For example -

- the numbers of residential units,
- the mix of units with numbers of habitable rooms and/or bedrooms,
- the floor space of habitable areas of residential units, plans showing the location of units and their number of habitable rooms and/or bedrooms, and/or the floor space of the units.

If different levels or types of affordability or tenure are proposed for different units this should be clearly and fully explained. The Affordable Housing Statement should also include details of any Registered Social Landlords acting as partners in the development.

Section 106 Agreements or undertakings

When it is clear that a Planning Application is likely to be submitted, Development Control will inform Legal Services (PC) to alert them to the fact that a Section 106 agreement will be required, and the matters that it will need to cover.

Before any negotiations take place, it should be clear from the policy guidance what level and type of affordable housing will be required in principle and a draft schedule for this element will be supplied to Development Control on request by Planning and Housing Strategy. Planning and Housing Strategy will develop standard or model clauses in consultation with Legal Services, and will if requested by Development Control nominate a person who can appropriately instruct the Council's solicitor dealing with the draft agreement/ undertaking.

The draft schedule should be submitted to the Development Control Officer.

If as a result of subsequent negotiation between the Council and the applicant, the affordable housing requirement varies from the basic guidance this will need to be reflected in the agreement.

Following receipt of Planning Application

Development Control will consult Planning and Housing Strategy on all applications for major residential development. Although the consultation period is 21 days, Planning and Housing Strategy will use their best endeavours to respond in 14 days. Such responses shall be in writing. The response to consultation will set out clearly the precise number and type of affordable units to be required, as well as other specific or general policy guidance.

Development Control will use their best endeavours to inform Planning and Housing Strategy of any change in the Council's requirement during the determination of a planning application. This is to ensure that the final report that is submitted to Planning Committee either has the support of Planning and Housing Strategy, or sets out clearly their policy guidance and explains explicitly why this is not being followed.

Where an application is recommended for refusal

Where an application is to be recommended for refusal, but, if the development were to take place affordable housing would be required, the above protocol is still valid. Although there will be instances where preparatory work would be clearly wasted (for instance in the case of an application for major development in the Green Belt), it is still important to ensure that the affordable housing requirement is not overlooked even in a hypothetical situation.

Monitoring the implementation of a S106 Agreement on affordable housing

The SPD on Developer Contributions states that "*responsibility for co-ordinating the monitoring or the receipt, expenditure and implementation of Developer Contributions will lie with the appointed Section 106 officer*" within the Development Control Service. (Page 12). The currently appointed Section 106 officer is Pete Rowley, Senior Planning Officer. The SPD also allows for costs of monitoring to be charged to the developer in certain cases

To ensure that the affordable housing obligations are delivered:

- The Section 106 officer will maintain regular contact with the developer, asking for appropriate updates on the affordable housing requirements.

However, where possible appropriate, and by agreement, the contact can be directly between the developer and the housing officer involved.

- Housing officers will maintain a register of all affordable housing provided as part of private development and will monitor its provision and continued operation.
- The Housing Team will facilitate consultations with buyers who purchase affordable housing units to assess their experience with the scheme.

Appendix 4 - Preferred RSL Partners

NAME	ADDRESS	TELEPHONE
Aspire Housing	Kingsley The Brampton Newcastle-under- Lyme ST5 0QW	01782 635200
Beth Johnson Housing Group	Three Counties House Festival Way Stoke on Trent ST1 5PX	01782 219200
Staffordshire Housing Association	Knight House 2-4 Woodhouse Street Stoke on Trent ST4 1EJ	01782 744533
Anchor Housing	Milestone Place 100 Bolton Road Bradford BD1 4DH	08457 758 595
William Sutton Trust	12 Elstree Way Borehamwood Herts WD6 1JE	020 8235 7000
Northern Counties Housing Association	Bower House 1 Stable Street Hollinwood OL9 7LH	0161 219 7000
Midland Heart	20 Bath Row, Birmingham B15 1LZ	0870 60 70 300
Bromford Carinthia	1 Venture Court Broadlands Wolverhampton WV10 6TB	0845 6050603

This is a list of housing associations that have stock within North Staffordshire. The list ranks those who have the greatest number of housing units in the area. This is not an approved list of registered social landlords. Developers are advised to contact the organisation and appropriately select their 'development partners'.

Further Advice and Information

For further advice on the application of the Council's affordable housing policy please contact either:

Housing Strategy Officer
Housing Strategy Team
Newcastle-under-Lyme Borough Council
Merrial Street
Newcastle-under-Lyme
ST5 2AG
Tel: 01782 742455

Or

Principal Planning Officer
Planning Policy Team
Newcastle-under-Lyme Borough Council
Merrial Street
Newcastle-under-Lyme
ST5 2AG
Tel: 01782 742477