

Affordable Housing: A Developers Guide

February 2009



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1.0 INTRODUCTION

- 1.1 The aim of this document is to provide an outline of the affordable housing requirements of Stoke-on-Trent City Council and to help planning applicants to understand why a Section 106 agreement will be used.
- 1.2 This document also explains the procedure that the Council will follow when an applicant wishes to submit a planning application with an affordable housing requirement.
- 1.3 The Council is keen that applicants discuss plans and proposals at as early a stage as possible and welcomes the opportunity to do so.

2.0 DEFINITION OF AFFORDABLE HOUSING

- 2.1 The term “Affordable Housing” is defined in the PPS3 issued in November 2006 as:

‘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.’

- 2.2 The Council’s definition of affordable housing, includes:

- Homes provided for rent at affordable (Homes and Communities Agency¹ target) rents.
- Homes provided for sale through New Build HomeBuy which is a form of low cost home ownership where applicants buy a percentage of their home and rent is paid on the proportion not owned. This was previously known as shared ownership.

Other Affordable Housing Models

- Homes provided as Rent to HomeBuy which is a form of low cost homeownership that allows a resident to move into a new build home and pay a reduced rent for a fixed period (normally between 3 and 5 years) prior to purchasing the home outright or as New Build HomeBuy.

¹ Formerly the Housing Corporation

- Homes provided by fixed equity discount (discounted from market value, such discount is maintained in perpetuity). At present this is not a preferred option; and
- Homes provided at an intermediate rent below the Housing Benefit ceiling targeted to areas identified in the Council's Local Needs Index (Not currently offered).

If a developer is proposing to deliver affordable housing units as Rent to HomeBuy, fixed equity discount or intermediate rent this should be discussed with the Housing Enabling Team at an early stage.

- 2.3 PPS3 specifically excludes 'low cost market housing' from its consideration of affordable housing for planning obligations purposes. Therefore housing which is simply at the lower end of the market or provided on the basis of an initial discount will not meet the affordable housing requirements of planning policy.

3.0 GENERAL GUIDELINES FOR AFFORDABLE HOUSING

- 3.1 The Council wishes to ensure that a consistent approach is taken to the implementation of its affordable housing policy. To assist with this the Council has an adopted Affordable Housing Supplementary Planning Document (SPD). This document provides details of The City Council's affordable housing requirements.
- 3.2 Stoke-on-Trent City Council is committed to the provision of affordable housing throughout the City in response to the demonstrated housing needs of the area. The Council can demonstrate through its Housing Strategy, Housing Register, Housing Needs Survey Update 2006, Affordable Housing Local Area Needs Index 2008 and Housing Market Assessment 2008 that significant levels of housing need exists and that a significant proportion of the affordable housing that is provided within the City is in either the wrong location or is inadequate to meet identified need.
- 3.3 The Council is committed to utilising the latest housing data to ensure its programme of affordable housing provision is properly planned and justified in negotiations with applicants. This process will be aided by reference to the evidence documents which include the Development Viability Study and the Affordable Housing Local Area Needs Index 2008.

Policy framework

- 3.4 Consideration has been taken, in providing this guidance, of the Affordable Housing SPD which has been developed by the Council and was formally adopted on 30 May 2008. In developing the SPD, national policy has been reflected, including the preferred approach to planning and affordable housing contained in Planning Policy Statement 3: Housing (PPS3) and its companion guide "Delivering Affordable Housing."
- 3.5 Planning Policy Statements (PPS) set out the Government's national policies on aspects of planning in England. PPS3 sets out the national planning policy framework for delivering the Government's housing objectives. This PPS reflects the Government's commitment to improving the affordability and supply of housing in all communities.
- 3.6 Other key documents include:

Local Plan Policy/Local Development Framework

Policies contained within a local authority's Local Plan/Local Development Framework (LDF), which seek to guide and influence future development within an area. (Local plans are in the process of being replaced by LDFs).

Supplementary Planning Document (SPD)

Policies detailing a local authority's approach in respect of a specific area e.g. affordable housing.

4.0 THE AFFORDABLE HOUSING REQUIREMENT

4.1 The main issues that developers and landowners need to consider in terms of the council's requirement for affordable housing are summarised below. Full details are available in the affordable housing SPD.

- The threshold over which affordable housing will be required is sites of 15 units or more. This is being kept under review.
- New residential development will generally be required to contribute towards affordable housing at a rate equivalent to 25% of the overall number of dwellings to be provided. In some areas of the City, such as Areas of Major Intervention where development will be accompanied by housing clearances, there may be a need for a higher level of affordable provision.
- Out of the affordable element of a development, the Council will aim to achieve a minimum of 50% of the site for affordable rent and the remainder for New Build HomeBuy, or other appropriate models. There will be cases where this mix will alter, particularly in some areas where more rented homes are needed and where grant allows or overall scheme numbers are reviewed.
- The affordable housing should be a pro-rata match of the private sale homes on the development. Affordable housing must be indistinguishable from private sale housing and be distributed throughout the site (pepper-potted).
- The Council normally requires the affordable housing procured through planning agreements to be developed to the Homes and Communities Agency's Design and Quality Standards or its replacement.
- Affordable home ownership must be affordable to the end user in terms of their ability to pay for the mortgage and other costs of the accommodation.
- If the fixed equity discount option is proposed the Council expects the Affordable Housing Provider to provide a legal mechanism to secure the discount in perpetuity.
- The Council will use a model Section106 agreement as a key part of rationalising its approach.
- The Council will, where appropriate, integrate supported and key worker housing into affordable housing schemes if an identified need can be established.
- The Council accepts that there may be exceptional circumstances where full affordable housing provision at 25% of the development will impact on the economics of a development. In these circumstances the Council will work with the developer on an open book basis to establish what abnormal costs should be taken into account in the viability of the scheme. The developer will be required to submit a full financial appraisal in an agreed model if there is to be discussion regarding a reduction in the level of affordable housing on the development.
- The Council will in the first instance always seek to secure the provision of affordable housing on-site, however, the Council may consider either part or

the total provision of affordable housing by way of a financial contribution, where mutually agreed that this is the most appropriate means of provision. This will normally be as a last resort, behind on-site provision and off site land. The contribution will be provided to assure early delivery, and will be index linked over the period to the due payment date.

Provision of Affordable housing

- 4.2 Where affordable housing is provided, the Council expect long-term affordability to be secured through an Affordable Housing Provider from the Council's current or future list of Registered Social Landlords (RSLs). The list is available from the Council. The Council fully understands that the 2004 Housing Act allows a range of Social Housing Providers to develop affordable housing and is committed to working with these providers to seek the same levels of management and maintenance secured through current policies and procedures. The Council can provide advice on securing a Registered Social Landlord partner.
- 4.3 Where subsidy is sought to assist in the cost of development, the Council and the Homes and Communities Agency (formerly the Housing Corporation) would normally only provide Social Housing Grant funding to Social Housing Providers who have had a dialogue with them. Dialogue is therefore recommended at an early design stage in the development process and is essential if grant subsidy is to be achieved. The Council will require evidence of a dialogue with the Homes and Communities Agency.
- 4.4 The Council will always expect developers to demonstrate clearly how affordability is to be guaranteed for all successive, as well as initial, occupiers of the property.
- 4.5 There are many other matters, which may be relevant to an individual development, and it is not possible to address each possibility here. All planning applications are assessed on their individual merits, with regards to the appropriate policies and guidance.

Requirement for a Section 106 agreement

- 4.6 All applications with an affordable housing requirement, irrespective of whether outline or full, will require a Section 106 agreement to secure the affordable housing. The Town and Country Planning Act 1990, Section 106 provides that a developer can enter into an agreement with or give an undertaking to the Council. This is a legal agreement between the planning authority and the applicant/developer and any others that may have an interest in the land. A Section 106 agreement either requires the developer to do something or restricts what can be done with the land following the granting of planning permission.
- 4.7 Section 106 agreements are also known as planning gain, planning benefits, community benefits or planning obligations but are all the same thing. A unilateral undertaking is slightly different in that it is a legally binding commitment drafted, signed and submitted by the developer, which sets out how they will address the affordable housing requirements, or other planning gain. This is an alternative to a Section 106 agreement and is not the norm.

Unilateral undertakings are usually used during an Inquiry process where an agreement between the Council and the Developer cannot be reached. In such cases the Council is not required to be a signatory.

- 4.8 The Council will use a model Section 106 agreement. As a part of the process the applicant will need to work with the Council to obtain approval for the **Affordable Housing Scheme** (appendix 3) prior to a start on site.
- 4.9 There will be a requirement for the Section 106 agreement to be finalised prior to the 8 or 13 week application expiry period.

Eligibility for Affordable Housing

- 4.10 Affordable homes secured through a Section 106 agreement must be allocated in a fair and transparent manner which not only supports the overarching RENEW North Staffordshire intervention programme objectives, but also seeks to assist those residents who need to have access to alternative accommodation.
- 4.11 All affordable housing must be provided to people in housing need. The priorities for households/people who are eligible for affordable housing delivered through planning agreements are:
- **(Priority 1)** Residents who have resided in the Target Wards for at least 12 months immediately preceding the date of determination² and whose last home is the subject of a resolution by the Council to use its powers of compulsory purchase; or in the absence of the Owner having found such a person willing to acquire the relevant dwelling.
 - **(Priority 2)** Residents who have resided in the administrative area of the Council for at least 12 months immediately preceding the date of determination and whose last home is the subject of a resolution by the Council to use its powers of compulsory purchase; or in the absence of the Owner having found such a person willing to acquire the relevant dwelling.
 - **(Priority 3)** Residents who have resided in the Target Wards for at least 12 months immediately preceding the date of determination and have strong local connections with the Target Wards by reason of Employment or Close Family Association; or in the absence of the Owner having found such a person willing to acquire the relevant dwelling.
 - **(Priority 4)** Residents who have resided in the administrative area of the Council and who have done so for a period of at least 12 months or who have strong local connections with the administrative area of the Council by reasons of Employment or Close Family Association; or in the absence of the Owner having found such a person willing to acquire the relevant dwelling.
 - **(Priority 5)** Residents who have resided in the Target Wards or the administrative area of the Council for less than 12 months and who (at the discretion of the RSL/Council) otherwise meet the affordable housing need criteria.

² Date of determination means the date of determination by the Council or the RSL (as the case may be) of a person's eligibility for affordable housing

5.0 PROCEDURE FOR APPLYING FOR PLANNING PERMISSION FOR SITES WITH AFFORDABLE HOUSING

PRE-PLANNING DISCUSSIONS

- 5.1 When an applicant wishes to apply for planning permission for a site which will require affordable housing, the applicant should contact the Council's Development Control Section at as early a stage as possible to arrange a meeting to discuss the plans for the site and the requirements of the Council.
- 5.2 This meeting will be attended by, where appropriate, Council officers from Development Control, the Housing Enabling Team and RENEW. Where there is more than one developer involved, developers should elect a lead contact that will undertake negotiations on behalf of the consortium.
- 5.3 If a Registered Social Landlord is involved at this stage then a representative should also be invited to this meeting.
- 5.4 At this meeting the Council Officers will:
- Reaffirm the overall target for the site and other site specific requirements.
 - Provide the applicant with a copy of the **Affordable Housing Statement** (appendix 3) and reaffirm the expectation that the completed statement will be submitted with the planning application.
 - Reaffirm the requirement for a Section 106 agreement on affordable housing provision.
 - Seek confirmation that a satisfactory mechanism will be in place to ensure that the affordable homes remain available to meet local needs in perpetuity.
 - Work with the developer to ensure that the affordable housing is provided at, as far as is practicable, the same time as the private housing. There will be phasing clauses in the Section 106 agreement to this effect when appropriate.
 - Provide the applicant with the model Section 106 agreement to take away and forward to their respective legal advisers.
 - Explain the requirement and agreement of an **Affordable Housing Scheme** (appendix 4) before start on site.

PLANNING APPLICATIONS

- 5.5 When an application (outline or full) is received, the Council will ensure that the scheme numbers, layout, mix etc are acceptable and in line with affordable housing requirements for the particular site.
- 5.6 If outstanding issues exist, the Council will contact the applicant and will require the applicant to provide the necessary confirmation in writing. A meeting may be required to discuss these issues.

- 5.7 Following this meeting, the Development Control Officer will prepare a formal response to the application, which will be submitted to Development Control Committee.
- 5.8 There will be a requirement for the Section 106 agreement to be finalised prior to the expiry period of the application (i.e. either 8 or 13 weeks).

START ON SITE

- 5.9 The Council understands that granting of planning permission and signing of a Section 106 agreement will not necessarily trigger a start on site. The Section 106 agreement does not permit the Implementation of the Planning Permission unless the **Affordable Housing Scheme** has been submitted to and approved in writing by the Council.
- 5.10 When the Affordable Housing Scheme is received from the developer the Planning Obligations Monitoring Officer will ensure that the details correspond to the requirements of the Section 106 agreement prior to confirming Council approval in writing
- 5.11 If required a meeting will be set up between the Council (Development Control, Housing Enabling and Neighbourhood Renewal Teams), the developer and the RSL to reaffirm the requirements, provide information about the Council's on site monitoring and evaluation role and provide a key contact person from the Council who will be responsible for liaison during the works on site.
- 5.12 At this meeting the phasing of the scheme will be reaffirmed and this will form the basis for the NRT to monitor the scheme on site.

COMMUTED SUMS AND OFF SITE PROVISION

- 5.13 The Council will normally require affordable housing to be provided on the site which is to be the subject of the planning application. However, the Council reserves the right to request that either such provision be made on an alternative site or that a cash sum be paid in lieu of on-site provision.
- 5.14 Where an affordable housing contribution is agreed it should be provided at the same time as the facilitating development and prior to its effective completion.

6.0 MARKETING AND SELLING AFFORDABLE HOUSING

- 6.1 The applicant will be required to assist the Council and its partners to market and sell the affordable housing in line with the allocations policies of the Council. For individual schemes the Council will discuss detailed marketing plans, allocation policies, selling policies and requirements. The detail contained within this document should be considered as a guide only. The policies vary according to the type of housing provided.

New Build HomeBuy

- 6.2 The RSL will prepare and distribute marketing material for the properties and hold marketing events as necessary. It may be appropriate for the RSL to work with the developer to ensure effective marketing.
- 6.3 The Council and the RSL will be responsible for identifying potential eligible households to purchase the properties. The developer will be requested to liaise with the RSL to ensure that properties are sold to eligible purchasers.

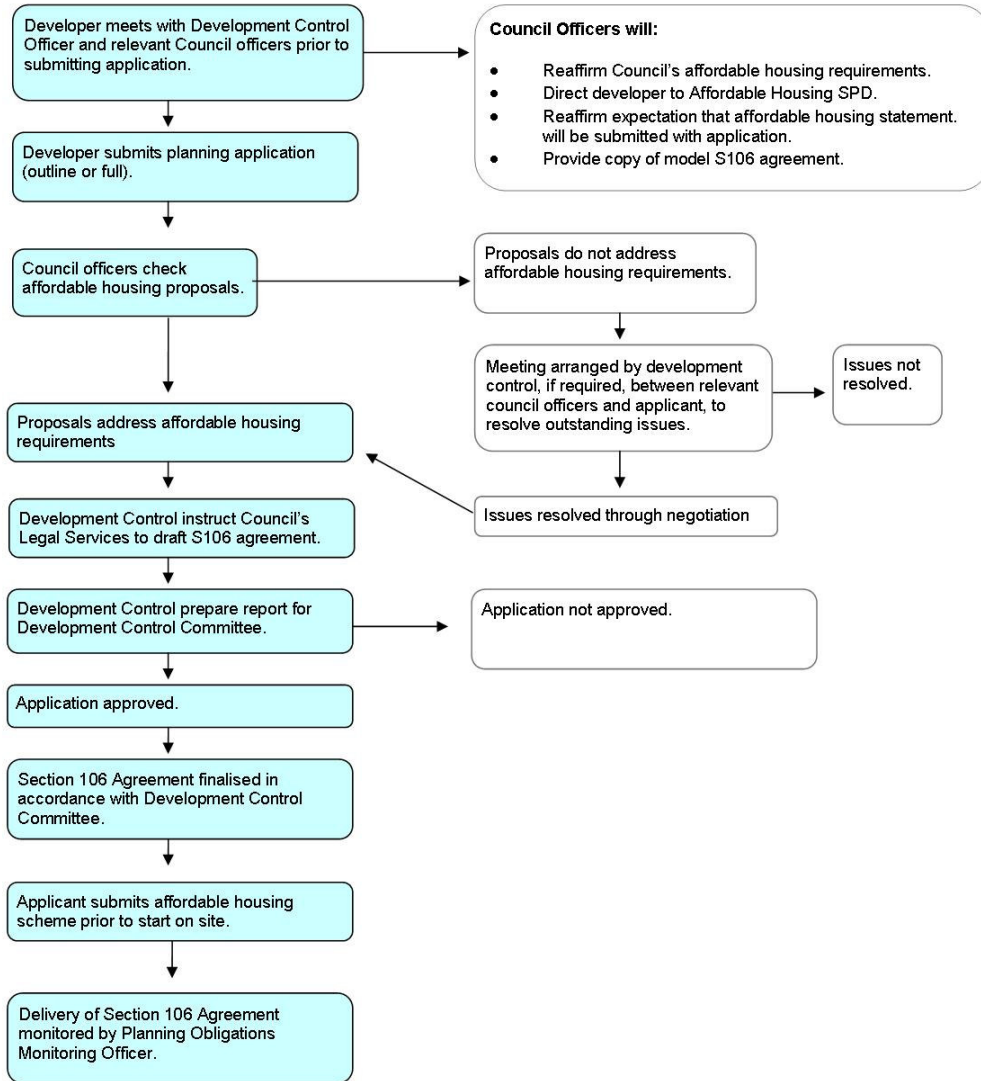
Social rented accommodation

- 6.4 The RSL will be responsible for letting rented property in line with a local lettings plan. The Council will allocate 100% of first lettings to an RSL and nominations will be made according to the agreed local lettings plan.

Fixed equity discount

- 6.5 If a property is to be sold with a fixed equity discount in perpetuity, the RSL and developer will market the property and hold marketing events as necessary. The Council and the RSL will be responsible for identifying potential eligible households to purchase the properties.

APPENDIX 1 – PROCEDURE FOR SUBMITTING PLANNING APPLICATIONS WITH AN AFFORDABLE HOUSING REQUIREMENT.



APPENDIX 2 - LINKED DOCUMENTS

The Affordable Housing Supplementary Planning Document can be found at <http://www.stoke.gov.uk/ccm/navigation/environment/local-development-plans/supplementary-planning-documents/>

Evidence-based documents to support affordable housing need and viability:

The following documents and related research can be found at:

www.stoke.gov.uk/ccm/navigation/housing/research

- Housing Needs Survey 2004
- Housing Needs Update 2005
- Housing Needs Update 2006
- Affordable Housing Local Area Needs Index 2008
- Housing Market Assessment 2008
- Housing Needs of Older People
- Black and Asian Minority Ethnic Housing Needs and Aspirations

The following documents can be found at:

www.stoke.gov.uk/ccm/content/hcp/policy-and-strategy/affordable-housing.en

- Affordable Housing Needs Statement
- Affordable Housing Needs Issues Paper
- Development Viability Study

Information on Supporting People (supported housing needs) can be found at:

www.stoke.gov.uk/ccm/navigation/housing/supporting-people/strategy/

APPENDIX 3 - AFFORDABLE HOUSING STATEMENT

When completed please submit this with your planning application. This will form the basis of the affordable housing element of the s106 agreement.

Applicant/Agent	
Address	
Tel no.	
E-mail	
Personal Contact	

Site Location/Address	
Site area (hectares)	
Interest in the land (e.g. owner, prospective purchaser etc)	

Provision of Affordable Housing to be made:

On-site*

Off-site*

SUMMARY OF PROPOSED DEVELOPMENT AND AFFORDABLE HOUSING PROVISION

- For full applications please complete the table below in full adding any other unit types as necessary
- For outline applications please complete 'total units' row

Number and type of units

Unit Type	Total number of units	Number to be provided as			Percentage affordable
		Social Rented	LCHO	Total Affordable	
1 bed apartment					
2 bed apartment					
2 bed house					
3 bed house					
4 bed house					
5 bed house					
Total					

RSL PARTNER DETAILS

Have you secured an RSL partner?		Yes*	No*
If yes	RSL name		
	RSL contact officer		
If no when and how do you propose to do so?			

Financial appraisal enclosed: Yes / No*

I confirm that discussions have been held with the following Council officers:

.Development Control Officer:

Housing Enabling Team Officer:

and agreement reached on the amount and type of affordable housing to be provided, subject to planning permission.

Where applicable, a financial appraisal has been submitted and a reduction in the Council's target confirmed as acceptable by the Council

Signed:
(Applicant/Agent)

Date:

**(Please delete as relevant)*

APPENDIX 4 - THE AFFORDABLE HOUSING SCHEME

Please complete and submit the following information either with full planning application or at least three months prior to start on site

Development

Name of development	
Location/Address	
Site Area (hectares)	
Development Manager (name & contact details)	

RSL Partner Details

RSL name	
RSL contact officer (name & contact number)	

Section 106 Requirements

Date s106 signed	
Percentage of Affordable Housing	
% Social Rented	
% Low Cost Home Ownership	

Number and type of units

Unit Type	Total number of units	Unit Size	Open Market Value	Number to be provided as:			Percentage affordable
				Social Rented	LCHO	Total Affordable	
1 bed apartment							
2 bed apartment							
2 bed house							
3 bed house							

4 bed house							
5 bed house							
Total							

Proposed build programme for each of the phases

Phase	Start on site	Completion

Delivery of the affordable units

Plot Number	Unit Type	Tenure	Start	Completion

Documents to be attached

- Site plan highlighting proposed location of affordable homes. Plan should be coloured up to reflect the differing tenure of the affordable homes
- Where affordable units are in blocks of flats please indicate their locations on a floor-by-floor basis
- Site plan indicating proposed car parking bays for affordable housing units

CONTACT LIST

For more information on the development of affordable housing or the planning process please contact the appropriate team.

- **Housing Enabling Team**

The Housing Enabling Team has responsibility for providing the strategic framework for the delivery of affordable housing in the city. They will review national policy guidance and local needs to produce local policies.

Housing Enabling Team
Civic Centre – Floor 1
Glebe Street
Stoke-on-Trent
ST4 1RJ
housing.strategy@stoke.gov.uk
01782 233 330/235 520

- **Development Control**

Development Control (DC) is involved in all parts of the development process (pre, determination and post planning application). The key role is to ensure that decisions on development accord with national, regional and local policy guidance. The role of DC is to highlight the need for affordable housing provision and liaise between the applicant and housing staff to ensure that sites bring forward the appropriate level and mix of new housing to supplement existing stock levels.

Development Control
Floor 3, Civic Centre
Glebe Street
Stoke-on-Trent
ST4 1RJ
planning.apps@stoke.gov.uk
01782 234 234

- **Planning Policy**

Planning Policy has responsibility for producing a modern development plan and facilitating the delivery of sustainable regeneration of our City, all in accordance with the statutory planning system. This includes responsibility for all aspects of statutory planning except development control and transportation planning.

Planning Policy Team
Directorate of Regeneration
PO Box 630
Civic Centre

Glebe Street
Stoke-on-Trent
ST4 1RF

stoke.lfd@stoke.gov.uk
01782 232 302

- **RENEW North Staffordshire**

RENEW North Staffordshire manage the local Housing Market Renewal Pathfinder. They provide the strategic direction for investment and regeneration across key areas in the city, focussing largely on the city centre.

RENEW North Staffordshire
Floor 3, Civic Centre
Glebe Street
Stoke-on-Trent
ST4 1RJ

renew@stoke.gov.uk
01782 232 024

- **Neighbourhood Renewal Team**

The Neighbourhood Renewal Team support the delivery of the Housing Market Renewal Pathfinder Programme at a local level. They work with local communities to identify priorities for investment based on local needs and aspirations.

Neighbourhood Renewal Team
Floor 1, Civic Centre
Glebe Street
Stoke-on-Trent
ST4 1RJ

neighbourhood.renewal@stoke.gov.uk