

Warwick District Council

# AFFORDABLE HOUSING

SUPPLEMENTARY  
PLANNING DOCUMENT

March 2020







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## SECTION 1

# Introduction

This Supplementary Planning Document (SPD) expands upon those housing policies in the adopted Warwick District Local Plan (2011 – 2029) which are concerned with the provision of affordable housing. These policies include:

- Policy H2 Affordable Housing
- Policy H3 Affordable Housing on Rural Exception Sites

The supplementary information in this SPD provides guidance and information to developers of housing sites on aspects such as:

- the Council's definition of affordable housing
- when affordable housing will be sought on private housing development sites
- how much affordable housing will be required
- what types of affordable homes are most needed in Warwick District
- ways in which the Council and its partners will ensure that the affordable homes meet the needs of those unable to afford housing on the open market
- how the affordable homes can remain affordable
- how the Council will ensure the appropriate delivery of affordable housing

## SECTION 2

# Policy Background



### National Planning Policy Framework (NPPF)

The NPPF has a number of paragraphs that detail the definition of Affordable Housing, along with how such a need is identified and how it is to be met. In the interests of brevity these paragraphs have not been repeated here, but provided in Appendix ii. However, it is clear from the conditions within the NPPF that the adequate meeting of Affordable Housing needs should be one of the key tenets of a Local Plan.

### The Warwick District Local Plan 2011 – 2029

The District's Local Plan was adopted in September 2017. The Plan contains a number of policies concerned with the appropriate provision of affordable housing in the district and these are reproduced in full in Appendix i.

### Neighbourhood Plans

Neighbourhood planning is designed to empower local communities to play a direct role in planning the areas where they live and work. Once made, Neighbourhood Plans form part of the development plan and are used to guide decision making in the planning application process. Neighbourhood Plans are required to conform with strategic policies of the Local Plan, however they may seek to differ from non-strategic policies where there is sufficient local evidence on which to do so.

The Local Plan policies which relate to affordable housing (see above) are not defined as strategic policies. There is a potential therefore, that neighbourhood plans could seek to require a different amount of affordable housing provision within their neighbourhood area, provided there is a local justification. Where a 'made' (adopted) neighbourhood plan does include different affordable housing policies to those in the local plan, these policies will take precedence (where they differ) over the local plan and this SPD.





## SECTION 3

# Establishing Housing Need

### Other relevant policies, strategies and documents

#### Housing and Homelessness Strategy 2017 – 2020

Warwick District Council's Housing and Homelessness Strategy was produced in 2017, and is founded on the key principles of the Sustainable Communities Strategy. It is intended that it will be reviewed on an annual basis to measure achievement against its objectives. Objective 2 of the Housing and Homelessness Strategy is about meeting the need for new housing across the district.

#### Definition of affordable housing

The Warwick District Local Plan sets out that affordable housing should meet the definition set out in Annex 2 of the NPPF in terms of tenure, affordability and provider. The definition in the NPPF (February 2019) is reproduced in Appendix ii. This SPD focuses on the provision of affordable housing specifically as social rented, affordable rented and shared ownership types. All other types of affordable housing (as per Annex 2 of the NPPF, and including self build affordable housing plots) will only be considered where it can be demonstrated that the provisions as laid out in the SPD for both on-site and off-site provision cannot be met.





## Housing Need in Warwick District

Housing need in the district is evidenced by a number of different studies at sub-regional, district and parish levels, principally the Joint Strategic Housing Market Area (JSHMA) study, last updated in 2015. This Council is committed to updating its evidence base frequently, and this SPD will be updated with the most relevant evidence as and when it is available.

The adopted Local Plan was produced prior to the introduction of the Standard Methodology for establishing housing need. The Objectively Assessed Need (OAN) for housing established through the Local Plan is for a minimum of 16,776 dwellings over the plan period, of which 40% should be within the affordable housing categories.

The JSHMA proposed an affordable housing typology. However, given local expertise with regards to the desirability on 1 bed properties, this SPD varies that guidance with a more appropriate mix of sizes to meet the needs of the district (see following chapter for further details).

## Village / Parish Housing Needs Assessments

The Housing Assessment 2006 included a sample survey in the rural area as a whole but, due to the large number of small settlements and the small numbers of households, this sample was insufficient to be meaningful at parish level. However, the assessment did identify a clear need for affordable housing in the rural area generally.

A better way of estimating need in rural villages or parishes is to carry out a housing needs survey or assessment where every household receives a questionnaire. Some parishes carry this out as part of a wider Parish Plan survey. The Warwickshire Rural Housing Association also carries out such surveys on behalf of parishes where there is a prospect of providing affordable housing locally. The Council is able to advise as to whether such surveys have recently been carried out.

## South Warwickshire Housing Market Area Gypsy and Traveller Accommodation Assessment

Gypsy and Traveller Accommodation is to be addressed in a dedicated Development Plan Document (DPD), as set out in the adopted Local Plan.



## SECTION 4

# Affordable Housing Requirements

### The Amount of Affordable Housing

The Council will require 40% of the total (gross) number of dwellings provided on the site to be affordable. Where a scheme is amended to increase the number of dwellings, following the grant of planning permission, a proportionate increase in the amount of affordable housing will also be required.

Policy H2 (Affordable Housing) sets out the affordable housing requirement on residential development sites (see Appendix i for full policy). Applicants should note that this Council will seek Affordable Housing contributions on sites of 10 or more dwellings. All schemes providing self-contained units of accommodation, whether in new-build or conversion schemes, will be subject to the policy.

It is expected that the affordable housing will be provided on the development site. This will ensure that new developments contribute towards mixed and balanced communities.

### Rounding of fractions

There will be occasions where meeting the affordable housing requirement will not result in a round number of dwellings. For example, if a development is of 16 dwellings, the 40% affordable housing requirement is for 6.4 houses. **In such cases, the fraction shall be rounded up to the nearest whole number** – in this instance to 7 dwellings

This approach will ensure that applicable sites will deliver at least 40% Affordable Housing, thereby ensuring the delivery of much needed housing opportunities.

### Site Size

Where the site is a subdivision of a larger site or adjacent to another potential housing site, the site size for threshold purposes will be taken to be the larger development site. Thus where a site has been subdivided, or is in separate ownerships, the site size will be all the sites taken together.

In determining whether two or more adjacent development sites should be considered as one, the council will consider the following:

- whether a previous application incorporated parts of both sites;
- whether the sites are inter-dependent in any way – for example, functionally or physically;
- whether there is a community of interest between the two owners; and/or
- whether there is a reasonable prospect of developing both sites together

In applying the threshold of 10 units, the Council will have regard to the density of the development as well as the numbers of units proposed. For example, there may be instances where a scheme, which provided less than 10 dwellings, is judged to have an inappropriate density in order to circumvent the policy requirement. In such cases the Council may refuse the application if the density of the development is contrary to local and national policy.





### Site Viability

It is expected that developers will be aware of their obligations in respect of affordable housing, and other planning requirements, at the outset and that the financial implications of these will have been taken into account prior to negotiations on the purchase of the land. Where applicants claim that they are unable to provide 40% affordable housing because this would make the scheme unviable, the Council will require written evidence of the costs of the scheme. It is common practice that the Council will ask its independent viability expert to review the applicant's submission, the reasonable costs of which is borne by the applicant

In cases where the Council is satisfied that the scheme could not be viable with 40% affordable housing, officers will negotiate with the applicant on either the mix of homes to be delivered or the numbers to be provided. In doing so, they will take into account the affordable housing priorities in that particular location and the nature of the overall development.

### Vacant Building Credit (VBC)

As per para 63 of the NPPF in order to support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due will be reduced by a proportionate amount, equivalent to the existing gross floorspace of the existing buildings. This calculation should be submitted to the authority for approval at the point of application. This Credit does not apply to vacant buildings which have been abandoned or have been vacated for the sole purpose of redevelopment. VBC can be applied for on sites that demolish a vacant building to make way for housing development, and for applications bring a vacant building back to use as dwellings.

The proportion of the vacant building floor space as part of the total new floor space should be used to calculate the proportion of the affordable housing required by the policy, as summarised in the simple formula:

$$\text{(Net change in Floorspace/Proposed Floorspace)} \times \text{Policy Requirement} = \text{Site Affordable Housing Requirement}$$

Illustrative example:

- a proposed new development for 100 homes (with a floor space of 125 sq.m each) results in total proposed floor space of 12,500 sq.m.
- Policy H2 requires 40% affordable housing – which equates to 40 affordable homes and 60 market homes.
- However, there are existing vacant buildings on the site with a floorspace of 5,000 sq.m.
- The difference between the gross floorspace of the vacant buildings and the proposes new build floor space is 7500 sq.m
- Therefore the affordable Housing requirement on this site is  $(7500/12500) \times 40 = 24\%$ . This equates to 24 dwellings.



Alternative Developer Contributions

In line with paragraph 62 of the NPPF and policy H2 of the Local Plan, the presumption is that the affordable homes will be provided on the development site. This will ensure that the development provides a mix and balance of homes. The preferred approach is where the developer builds the homes and transfers them to a Registered Provider (RP).

There may be exceptional circumstances where it is not possible to provide affordable housing on the site. This is provided for within Policy H2 of the Local Plan and the supporting text (paragraphs 4.26-4.27), although the developer will be required to demonstrate why it is not practicable to deliver affordable housing on-site. Circumstances could include, for example, a small conversion scheme where it is not possible to separate the affordable housing from the market housing and where this would present difficulties in terms of management arrangements and service charges.

In such instances, the Council may agree to a financial contribution in lieu of the affordable housing. This financial contribution would be used to support the provision of affordable housing in other locations. The contribution will be calculated on the basis that the site size, in terms of dwellings, is equal to 60% of the gross housing provision, and that the other 40% is to be provided elsewhere. This takes into account the increased number of market dwellings provided on the site (100% as opposed to 60% – see Table below).

ON-SITE AFFORDABLE HOUSING PROVISION		OFF-SITE AFFORDABLE HOUSING PROVISION		
Gross no. of homes	Affordable provision – 40% of the gross no. of homes*	No. of market homes on site (assumed to be 60% of gross homes)	Gross no. of homes to be provided (market homes/0.6)	Off-site affordable requirement (gross no. of homes – market homes)
35	14	35	58	23
50	20	50	83	33
100	40	100	166	66
230	92	230	383	153

\*all numbers rounded up to the nearest whole number

Alternatively, the Council may consider the provision of the affordable housing on an alternative site if such a site can be identified and secured for the provision of housing to meet the needs of the district. As with the example cited above, the amount of affordable housing to be provided off-site will reflect the increase in the number of market homes which can be provided on the development site itself.

In the case of both financial contributions and off-site provision, the details of the arrangements will be set out in a planning (Section 106) agreement, a template for which is provided at the end of this SPD.

Calculating the Off-site Contribution

In calculating a commuted sum the following approach will be used:

Step A

The applicant must provide details of the different types and sizes of homes within the proposed scheme. The Council, in liaison with the developer, will determine what proportion of each of these house types would be required to be affordable if the Council’s affordable housing policy were to be met. The key consideration should be meeting the overall provision of affordable bedspaces (40%) and the ratio between social and intermediate bedspaces.

Step B

The applicant must provide details of the open market value (OMV) of these identified affordable homes. This should be based on local evidence of similar schemes and supported by a valuation prepared by an RICS Registered Valuer.

Step C

The applicant must submit evidence to demonstrate how much an appropriate Registered Provider [RP] would purchase the affordable housing units for on the basis that the dwellings remain affordable units. This can be provided as either a) as a cash price for each affordable unit or b) as a % of the OMV for affordable home types the RP would normally pay (i.e. the RP transfer rate).

The applicant should calculate the ‘cost to developer’ if the affordable units were to be provided on site. The cost will be equivalent to the difference between the open market value and the price that the Registered Provider would be prepared to pay, e.g. If a house is worth £200,000 on the open market and a registered provider would purchase the property for £120,000 then the ‘cost to developer’ would be £80,000. Similarly, if the RP would pay 60% of the OMV for a house the developer would bear the remaining 40% of the value, i.e. the ‘cost to developer’ would be £80,000.

Appropriate evidence is considered to be a letter from at least two Registered Providers that are active in Warwick District. The Council will use the average RP transfer rate to calculate the cost to developer. In the absence of submitted evidence that has been endorsed by the Registered Providers the Council will use its own evidence to determine the ‘cost to developer’. This evidence is likely to be based on recent transactions across the District and is therefore likely to change over time.

Step D

Once the total ‘cost to developer’ is calculated for the scheme the Council will include an uplift to the financial contribution to reflect the fact that if the affordable homes are provided off-site the number of homes in the total scheme actually increases, as detailed in the previous section.

## Affordability and Tenure

The affordable homes to be provided must meet the definition of affordable housing as outlined in Annex 2 of the NPPF (see Appendix (ii) for details). However, within this definition there are different types of affordable housing needs which we must meet. These include the range from those households with sufficient funds/income to enter the intermediate market to those whose needs can only be met in the social rented sector. The 2013 SHMA, reaffirmed by the 2015 update, demonstrated a need for a minimum of 85% social rented and affordable rented housing and a maximum of 15% intermediate housing unless the developer can demonstrate that such a mix is inappropriate on the particular site.

Taking the above, the usual split of tenure types that the Authority seeks is;

SOCIAL RENTED	AFFORDABLE RENTED	SHARED OWNERSHIP
60%	25%	15%

These may vary site to site and early engagement with Council officers is recommended who will be able to advise the required tenure mix for a specific site.

This tenure split may be revised by subsequent SHMAs or successor documents, at which point this above advice will be amended to represent the most recent and robust evidence.

## Housing Types and Sizes

A mix of dwelling types and sizes (both market and affordable) will be required on all sites in order to create sustainable communities. In determining the types of homes, developers should have regard to the nature of the site and the needs of the District as well as the guidance in this SPD. The Council has produced a housing mix guidance document that distills the findings of the most recent SHMA, and help developers design policy-appropriate schemes.

However, this SPD seeks an affordable housing mix that differs from that modelled in the SMHA. The SHMA notes the following;

“Our strategic conclusions in the affordable sector recognise the role which delivery of larger family homes can play in releasing supply of smaller properties for other households; together with the limited flexibility which one-bed properties offer to changing household circumstances which feed through into higher turnover and management issues.” [para 9.39]

Individual authorities may therefore decide to provide an alternative proportion of one bedroom homes, in particular taking account of the fact that one bedroom homes:

- make no provision for future household growth;
- restrict opportunities to have guests to stay;
- restrict opportunities for people to exercise access rights to their children;
- do not accommodate couples who need a bedroom each, for example because of disability; and
- do not present an attractive option for people looking to downsize.

This council applies this paragraph to seek the provision of more two-beds and fewer one-beds but with the total of the two within the sum of the above two ranges, i.e. 55-65%. This recognises that there are households with a one-bedroom need (single people and couples) that will be accommodated in shared ownership properties (where the housing assessment is based upon ability to pay not household size) and bungalows for older people where the under-occupation charge does not apply. This ensures that there are sufficient properties to address one-bed and two-bed needs.

The SHMA does not require any of the typologies to be provided as single story dwellings. However, the authority recognises that there is significant demand for such properties and the provision of bungalows as part of the affordable housing mix is encouraged as below.

	ONE BED	TWO BED	THREE BED	FOUR BED	TWO BED BUNGALOW
Rented	15%	45%	30%	5%	5%
Shared ownership	0%	66.7%	33.3%	0%	0%

Where there is evidence of need, specialist or supported housing or sites for gypsies and travellers may be accepted in lieu of general needs affordable housing.

The above typology split is the preferred approach of the authority. Should the specific site requirements render this mix unachievable then early engagement with Council officers is recommended in order to provide the most suitable mix.

## Housing Costs

Affordable housing for rent must meet the definition set out in the NPPF. The test of affordability for intermediate housing is based on the relationship between the occupation cost of the property and average income levels. This relationship is tested using a “multiplier” which, in this District, is a maximum of 3.5. Another test of affordability for intermediate housing is that the occupation costs should not exceed 33% of average income of newly forming households.

In summary, the following principles should be taken into account in setting housing costs:

- In rented housing, rents should be at or below Housing Corporation benchmarks and within the limits prescribed by the Rent Service for receipt of full housing benefit.
- In intermediate housing, the rent charged on un-owned equity should be at the target level set by the Housing Corporation (2.75% of un-owned equity per annum in 2007)
- In intermediate housing, the maximum multiplier applicable between occupation costs and average income is 3.5.
- In intermediate housing, occupation costs should not exceed 33% of average income

The affordable rent level, which includes service charges, should be no more than the Local Housing Allowance caps for each area and in this District, are normally no more than 70% of open market value.



## Affordability in Perpetuity

The Council will need to ensure that the affordable homes remain affordable for as long as they are needed. The best way of ensuring this is by transferring the homes to a Registered Provider. In cases where a RP is not involved in the delivery of the affordable housing, the Council will require the provider to agree to the retention of the homes in perpetuity in a Section 106 agreement. Exceptions are made for mortgagees in possession of the affordable homes, people who have "staircased" to 100% ownership and people who have exercised their "right to acquire" an affordable home.

In cases where the provision of Starter Homes has been justified, a 15 years post sale resale and lettings restriction will apply. Within this period, sales of the dwelling will be prohibited unless sold to a qualifying first-time buyer at the appropriate discount. This requirement will extend for 15 years from point of initial purchase, irrespective of number of sales.

In cases where the provision of Discounted Market Sales dwellings has been justified, these must be sold at least 20% less than market value determined by local incomes and local house prices. Provision must be made within a Section 106 agreement to ensure housing remains at a discount for future eligible households.

## Meeting Local Needs in Perpetuity

The Local Plan policy sets out the basic principles which must be met in order to ensure that the homes meet local needs, in perpetuity, which cannot be met in any other way.

People with a demonstrable need to be housed in the locality include:

- people who currently live in the parish and have done so continuously for at least the last 2 years and are seeking more suitable accommodation;
- people who have lived in the parish for at least 2 years out of the last 10 years;
- people who used to live in the parish and who have immediate family (mother, father, son, daughter, brother or sister) living in the parish;
- people who have relatives living in the parish to whom it is desirable to live near for support e.g. elderly relatives, young families; and
- people who have been permanently employed in the parish for at least 12 months.

The housing to be provided must meet the needs identified in the survey in terms of type, size and tenure. They should ideally be provided, and subsequently managed, by a Registered Provider. However, other providers such as Community Land Trusts would also be acceptable providers. All organisations must have local management to ensure the effective maintenance of the dwellings.

The tenure of housing will normally be social rented. This is because other forms of subsidised housing, such as shared ownership housing, is often still too expensive for those in housing need. However, a small proportion of intermediate housing will be considered where appropriate the cost is affordable. Affordability of such homes is assessed by comparing the weekly cost of the property with the amount considered to be affordable to those earning the average income of newly forming households. Evidence of affordability will be required.

Affordable homes provided by way of a rural exception scheme will need to be secured to ensure that they are always only available to local people with a housing need. The preferred and most appropriate means of doing this is by involving a Registered Provider in the provision and subsequent ownership and management of the homes.

The homes should be made available both initially and subsequently to people who have a local connection and a proven housing need. Initial occupants should ideally be those identified in the housing needs assessment. If the property later becomes available, it will be offered firstly to people with a housing need and a local connection from within the village or parish in which it is situated. In the unlikely event that no one comes forward, the home will be offered to those from neighbouring parishes with a similar local connection to that parish and a proven housing need.

Social rented homes provided in a rural exception scheme will always remain in the ownership of the provider, usually a Registered Provider. There will be no opportunity for tenants to buy the home under the "right to acquire" scheme. In the case of shared ownership or shared equity properties, part owners will not be able to buy the homes outright. This will ensure that the homes remain affordable to local people and are never sold on the open market.





## SECTION 5

# Design of Affordable Housing

The Council is committed to ensuring that all new housing is built to a high standard of design so that communities, both now and in the future, will be stable and healthy whilst living in clean, safe and sustainable environments. All schemes will need to comply with Local Plan policies addressing design, most notably policies SC0, BE1, and BE2. The Local Plan also explains the need to take account of Building for Life 12 and the Garden Towns and Suburbs guidance in major schemes.

### Integration of Market and Affordable Homes

In designing a housing development scheme, it is important that the scheme is designed as a whole, with both the market and the affordable homes together, rather than as two separate schemes. This is so that the principles of a safe and sustainable development, in terms of layout and orientation, can be applied to both elements of the scheme. If the two elements of the scheme are designed independently, there may be insufficient regard to the effects of the design and layout of one part of the scheme upon the other.

The Council considers that in order to ensure the creation of mixed and integrated communities, the affordable housing should not be visually distinguishable from the market housing in terms of build quality, materials, details, levels of amenity space and privacy.

The affordable homes should not generally be restricted to one part of the site, particularly in larger schemes where they should be distributed evenly across the site, a process known as “pepper potting”. Small clusters spread across the site are preferred. Whilst the range of dwellings that constitute a ‘small cluster’ will vary by site, clusters will ordinarily be of 5-8 dwellings in number. Planning applications should include plans which identify the location of the affordable homes.

### Environmental impacts of housing

All development impacts the environment both during construction and once occupied. This Council has recognised that there is a Climate Emergency and that all activity taking place within the District should be aware of, and respond to, this.

It is strongly encouraged that all development reduces its carbon footprint to as little as possible, and the Council itself is aiming to be carbon neutral by 2025. Developers should consider the volume of embedded carbon within the fabric and construction methods, understanding that the choices of construction materials and methods can significantly impact on the environmental sustainability of a home. Consideration should also be made to the future impact of the dwelling, its production method and efficacy in retaining and storing heat and energy to limit environmental impact, and future occupant’s utilities bills. Council officers would be pleased to discuss these matters further, including examples of best practice within the District and elsewhere.

A future Development Plan Document will be produced to embed these principles into the development process.

### Space standards

The Council has not yet adopted spatial standards for the development of new housing. As detailed elsewhere within this SPD, there should be no visible difference between the market and affordable housing provided on a site, and this extends to the dimensions of the dwelling, car parking provision the dwelling’s associated amenity space.



## SECTION 6

# Delivering Affordable Homes

### Obtaining Planning Permission

Developers are strongly advised to speak to the Council's Planning and Housing Officers prior to the submission of a planning application. They will be able to advise the applicant of the affordable housing requirements. The developer is advised to open negotiations with a RSL/RP, or other affordable housing provider, at an early date so that a scheme can be worked up which is acceptable to all parties and the funding can be determined.

On submission of a planning application, the applicant should be able to supply the following details of the scheme:

- The overall mix of housing
- The number of affordable homes to be provided
- The location on the site
- The numbers of social rented and intermediate homes (full and reserved matters applications only)
- The sizes and types of each home (full and reserved matters applications only)
- Alternative arrangements to on-site provision (in exceptional cases only)

The developer should consider whether they wish to hand over serviced plots to the affordable housing provider or build homes on behalf of, and to the agreed specifications of, an affordable housing provider and then sell to them at an agreed price. Where social rented housing is provided, the cost to the provider should be not more than the amount which the provider can finance from proposed rents. Where intermediate housing is provided, it should be offered to the provider at a price which will enable them to offer the house at an affordable cost/rent to a household in need.

### Timescale for Delivery

The Council will need to ensure that the affordable homes are built alongside the market homes.

The best way of achieving this is to include a clause in a Section 106 agreement to the effect that, where completed units are sold to an affordable housing provider,

- no more than 50% of the open market dwellings shall be occupied until 50% of the affordable houses are ready for occupation; and
- no more than 95% of the open market dwellings are occupied until all of the affordable houses are ready for occupation.

Where serviced land is transferred to a provider, or a financial contribution is paid instead, the Section 106 agreement will state that no more than 50% of the open market dwellings shall be occupied until the affordable housing land is transferred to the provider or the financial contribution is paid to the Council.



## Legal Agreements

The agreement will normally cover the following aspects of the scheme (in relation to affordable housing):

- the number of affordable homes;
- the timing of the construction of the affordable homes in relation to the development of the rest of the site;
- the transfer of the homes to, and management by, a Registered Social Landlord (or as otherwise agreed by the District Council);
- the allocation of the homes to persons on the HomeChoice lettings scheme (or successor schemes);
- the retention of the homes as affordable housing on a rented or shared ownership basis (subject to exceptions for mortgagees in possession, people who staircase to full ownership and people who exercise their Right to Acquire);
- the sizes and tenure of the affordable homes (full planning permission or reserved matters only) and
- the standards of construction of the affordable homes (full planning permission or reserved matters only).

The Council has produced a template Section 106 Agreements for residential developments which can be found in Appendix iii and a comprehensive template, covering all aspects of Section 106 agreements (including legal definitions), has been produced as part of the Council's Developer Contributions SPD.





## SECTION 7

# Rural And Entry Level Exception Sites

### Rural Exception Sites

Paragraph 77 of the NPPF allows small groups of affordable homes to be built, subject to planning permission, in rural settlements to meet the needs of that settlement on sites where housing development would not normally be allowed. Local Plan Policy H3 sets out the requirements for the circumstances which must be demonstrated to define a site as a rural exception site. These circumstances are considered in greater detail below.

### H3 (a) Housing need

Needs Surveys may be carried out as part of a Parish Plan or as a one-off housing needs assessment/ appraisal or survey. The involvement of the Parish Council is desirable but not essential. Some needs surveys are carried out by Warwickshire Rural Housing Association which is the main provider of rural affordable housing in Warwick District. A Housing Needs Survey is only ever a “snapshot” of housing need in an area and in determining whether the information in a Needs Survey is still valid the Council will consider:

- the age of the survey;
- the size of the settlement; and
- the extent to which there has been any change in the supply of affordable housing since it was carried out

Surveys should normally cover the parish in which the housing is to be provided. Surveys must aim to gather information on the realistic, rather than aspirational, housing needs of residents. They must aim to gather information on existing housing circumstances; future housing requirements; disposable income and savings; and links with the village/parish. The results should also be able to show that any genuine housing need cannot be met in any other way. Although surveys could be carried out of the needs of clusters of settlements/parishes, ultimately the information should be analysed on an individual settlement/parish basis because the affordable housing must meet the needs of the settlement in which it is located.

Further advice and information on carrying out, and interpreting the results of, a housing needs survey can be obtained from Warwickshire Rural Housing Association and/ or the Rural Housing Enabler for Warwickshire.

Where an existing HNA exists there is no requirement for the developer to undertake another – see Local Validation List.

### H3 (b) Size, Design and Location of the Scheme

In Warwick District rural sites tend to accommodate less than 8 dwellings mainly because villages are small in size. The acceptability of sites, in terms of size, will therefore depend upon:

- the level of the identified need;
- the nature and size of the existing settlement; and
- the nature and size of the site and the way in which it relates to the existing settlement

All the dwellings must meet an identified need in a recent survey. However, notwithstanding the level of need, only small scale developments will be allowed and these should blend well into the existing settlement.



The design and layout of the scheme should be essentially rural in character and should integrate well with the styles and materials which predominate in the surrounding area. Although the development may be an exception in terms of settlement policy, the scheme should comply with all other planning policies contained within the Local Plan and, where applicable, the Neighbourhood Plan.

The scheme must be located within, or adjoining, an existing settlement with at least one of the basic services, as detailed in para 4.34 of the Local Plan. Rural exception housing will not normally be allowed in, or adjoining, settlements without one of the basic services. Where proposals are put forward in such settlements, very strong justification will be required as to why affordable housing is appropriate in this location. Proposals in the open countryside will not be acceptable.

## Rural Exception Sites in the Green Belt

A large proportion of the rural area of Warwick District is designated as Green Belt. The Government accepts rural exception schemes in the Green Belt but greater controls are needed to ensure that the fundamental objectives of the Green Belt are not harmed – in particular, the retention of the open nature and rural character of the countryside.

## Entry level exception sites

Paragraph 71 of the NPPF sets out a new requirement for local planning authorities to support the development of entry-level exception sites. Such developments are intended to provide housing suitable for first time buyers or those looking to rent their first home where there is a need to be met, that isn't being met elsewhere. Such sites should comprise entry level homes that offer one or more types of affordable housing as defined in Annex 2 of the NPPF.

The additional physical requirements of entry-level exception sites, are broadly similar to the requirements of local plan policy H1(d), for building in the open countryside.

## Obtaining Planning Permission for rural exception sites

Applicants should hold discussions with the Council's Housing and Planning Officers at the earliest opportunity in order to establish whether the site, the subject of a planning application, is suitable for affordable housing. The applicant should involve the local community in drawing up the scheme.

The information which must be supplied with a valid planning application is set out in the Local Validation List. This sets out when and what type of information is required, and this is aligned with the requirements of the Local Plan and this SPD.

Applications should be accompanied by the findings of the housing needs survey with an indication of which specific needs will be met. It is because the housing is aimed at meeting specific needs that the permission will only be valid for 2 years – beyond this period, the specific needs of the village/parish may have changed. However, since many rural exception schemes depend upon external funding, a 3-year permission will be considered if this is essential in order to allow sufficient time to apply for, and receive, the funding.

The owners of the affordable homes will be expected to enter into a planning (Section 106) Agreement with the Council to ensure that:

- development is not commenced until contracts for the purchase of the land have been exchanged with an agreed provider;
- the affordable dwellings are only occupied by persons who qualify as being in housing need and who have a local connection
- the affordable dwellings are not sold outright to any occupier

A template Section 106 agreement is provided as Appendix iii



# Appendices

## Appendix i – Local Plan Policies

### Strategic Policy DS2 – Providing the homes the district needs

The Council will provide in full for the Objectively Assessed Housing Need of the district and for unmet housing need arising from outside the district where this has been agreed. It will ensure new housing delivers the quality and mix of homes required, including:

- a) Affordable homes
- b) A mix of homes to meet identified needs including homes that are suitable for elderly and vulnerable people; and
- c) Sites for gypsies and travellers

### H0 – Housing

To ensure the district has the right amount, quality and mix of housing to meet future needs this Plan will:

- a) Provide in full for the district's housing requirement
- b) Ensure new housing development is in locations which enable sustainable lifestyles, protect the aspects of the district that are most highly valued and which, where appropriate, support and regenerate existing communities; and
- c) Ensure new housing delivers the quality and mix of homes needed in the district including affordable homes, a mix of homes to meet identified needs (including homes that are suitable for older and vulnerable people) and sites for gypsies and travellers.

### H1 – Directing New Housing

Housing development will be permitted in the following circumstances:

- (e) Elsewhere in the open countryside; where:
  - i. the development is for rural affordable housing in accordance with Policy H3;

### H2 – Affordable Housing

Residential development on sites of 11 or more dwellings or where the combined gross floor space is more than 1,000 sq.m will not be permitted unless provision is made for 40% affordable housing.

The amount of affordable housing, the form of provision, its location on the site and the means of delivery of the affordable element of the proposal will be subject to negotiation at the time of a planning application. The viability of the development will be a consideration in such negotiations.

Planning permission will not be granted until satisfactory arrangements have been made to secure affordable housing as determined by the following principles:–

- a) The affordable housing will be provided on site as either serviced land or dwellings, or a combination of the two;
- b) The sizes, types and tenures of homes provided will be determined on the basis of local need as identified in the Strategic Housing Market Assessment and, where appropriate, by other local needs surveys and information;



- c) The accommodation provided will be genuinely available to those households who have been identified as being in housing need;
- d) The affordable housing will be well integrated into the overall scheme along with the market housing with consistent qualities of materials, design and open spaces;
- e) The affordable housing will meet the definition of affordable housing set out in Annex 2 of the National Planning Policy Framework (NPPF) in terms of tenure, eligibility and provider. If the NPPF is replaced by later national guidance while this policy H2 remains in force then, at the time of consideration of a planning application, the definition of affordable housing shall be taken to be as defined in such later national guidance.
- f) The affordable housing will be built within an agreed timescale; and
- g) The affordable housing will be available as such in perpetuity, where practicable, and only to those with a demonstrable housing need.

The Council will, in exceptional circumstances, accept contributions of equivalent value in lieu of on-site delivery. This should include financial contributions, land or off-site provision of affordable homes. In such cases, the developer will be required to demonstrate why on-site delivery is not practical.

### H3 – Affordable housing on rural exception sites

The development of affordable housing to meet the local needs of a village or parish may be permitted in locations which would not normally be released for housing, provided that:

- a) the proposal will meet a particular local housing need, as identified in detailed and up to date evidence from a parish or village housing needs assessment, and it can be demonstrated that the need cannot be met in any other way;
- b) the proposed development will be small in scale, of appropriate design and located within, or adjoining, an existing settlement; and
- c) the following principles are established:
  - i. all of the housing provided will only be available (both initially and for subsequent occupancies) to those with a demonstrable housing need and, first and foremost, to those with a need to be housed in the locality;
  - ii. the type of accommodation, in terms of size, type and tenure, to be provided will reflect the needs identified in the housing needs assessment;

In locations outside of the green belt, the Council will consider the cross-subsidisation of the affordable homes with some market homes provided that:

- a) the number of market homes is the minimum necessary to deliver the affordable housing;
- b) the size and type of the market homes meet a local need as evidenced in a parish or village housing needs assessment; and
- c) a development appraisal is provided to the Council as supporting evidence.

## Appendix ii – NPPF definition of affordable housing

### Paragraph 61

Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes).

### Paragraph 62

Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site unless:

- a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and
- b) the agreed approach contributes to the objective of creating mixed and balanced communities.

### Paragraph 63

Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount.

### Paragraph 64

Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development:

- a) provides solely for Build to Rent homes;
- b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);
- c) is proposed to be developed by people who wish to build or commission their own homes; or
- d) is exclusively for affordable housing, an entry-level exception site or a rural exception site.

### Paragraph 71

Local planning authorities should support the development of entry-level exception sites, suitable for first time buyers (or those looking to rent their first home), unless the need for such homes is already being met within the authority's area. These sites should be on land which is not already allocated for housing and should:

- a) comprise of entry-level homes that offer one or more types of affordable housing as defined in Annex 2 of this Framework; and



- b) be adjacent to existing settlements, proportionate in size to them<sup>33</sup>, not compromise the protection given to areas or assets of particular importance in this Framework<sup>34</sup>, and comply with any local design policies and standards.

### Paragraph 77

In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilitate this.

### The NPPF provides the following definition of affordable housing (Annex 2):

Affordable housing: housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:

- a) Affordable housing for rent: meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).
- b) Starter homes: is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has the effect of limiting a household's eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.
- c) Discounted market sales housing: is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.
- d) Other affordable routes to home ownership: is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement.





## Appendix iii – Template Section 106 agreement

**Please note that this Section 106 template encompasses information and requirements that might not be appropriate at certain stages of the planning process. This template is considered as a starting point for legal negotiation and will be amended on a case-by-case basis accordingly.**

**This Council has an adopted Developer Contributions SPD that provides a full Section 106 template document along with all relevant Section 106 definitions, including those for Affordable Housing.**

## THIRD SCHEDULE

### The Owner's Covenants with the Council

#### Part 1: Affordable Housing

- 1.1 Prior to the Commencement of Development the Owner shall submit the Affordable Housing Scheme for the approval of the Council and shall notify the Council in writing of the anticipated date for completing the construction of the Affordable Housing Units within the Development and shall use reasonable endeavours (and shall demonstrate to the reasonable satisfaction of the Council that such endeavours have been made) to enter into a binding contract ("the Contract") with a Registered Provider for the construction and sale of the Affordable Housing Units within 6 months of the date of Commencement of the Development to such Registered Provider at a price in accordance with paragraph 1.2.
- 1.2 The price to be paid by the Registered Provider to the Owner for the transfer of the Affordable Housing Units shall be a percentage of the value of the properties if they were sold on the open market (as at the intended date of the exchange of contract in respect of the Affordable Housing Units) to be agreed between the Owner and the Registered Provider being such a percentage to enable the Affordable Housing Units to be made available without the need for the Registered Provider to apply for Homes England grant funding and to enable the Shared Ownership Units to be made available to purchasers at a mortgage cost of each unit to be no more than three and a half times the average household income of newly forming households within Warwick District
- 1.3 The terms of the Contract relating to the type and size of the Affordable Housing Units and the rent to be paid for the Affordable Rented Units shall be in full accordance with the Affordable Housing Scheme and the Contract shall provide for the transfer of the freehold or leasehold title of the Affordable Housing Units on the following terms:
  - 1.3.1 The Owner will deduce good and marketable freehold or leasehold title to the Affordable Housing Units and will transfer the Affordable Housing Units with full title guarantee with vacant possession and subject to all existing entries under title number [insert title no.] as at the date of this Deed but otherwise the transfer shall be free from any other rights or encumbrances save for any existing rights and encumbrances and such other rights reservations and covenants as are

reasonably necessary to enable the Owner to develop the rest of the Application Site and those disclosed as at the date of this Deed;

- 1.3.2 The Transfer shall grant rights of access and passage of services and other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Units
- 1.4 The Owner covenants that the Affordable Housing Units shall be allocated to persons registered on Home Choice Allocation Schemes.
- 1.5 The Affordable Housing Units shall not be Occupied other than as Affordable Housing SAVE THAT this Deed SHALL NOT be binding or enforceable against any mortgagee or chargee or receiver appointed by the mortgagee or chargee which shall have the benefit of a legal mortgage or charge secured against all or any of the Affordable Housing Units and any person who shall derive title directly or indirectly from such mortgagee or chargee or receiver appointed by the mortgagee or chargee (other than a Registered Provider) Provided Always that the mortgagee or chargee or receiver appointed by the mortgagee or chargee or any successors in title to such mortgagee, chargee or receiver shall have obtained a Certificate from the Council (acting reasonably) stating that it has followed the procedure set out in the Seventh Schedule to this Deed nor shall this Deed be binding or enforceable against any Protected Tenant
- 1.6 Subject always to paragraphs 1.5, 1.9 – 1.14 below the Owner covenants not to dispose of their interest in the freehold of the Affordable Housing Units or any part thereof (except by way of mortgage) other than to a Registered Provider
- 1.7 The Owner covenants that it will require in the contract that the Registered Provider shall keep the Council's Housing Strategy & Development Officer for the time being informed in writing as to the addresses of the Affordable Housing Units
- 1.8 The Owner covenants to require in the Contract that the rent to be charged by the Registered Provider for the Social Rented Units when first let and for all subsequent lets must conform to Regulator of Social Housing's 'Regulatory Framework for Social Housing in England from April 2015' or such other amount as may be permitted by any subsequent publication then in force and the rate of increase shall be no greater than the rate stipulated in Annex A of aforementioned publication or if such rate of increase shall cease to be or otherwise not stipulated by the Regulator of Social Housing the rents shall be increased by no greater than Retail Price Index + 1% per annum.
- 1.9 If despite having used reasonable endeavours the Owner is unable to enter into a contract with a Registered Provider for the sale of the Affordable Housing Units in accordance with the provisions of this Schedule within 6 months from the Commencement of Development then the Owner may at any time afterwards give notice to the Council ("the First Affordable Housing Notice") stating that it has failed to enter into a Contract in which event the provisions of paragraph 1.10 shall apply
- 1.10 If the Owner serves a First Affordable Housing Notice in respect of the Development then the Council may at any time within 3 months of the service of the First Affordable Housing Notice nominate by written notice to the Owner ("the Nomination Notice") any other affordable housing provider ("the Nominee") to purchase the Affordable Housing Units within that Development for an alternative affordable housing scheme proposed by the Owner and as approved by the Council but otherwise on the terms set out in this Schedule.

- 1.11. If the Council serves a Nomination Notice in respect of the Development in accordance with paragraph 1.10 the Owner shall use reasonable endeavours (and shall demonstrate to the reasonable satisfaction of the Council that such endeavours have been made) to enter into a contract with the Nominee for the sale of the Affordable Housing Units within the Development in accordance with the provisions of this Schedule within 6 months of the date of service of the Nomination Notice.
- 1.12. If after service of the First Affordable Housing Notice the Council fails to serve a Nomination Notice or following the service of a Nomination Notice within 6 months of the Owner having used their reasonable endeavours fail to enter into a Contract with the Nominee within 6 months of the date of service of the Nomination Notice in accordance with paragraph 1.11 then the Owner shall make an offer in writing to transfer the Affordable Housing Units in a Serviced Condition to the Council, freehold, free from incumbrances, with vacant possession and with full title guarantee for a price of the lower of the actual build costs of the Affordable Housing Units as demonstrated by the Owner on an open-book basis or a valuation-based estimate of the Affordable Housing Units to be carried out by the Valuation Office Agency and the Council shall confirm in writing within 14 days whether it will accept the offer and if accepted then on completion of such transfer the Owner shall be deemed to have provided the full number of Affordable Housing Units in discharge of their obligations under this Schedule.
- 1.13. If the offer described in paragraph 1.12 above is not accepted by the Council then the Owner may serve a notice on the Council (the "Payment Notice") stating that it will pay to the Council a sum (the "Housing Contribution") which will be calculated by the Council in accordance with the Eighth Schedule in place of the Owner providing the Affordable Housing Units and the provisions of paragraph 1.14 shall take effect.
- 1.14. On service of the Payment Notice in respect of the Development then:
  - 1.14.1. The Owner shall pay to the Council the Housing Contribution within 20 working days of the Payment Notice being served on the Council;
  - 1.14.2. On payment of the Housing Contribution the Owner shall be entitled to sell or otherwise dispose of the Affordable Housing Units as Open Market Housing Units free of all obligations and restrictions
- 1.15. The Owner covenants with the Council that the Affordable Housing Units to be built on the Application Site shall be constructed according to the standards required by building regulations in force at the relevant time
- 1.16. The Owner covenants that the Affordable Housing Units shall be provided for disposal to a Registered Provider in a Serviced Condition and in any event of any disagreement as to whether the Affordable Housing Units are in a Serviced Condition a dispute shall be taken to have arisen which shall be dealt with under the provisions of Clause 17 of this Deed
- 1.17. Where all or some of the Affordable Housing Units shall be provided for disposal to a Registered Provider or the Council the Owner covenants with the Council not to cause suffer or permit Occupation of more than 50% of the Open Market Housing Units until 50% of the Affordable Housing Units have been transferred in a Serviced Condition to a Registered Provider or the Council in accordance with the provisions of this Schedule.

- 1.18. If 1.17 applies the Owner covenants with the Council not to cause suffer or permit Occupation of more than 95% of the Open Market Housing Units until all of the Affordable Housing Units have been transferred in a Serviced Condition to a Registered Provider or the Council in accordance with the provisions of this Schedule and any outstanding Housing Contribution (if any) has been paid to the Council in accordance with the provisions of this Schedule.
- 1.19.. The Owner covenants with the Council to notify the Council's Housing Strategy & Development Officer of sales of the Open Market Housing Units in stages of 25% within 14 days of completion of the sale of the last Open Market Housing Unit in each stage of 25%.

## Seventh Schedule

### Mortgagee in Possession

1. The covenants contained in this Deed shall not be binding on a mortgagee or chargee or receiver appointed by the mortgagee or chargee (or administrative receiver) which shall have the benefit of a legal mortgage or charge secured against any of the Affordable Housing Units ("the Mortgaged Properties") or any person who shall derive title directly or indirectly from such mortgagee or chargee or receiver (or administrative receiver) appointed by the mortgagee or chargee ("the Mortgagee") (except in the case of a purchaser which is a Registered Provider of Social Housing) PROVIDED THAT the following procedure shall have been followed in all respects:
  - 1.1 The Mortgagee acting pursuant to an event of default shall:
    - 1.1.1 first serve written notice on the Council's Head of Housing Services of its intention to seek possession of the Mortgaged Properties no less than seven days prior to the commencement of such action.
    - 1.1.2 at the time it commences such action send copies of any notices or other documents served in relation to such action to the Council's Head of Housing Services.
    - 1.1.3 use its reasonable endeavours to the reasonable satisfaction of the Council's Head of Housing Services over a period of 12 weeks from the date on which it serves notice pursuant to paragraph 1.1.1. to dispose of the Mortgaged Properties to a Registered Provider of Social Housing approved in writing by the Council (such approval not to be unreasonably with-held or delayed) on terms which are reasonable in all respects to enable the same to be used for the purposes specified in this Deed and for a consideration determined in accordance with paragraph 7 below.
  - 2 If the Mortgagee is unable within the said period of 12 weeks to dispose of the Mortgaged Properties in accordance with paragraph 1.1.3 and the Council shall have certified in writing that it is satisfied that the Mortgagee has complied with paragraph 1.1.3 (or the Mortgagee has issued a Deemed Certificate) then the Mortgagee shall be entitled to sell or otherwise dispose of the Affordable Housing Units as Open Market Dwellings free from all obligations or restrictions insofar as they relate to the use and occupation of the Affordable Housing
  - 3 The Mortgagee shall provide written progress reports to the Council showing the steps it has taken to comply with Paragraph 1.1.3 above at 4, 8, 10 and 12 weeks from the date on which it served notice pursuant to paragraph 1.1.1. Such reports shall include:-



- 3.1. The names addresses and contact details of the registered providers of social housing which it has approached with a view to disposing of the Mortgaged Properties.
- 3.2 Any valuation of the Mortgaged Properties carried out at that time on the behalf of the Mortgagee.
- 3.3. Details of any part played by the Regulator of Social Housing and the details of the contact at the Regulator of Social Housing
- 3.4 Any written offers made by a registered provider of social housing to purchase the Mortgaged Properties.
- 3.5 The acceptance by the Mortgagee of an offer made in accordance with sub paragraph 3.4 above.
- 3.6 Written consent authorising any registered provider of social housing which the Mortgagee has approached with a view to disposing of the Mortgaged Properties and the Regulator of Social Housing to disclose the details of any confidential negotiations relating to such disposal to the Council.
- 3.7 Any other information relating to the disposal of the Mortgaged Properties that the Mortgagee considers appropriate
- 4 The Council shall within 14 days of the expiry of the 12 week period provided for in paragraph 2 above deliver to the Mortgagee a certificate stating whether or not the Mortgagee has complied with the provisions of paragraph 1.1.3. In the event that the Council certifies that the Mortgagee has not complied with the provisions of paragraph 1.1.3 such certificate will state what steps the Mortgagee must take to secure such compliance. If the Council has not delivered the above certificate to the Mortgagee within the above period of 14 days (or the arbitrator referred to in paragraph 6 below confirms that the Mortgagee has complied with the provisions of paragraph 1.1.3) the Mortgagee shall be entitled to certify that it has complied with paragraph 1.1.3 ("The Deemed Certificate ") and such certificate shall operate as a deemed certificate of satisfaction for the purposes of paragraph 2
- 5 Paragraph 4 above shall not prevent the Council from delivering to the Mortgagee a certificate stating whether or not the Mortgagee has complied with the provisions of paragraph 1.1.3 at any time following 4 weeks from the date that the Mortgagee served the notice pursuant to paragraph 1.1.1.
- 6 In the event that the Council has delivered a certificate in accordance with paragraph 4 above and there is a dispute between the parties in relation to whether the Mortgagee has complied with the provisions of paragraph 1.1.3 then either party may elect to refer such dispute to be determined by arbitration by a person appointed by the President for the time being of the Law Society

- 7 The consideration in accordance with paragraph 1.1.3 above shall be determined subject to any leases or tenancies subsisting the amount of such consideration to be agreed between the Registered Provider of Social Housing and the Mortgagee and failing such agreement to be determined by a Member of the Royal Institution of Chartered Surveyors acting as an expert and not as an arbitrator to be appointed by joint agreement of the parties or in default of agreement on application by either party by the President for the time being of the Royal Institution of Chartered Surveyors (the cost of his appointment and acting to be met by the parties in equal shares) and for the avoidance of doubt such consideration shall not be less than the amount due and outstanding to the Mortgagee under the terms of the mortgage or charge including all principal monies interest and costs and expenses incurred by the Mortgagee in respect of the mortgage or charge
8. Provided that at all times the rights and obligations in this Seventh Schedule shall not require the Mortgagee to act contrary to its duties under the charge or mortgage

## EIGHTH SCHEDULE

### The Housing Contribution

1. The Housing Contribution shall be a sum equivalent to the lower of the actual build costs of the Affordable Housing Units as demonstrated by the Owner on an open-book basis or a valuation-based estimate of the build-costs of the Affordable Housing Units to be carried out by the Valuation Office Agency and based upon a number of units calculated in accordance with Paragraph 5.15 of the Affordable Housing SPD and which shall be applied by the Council towards the provision of Affordable Housing within Warwick District and Part 1 of the Fifth Schedule shall apply in respect of the repayment of this contribution.
2. Where there is a dispute regarding the amount of the Housing Contribution then such dispute may be referred to arbitration in accordance with Clause 17 of this Deed.



**Warwick District Council**  
**Riverside House**  
**Milverton Hill**  
**Royal Leamington Spa**  
**CV32 5HZ**



**INVESTORS  
IN PEOPLE**