

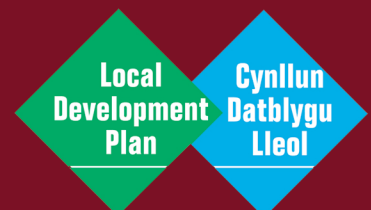
Vale of Glamorgan Local Development Plan 2011-2026

# Affordable Housing



Draft Supplementary  
Planning Guidance

September 2016



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## 1. Introduction

1.1 The purpose of this Supplementary Planning Guidance (SPG) is to set out the Council's approach to delivering affordable housing through the planning system. It sets out the Council's planning requirements and mechanisms for securing and delivering affordable housing within the Vale of Glamorgan.

1.2 This SPG updates and replaces the Council's previous Affordable Housing SPG (2006) and has been produced to support the policies of the Vale of Glamorgan Local Development Plan (LDP) which address the affordable housing needs within the Vale of Glamorgan as evidenced in the Council's latest Local Housing Market Assessment (LHMA 2015), and Affordable Housing Viability Assessment (AVHA 2015).

1.3 The SPG provides guidance on:

- The Council's requirements for affordable housing, including level of provision, type, tenure, size and standards of affordable housing sought from housing developments;
- The use of Section 106 agreements to secure affordable housing provision;
- The Council's approach to off-site provision of affordable housing and financial contributions;
- How issues surrounding development viability may be taken into account in respect of affordable housing provision; and
- The Council's approach to rural exception sites for affordable housing.

1.4 The SPG also summarises the key sources of evidence used to inform the Council on current levels of affordable housing and viability assessments used to justify the affordable housing contributions set out in the LDP and SPG.

### Status of this Guidance

1.5 The SPG was prepared as background evidence to the Public Examination of the Vale of Glamorgan Local Development Plan. The SPG has been used as a material consideration for Development Management decisions, in accordance with the Cabinet Report dated 14<sup>th</sup> December 2015, since 6<sup>th</sup> January 2016. Formal consultation in accordance with the Council's protocol for the preparation and adoption of SPG will be undertaken alongside the 6 week consultation the Council intends to undertake for the proposed changes to the plan (Matters Arising Changes or 'MAC' Schedule).

## 2. National Policy Context

2.1 The National Planning Policy context for the provision of affordable housing through the planning system is set out in Planning Policy Wales (PPW<sup>1</sup>) and Technical Advice Note 2 (TAN) Planning for Affordable Housing (June 2006). Further advice is provided in 'Delivering Affordable Housing Using Section 106 Agreements – Practice Guidance' (2008) and 'Delivering Affordable Housing Using Section 106 Agreements: A Guidance Update' (2009).

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<sup>1</sup> Planning Policy Wales Edition 8 – January 2016

2.2 PPW highlights the important contribution that affordable housing makes to community regeneration, social inclusion and in the development of sustainable communities. It requires Local Planning Authorities (LPAs) to have full understanding of the level of affordable housing need within their area, alongside development viability and the availability of public subsidy.

2.3 Paragraphs 9.2.16 and 9.2.17 set out the requirements for development plans in respect of the provision of affordable housing:

- *Development plans must include **an authority-wide target for affordable housing** (expressed as numbers of homes) based on the LHMA and identify the expected contributions that the policy approaches identified in the development plan (for example, site thresholds, site specific targets, commuted sums and affordable housing exception sites) will make to meeting this target. The target should take account of the anticipated levels of finance available for affordable housing, including public subsidy, and the level of developer contribution that can be realistically sought. In principle all new market housing may contribute to meeting the need for affordable housing.*
- *In their development plan local planning authorities should include either **site thresholds** or a combination of thresholds and **site-specific targets**. Local planning authorities should set site capacity thresholds for residential developments above which a proportion of affordable housing will be sought from developers. This applies both to sites specifically allocated in the development plan and to unallocated sites and will normally take the form of on-site affordable housing contributions. Site specific targets are indicative affordable housing targets for each residential site and for each mixed-use site which includes a residential component. For sites which fall below the site threshold local planning authorities may secure commuted sums using a section 106 agreement. Commuted sums should be used by the local planning authority solely for facilitating or providing affordable housing.*

2.4 In preparing this SPG the Council has taken into account the latest affordable housing viability work that supports the site capacity thresholds and targets contained within the SPG, consistent with the affordable housing requirements of the LDP.

### **3. Affordable Housing Need in the Vale of Glamorgan**

3.1 The Vale of Glamorgan Local Housing Market Assessment (2015) provides the latest evidence on affordable housing need, identifying a net annual need for 559 Affordable Housing Units, comprising 331 social rented units and 228 units of intermediate housing, with the latter split between 115 low cost home ownership (LCHO) dwellings and 113 intermediate rented dwellings. The greatest need is for one and two bedroom properties, across all areas of the Vale of Glamorgan, although in some areas the LHMA identifies a requirement for 3 and 4 bedroom properties.

3.2 In terms of spatial distribution, there is a general need for affordable housing across the Vale of Glamorgan, with the highest areas of need identified as Barry, Penarth and Llandough, followed by Llantwit Major, Dinas Powys, Cowbridge, Rhoose, Sully, St Athan, Wenvoe, Peterston Super Ely, Llandow/Ewenny and St Bride's Major (Table 1).

Table1: Affordable Housing Need by Area and Tenure (No. of units per year)				
AREA	SOCIAL HOUSING	INTERMEDIATE RENT	LCHO	Total
Barry	66	33	50	149
Cowbridge	25	9	5	39
Dinas Powys	24	8	6	38
Llandow/Ewenny	8	2	2	12
Llantwit Major	26	6	9	41
Penarth & Llandough	101	30	21	152
Peterston-Super-Ely	8	2	2	12
Rhose	17	8	6	31
St. Athan	11	1	8	20
St. Bride's Major	7	5	1	13
Sully	24	4	5	34
Wenvoe	14	4	0	18
Vale of Glamorgan	331	113	115	559
	70%	14%	16%	100%

#### 4. Planning Requirements for Affordable Housing in the Vale of Glamorgan

4.1 The Council's policy on planning obligations is set down in Policy MG4 (\* as proposed following the Matters Arising Changes Consultation, 2016) of the Vale of Glamorgan LDP: Community Infrastructure and Planning Obligations which states:

##### **POLICY MG 4 - AFFORDABLE HOUSING**

RESIDENTIAL DEVELOPMENTS (INCLUDING MIXED USE SCHEMES) WILL BE REQUIRED TO CONTRIBUTE TO MEETING AFFORDABLE HOUSING NEED AND SHOULD MEET THE LEVELS OF AFFORDABLE HOUSING SET OUT BELOW:

30% AFFORDABLE HOUSING ON RESIDENTIAL DEVELOPMENTS RESULTING IN A NET GAIN OF 5 OR MORE UNITS IN:

- BARRY.

35% AFFORDABLE HOUSING ON RESIDENTIAL DEVELOPMENTS RESULTING IN A NET GAIN OF 5 OR MORE UNITS IN:

- LLANTWIT MAJOR ;
- RHOOSE; AND
- ST ATHAN.

40% AFFORDABLE HOUSING ON RESIDENTIAL DEVELOPMENTS RESULTING IN A NET GAIN OF 1 DWELLING OR MORE; OR THE CONVERSION OF EXISTING BUILDINGS RESULTING IN A NET GAIN OF 2 OR MORE DWELLINGS IN:

- COWBRIDGE;
- DINAS POWYS;
- LLANDOUGH;
- PENARTH;
- SULLY;
- WENVOE;
- THE MINOR RURAL SETTLEMENTS; AND
- THE RURAL VALE OF GLAMORGAN.

THE PROVISION OF AFFORDABLE HOUSING WILL BE NEGOTIATED ON A SITE-BYSITE BASIS TAKING INTO ACCOUNT THE EVIDENCED VIABILITY OF THE DEVELOPMENT.

ON SITES OF 10 OR MORE DWELLINGS AFFORDABLE HOUSING SHALL BE PROVIDED ON SITE WITH THE REQUIREMENT BEING ROUNDED UP TO THE NEAREST WHOLE NUMBER. ON SITES OF FEWER THAN 10 DWELLINGS THE AFFORDABLE HOUSING REQUIREMENT WILL BE CALCULATED AND ANY WHOLE UNITS SHALL BE PROVIDED ON SITE WITH THE RESIDUAL AMOUNT BEING PROVIDED AS AN EQUIVALENT FINANCIAL CONTRIBUTION. OFF-SITE CONTRIBUTIONS RECEIVED WILL BE USED TO DELIVER ALTERNATIVE AFFORDABLE HOUSING IN THE VALE OF GLAMORGAN. [MAC45]

CONTRIBUTIONS WILL BE MADE IN ACCORDANCE WITH THE REQUIREMENTS SET OUT IN THE COUNCIL'S AFFORDABLE HOUSING SPG, WHICH PROVIDES GUIDANCE ON VIABILITY AND THE CIRCUMSTANCES UNDER WHICH CONTRIBUTIONS MAY BE VARIED OR REVIEWED.

4.2 For the purpose of Policy MG4 the requirements shall apply to those areas within the delineated settlement boundary of the relevant settlement cited, as shown on the Proposals Map. The 'Rural Vale of Glamorgan' means the area outside any defined settlement boundary. Development sites adjoining or close to the settlement boundaries of Barry, Llantwit Major, Rhoose and St. Athan will be treated as the 'Rural Vale of Glamorgan' and will be expected to deliver 40% affordable housing, unless the developer provides viability evidence to justify an alternative.

4.3 Policy MG4 shall apply to all self-contained dwellings (i.e. all uses that fall within class C3 the Use Class Order) including C3 residential elements of mixed use schemes as well as self-contained units for people of pensionable age (e.g. 'retirement' apartments), and supported/sheltered housing or extra care developments where these are not affordable housing in their own right i.e. developed by a Registered Social Landlord (RSL).

4.4 Where the percentage of affordable housing does not equate to a whole number, the requirement will be assumed to be a minimum and therefore, the figure should be rounded up to the nearest whole number, unless it is demonstrated that the requirement undermines the viability of the development, which is considered in more detail below. The approach on smaller sites is explained below at section 6.

4.5 Development Viability as set out in 6 below will be considered for any application triggering an affordable housing contribution. If a development viability appraisal satisfactorily demonstrates that a reduced contribution should be sought, then this will be considered as set out in section 6.

#### **Subdivided and phased development sites**

4.6 Where a site is subdivided, the Council will treat such sites in their totality if the schemes, together, would accommodate more than the relevant number of dwellings. Under such circumstances, each subdivided plot will be required to provide a contribution towards the relevant obligation proportionate to its size and relative to the overall site requirements for affordable housing. If sites are proposed in such a way as to undermine the delivery of affordable housing, this could lead to a refusal of planning permission. For outline planning applications a commitment to the delivery of affordable housing will be necessary at this stage and will be secured through a Section 106 Agreement, and then detailed in any subsequent Reserved Matters application.

4.7 Where developments are proposed which fall short of the threshold by up to 10%, it will be necessary for the Local Planning Authority to consider whether this is deliberate underdevelopment of the site to avoid the affordable housing threshold. If so, there is planning case law to support a stance that the requirement should be applied.

4.8 As a general rule LDP Policy MD 7 (Housing Densities) sets out that a minimum density of 30 dwellings per hectare will be considered appropriate to most sites, with a lower density of 25 dwellings per hectare being appropriate in the minor rural settlements. However, site specific or contextual constraints may make lower densities necessary and this will need to be considered by the Local Planning Authority on a site by site basis

#### **Funding arrangements**

4.9 Traditionally, the funding for the delivery of subsidised affordable housing has come from the Social Housing Grant (SHG) provided by the Welsh Government (WG). However, as a result of the increased levels of affordable housing need across Wales and reduced levels of public subsidy available, the WG

is now placing greater emphasis on the planning system to deliver affordable housing through developer subsidy.

4.10 Consequently, in order to satisfy the Council's affordable housing requirements, developers and landowners should, in the first instance assume that no grant or other funding sources are available. Indeed the Council's viability assessment tested development viability with zero grant availability, and therefore the Council considers that in most cases the absence of grant funding should not be an issue with regard to development viability in the Vale of Glamorgan.

4.11 Based on up to date evidence of housing need in the Vale of Glamorgan, the AHVA assumed a tenure split of 70% social rented housing and 30% intermediate housing, which may be intermediate rent or low cost home ownership. Both tenures are delivered differently and require a different amount of developer subsidy, as set out below.

4.12 The Council will use the WG's Acceptable Cost Guidance (ACG), which sets out the cost at which RSLs should expect to build **social rented housing** for within the Vale of Glamorgan. These are based on the cost of construction, including services and constructed in accordance with the Welsh Housing Quality Standards<sup>2</sup> for social housing. The developer will be required to subsidise the affordable housing units at a rate of 58% of ACG in line with the level of funding otherwise secured through SHG. In other words, the price an RSL will be expected to purchase a social rented property for will be no more than 42% of the relevant ACG figure for that type of property in that location. ACG figures are published by the Welsh Government and are available on their website<sup>3</sup>.

4.13 **Intermediate properties** are usually purchased at 70% of the Open Market Value (OMV) of the relevant property which is usually determined once the OMV of the units can be reasonably established on the development. Such matters should be agreed between the developer, the RSL and the Council in light of appropriate evidence. Therefore, the level of developer subsidy for intermediate properties is usually 30% OMV for the relevant property.

## Section 106 Agreements

4.14 Affordable Housing will normally be secured by means of a legal agreement under section 106 of the Town and Country Planning Act 1990 (as amended). These are usually between a local planning authority and developers or land owners and specify that a proportion of the dwellings to be built on site are built and thereafter maintained as affordable housing. Section 106 agreements run with the land as a land charge and apply to successive owners.

4.15 Section 106 agreements will normally specify:

- The number or percentage, type and tenure mix of affordable homes to be provided on the site;
- The amount and timing of any financial contribution to be paid in lieu of on-site delivery (if appropriate);

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<sup>2</sup> <http://gov.wales/topics/housing-and-regeneration/housing-quality/welsh-standard/?lang=en>

<sup>3</sup> <http://gov.wales/docs/desh/publications/150401-acceptable-cost-guidance-en.pdf>



- The control and management of the housing to ensure it is secured in perpetuity which will usually be by the transfer of the affordable homes to a registered social landlord and any hand-over arrangements;
- The occupancy of the housing which will be reserved for people in housing need according to criteria determined by the Welsh Government and the Council;
- The location and phasing of affordable housing provision in relation to the development of the site and any trigger points when affordable housing must be provided; and
- Arrangements for the fall-back provision of financial contributions in lieu of on-site provision in exceptional circumstances and arrangements for unusual circumstances such as mortgage default.

## Mix and Types of Affordable Housing

### House Types

4.16 The Council's LHMA highlights the need to provide a range of dwelling sizes across the Vale of Glamorgan, with the greatest current demand being for 1 and 2 bedroom properties. Some of this demand can be attributed to Central Governments ongoing welfare reforms and the removal of the Spare Room Subsidy, more commonly known as the "Bedroom Tax", which has significantly increased the need for one and two bedroom properties, to allow people to downsize from unsuitable and increasingly unaffordable properties. The Council will continue to seek to provide a mixture of dwelling sizes and, in some circumstances, may look to negotiate a proportion of dwellings suitable for older persons such as bungalows or supported housing. However, the house type and mix should also reflect the overall house type mix of the development proposed such that the affordable housing integrates well with the overall development.

4.17 In terms of the types of properties developed the Council's preference is likely to be for two bedroom properties to be provided in the form of houses since flats are largely unsuitable to meet the needs of households with children. Where smaller 1 or 2 bedroom properties are located within flatted developments, these should be provided in the form of walk up flats as they offer long term sustainability for tenants. In order to establish the actual dwelling mix and type, it is recommended that developers seek advice from the Council's Housing Strategy Team at an early stage so that the tenure and mix preferences can be established as part of the application process.

### Tenure Mix

4.18 The Council's LHMA revealed that the greatest affordable housing tenure need within the Vale of Glamorgan is Social Rented, followed by Low Cost Home Ownership (LCHO) and Intermediate Rent. Accordingly, the Council will usually require the affordable housing tenure to be provided at a ratio of 70% social rented, 30% low cost home ownership/intermediate rent consistent with the local housing needs identified in the Council's LHMA. The Council's AHVA considered this tenure ratio when establishing the impact of affordable housing on development viability across the Vale of Glamorgan. However, on smaller sites where the affordable housing provided would be a single unit, the Council will require this to be social rented dwelling.

4.19 **Social Rented Housing** is rented housing owned and managed by local authorities and registered social landlords, for which guideline target rents are determined through the national rent regime.

4.20 **Intermediate Housing** is that which is available to either rent or purchase at prices above those of social rent, but below market prices, providing an important role in bridging the gap between social and affordable rented homes and owner occupation, hence the term “intermediate”. This tenure includes Intermediate Rented dwellings and Low Cost Home Ownership dwellings.

4.21 **Intermediate Rented Dwellings** are generally set at 80% of local open market rents and are inclusive of service charges.

4.22 **Low Cost Home Ownership** can take the form of shared equity, shared ownership and HomeBuy schemes. A number of RSL’s within the Vale of Glamorgan are also members of the “Homes Within Reach Scheme” a shared equity home ownership scheme for first time buyers. These schemes enable a household to purchase an equity share (initially a minimum 70%) and the remaining equity is retained by an RSL, although purchasers are offered the opportunity to purchase the property outright in the future, known as “staircasing”. To enable the mortgage to be at an affordable rate, the purchase price of the LCHO unit is discounted against open market values

4.23 It is vitally important to the Council for all affordable housing secured through the planning system to be made financially accessible particularly to those household on lower incomes who cannot afford open-market housing. The Council shall therefore require open market housing to be discounted at 30% below open market value. In areas of the County where there is a particularly pronounced affordability problem, with higher house price to income ratios, developers will be encouraged to consider setting the price at a lower level of market value. The legal agreement will ensure the same discount from full price is used in all future sales of the property.

## 5 Delivering Affordable Housing Provision & Commuted Sums

### Onsite and Offsite Provision

5.1 At paragraph 12.5 TAN 2 states: “The strong presumption is that affordable housing secured through planning obligations will be provided on the application site so that it contributes to the development of socially mixed communities. Development plans (or SPG) should set out the exceptional circumstances where provision may not need to be on an application site (for example where the management of the affordable housing cannot be effectively secured).”

5.2 In line with the WG advice, the Council will normally expect developments to deliver affordable housing on development sites, usually in the form of units built for and transferred to the Council or a RSL, unless there are exceptional circumstances why this cannot be achieved, such as:

- Insurmountable development viability issues caused or exacerbated by the affordable housing requirements;
- Site specific circumstances which would make affordable housing delivery and/or management extremely difficult; or
- There is a demonstrable local over-supply of affordable housing and/or severe shortage of affordable housing elsewhere in the Local Authority Administrative Area that could be best catered for through off-site contributions to deliver affordable housing in the areas of highest need.

5.3 Where it has been established (see viability section below) that affordable housing cannot (or should not) be secured on site, the second preferred approach will be off-site provision that is where

the equivalent amount of affordable housing is delivered on an alternative suitable site. In such cases, a site should be identified, have secured planning permission and be delivered within an agreed timescale to coincide with the delivery of the 'parent' market housing site. Developers will be expected to demonstrate that they have made reasonable efforts to identify appropriate alternative sites for the delivery of off-site affordable housing in the area.

## Commuted Sums

5.4 Where the delivery of affordable housing cannot readily be delivered either on or offsite, a financial contribution in lieu of on-site provision may be accepted and would need to be secured through a Section 106 Agreement. Generally on sites of 5 or more dwellings, financial contributions will only be acceptable where it has been robustly justified by sound planning reasons as set out above.

### Establishing the value of the commuted sum payment

5.5 Commuted sums will be directly linked to what the contribution would have been if the affordable dwellings would have been on site, and calculated using ACG, this being the notional development cost of an affordable home, and includes land acquisition. For the Vale of Glamorgan the ACG band is 4 within Barry, Rhoose and St Athan areas and band 5 elsewhere. The ACG value will reflect the type of market dwellings being proposed on the site e.g. 2-bed flats or 4-bed houses.

5.6 Where the Council agrees that a commuted sum payment is appropriate this will be calculated on the basis of the below formula:

ACG £ per unit x % SHG x N = £ financial contribution Where:

- ACG= Acceptable Cost Guidance per dwelling, related to dwelling type and occupancy (e.g. 2 person 1 bed flat) for different cost bands in Wales, being the current ACG published by the Welsh Government. For the Vale of Glamorgan, the ACG bands are 4 and 5.
- % SHG= Social Housing Grant rate. This is normally expressed as the total proportion of actual scheme costs that will be funded by WAG.
- N= Number of affordable housing units (at parity and rounded to the nearest whole unit).

5.7 On sites of 1 or 2 dwellings a commuted sum it is more likely in a practical sense to deliver affordable housing through payment of a financial contribution in lieu of on-site provision. On sites between 3 and 9 dwellings, the Council will expect some affordable housing to be provided on site, with financial contributions to be paid where the number of dwellings does not equate to a whole number.

## Barry

5.8 Within the Barry, Llantwit Major, St. Athan and housing market areas the Council's Affordable Housing policy requires all residential sites resulting in a net gain of 5 or more dwellings to provide an element of affordable housing:

On sites between 5-9 dwellings, requiring **30%**, this would work as follows:

5 dwellings - 4 market units and 1 affordable unit plus contribution (AHC x 0.5)

6 dwellings – 5 market units and 1 affordable units plus contribution (AHC x 0.8)

- 7 dwellings - 5 market units and 2 affordable units plus contribution (AHC x 0.1)
- 8 dwellings - 6 market units and 2 affordable unit plus contribution (AHC x 0.4)
- 9 dwellings – 7 market units and 2 affordable unit plus contribution (AHC x 0.7)

### **Llantwit, Rhose, St. Athan**

5.9 On sites between 5-9 dwellings, requiring 35%, this would work as follows:

- 5 dwellings - 4 market units and 1 affordable unit plus contribution (AHC x 0.75)
- 6 dwellings – 4 market units and 2 affordable units plus contribution (AHC x 0.1)
- 7 dwellings - 5 market units and 2 affordable units plus contribution (AHC x 0.45)
- 8 dwellings - 6 market units and 2 affordable unit plus contribution (AHC x 0.8)
- 9 dwellings – 6 market units and 3 affordable unit plus contribution (AHC x 0.15)

### **Rural, East Vale and Penarth**

5.10 Within the Rural, East Vale and Penarth housing market areas the Council's Affordable Housing policy requires all residential sites resulting in a net gain of 1 or more dwellings to provide an element of affordable housing:

In areas with a 40% requirement, this would work as follows:

- 1 dwelling - financial contribution only (AHC x 0.4)
- 2 dwellings – financial contribution only (AHC x 0.8)
- 3 dwellings – 2 market units and 1 affordable unit plus contribution (AHC x 0.2)
- 4 dwellings - 3 market units and 1 affordable unit plus contribution (AHC x 0.6)
- 5 dwellings - 3 market units and 2 affordable units
- 6 dwellings – 4 market units and 2 affordable units plus contribution (AHC x 0.4)
- 7 dwellings - 5 market units and 2 affordable units plus contribution (AHC x 0.8)
- 8 dwellings - 5 market units and 3 affordable unit plus contribution (AHC x 0.2)
- 9 dwellings – 6 market units and 3 affordable unit plus contribution (AHC x 0.6)
- 10 dwellings - 6 market units and 4 affordable units

### **Tenure split for on-site provision**

5.11 In term of on-site requirements for small sites, the tenure split for small sites would reflect the 70:30 tenure split as elsewhere, as follows:

- 1 dwelling = social rented
- 2 dwellings = 1 x social rented, 1 x Intermediate
- 3 dwellings = 2 x social rented, 1 x Intermediate
- 4 dwellings = 3 x social rented, 1 x Intermediate

### **How will commuted sums be spent?**

5.12 At paragraph 12.5 TAN 2 states: “any off-site provision of affordable housing or a financial contribution in lieu of on-site provision must contribute towards the objective of providing affordable housing. This could be achieved by bringing existing housing back into use for affordable housing or

supporting the delivery of affordable housing on another site (either for 100% affordable housing or another site where affordable housing is to be provided)."

5.13 The Council will seek to make the most effective use of any financial contributions for affordable housing, taking into account the availability of suitable opportunities at the time they are received. The following list of potential spending options is not in order of priority nor is it exhaustive, and may change over time, depending on needs and opportunities. Affordable housing contributions may be used to:

- Support the renewal of existing Council housing stock;
- Support specific initiatives to regenerate the existing housing stock, e.g. empty property grants.
- Support Registered Social Landlords (RSLs) or the Council to purchase suitable properties on the open market and adapt them for affordable housing
- Fund the purchase of land for development by a RSL or the Vale of Glamorgan Council for affordable housing; and
- Support site development and / or construction costs on land already owned by the Council or RSL - to bring forward development and/or improve tenure mix and enhance affordability for rental and affordable home ownership options.

5.14 The Council may combine financial contributions from different sites if appropriate and will spend contributions in the way that best achieves the Council's and local communities' priorities for affordable housing. The number of units resulting from expenditure may be more or less than the units used to calculate the contribution as dwelling types, tenure, specifications and other aspects will vary from scheme to scheme.

5.15 Section 106 agreements will usually include a clause requiring the Council to refund any unexpended financial contributions to the developer within a set timeframe. For affordable housing contributions, this will normally be a minimum of 10 years from the date of receipt. This reflects the complex nature of delivering affordable housing, including the time taken to identify appropriate sites and to identify a partner for delivery and future management of the affordable housing.

## **6. Reviewing Development Viability**

6.1 Planning Obligations and affordable housing will have an impact on land values and landowner expectations, therefore the Council will expect that applicants have considered in full the overall cost of development, including the required planning obligations and any abnormal costs, when negotiating the purchase of land. The Council has developed this document alongside the Planning Obligations SPG to enable Developers to undertake this assessment. In addition the Council offers pre-application advice to Developers to fully establish the policy position in respect of these matters.

6.2 Where a site is still under option it will always be expected that the policy requirements can be met provided that the scheme is not abnormally costly or abnormally under value for the area. These costs should be reflected in the price that the developer purchases the site for so ensuring that the proposed development site is economically viable to meet the Council's affordable housing requirements. . If there is any doubt about viability on a particular site, it will be the responsibility of the developer to offer the land owner less for the site, or to maximise the mix on site to achieve policy prior to entering into discussions with the Council.

6.3 In setting its planning policies for affordable housing and other planning obligations, the Council has undertaken strategic viability assessments which demonstrate that, in most cases, the Council's policy requirements are achievable and realistic. This will be the starting point for negotiations and therefore, the burden of proof shall lie with the developer to demonstrate why there are extraordinary viability constraints on their development.

6.4 The Welsh Government guidance on Delivering Affordable Housing Using Section 106 Agreements, A Guidance Update (2009) states that Local Planning Authorities should be clear about those situations where the Council will be willing to accept reduced planning obligations or affordable housing contributions and notes that in some cases it may be appropriate for an authority to refuse to agree these (paragraph 5.4 refers). The Council considers that reduced planning obligations or affordable housing contributions will only be justified on the grounds of development viability where there is sufficient planning merit weighing in favour of the development, such as:

- The delivery of a strategically important development site in the context of the Local Development Plan
- There are unusual or extraordinary site constraints affecting viability that must be overcome for the site to be developed and the development would be in the wider public interest (e.g. protection of a listed building, contaminated land, urban renewal project etc.)
- The development itself is being used as a means of delivering / subsidising a mixed use, commercial or community project (in the public interest) which would not be deliverable without financial support

6.5 In order to demonstrate that a reduction in the affordable housing provided is absolutely, necessary to make a development financially viable and deliverable, the Council will require the applicant to undertake a full Development Viability Appraisal for assessment by the Council, which can then be used for negotiating a reduction in affordable housing or other planning obligations.

6.6 Before commencing with a site viability appraisal, the Council will require evidence from the developer that shows that they have fully considered ways that may reduce development costs and/or increase the scheme value to enable the scheme to deliver the required level of affordable housing. Such measures may include consideration of alternative site densities, dwelling mixes and tenure, site layouts, landscaping and construction specifications. Consultation with RSLs can also help ascertain design standards which will be expected for affordable units, which can help with developing accurate costs.

### **Development Viability Appraisal Requirements**

6.7 The Council can only make sound judgments about site specific development viability on the basis of full and robust development appraisals. Therefore, the Council will require applicants to provide the following detailed information. The level of supporting evidence required (i.e. valuations, costs reports etc.) will depend upon how far the viability inputs deviate from acceptable parameters based on industry norms. Any 'assumptions' must be clearly explained and justified.

6.8 The evidence will be assessed on whether the figures prove that the scheme would be unviable if it were to meet all affordable housing and other planning obligation requirements. Where an applicant wishes for some information to be kept confidential in the interests of commercial sensitivity this should be clearly stated and the submission will not be made publically available, though it will be referenced in Planning Committee reports if being relied upon to justify a departure from planning policy.

6.9 All information submitted will need to be independently verified by either a suitably qualified quantity surveyor with local market knowledge and/or the District Valuer, the cost of which should be borne by the developer. Information should be set out under the headings below so that this can be cross referenced back to the Wales Development Appraisal Toolkit. Developers should only provide those costs applicable to their development.

**(i) General Requirements:**

- The Council's policy requirements should be the starting point for applicants and viability appraisals should work backwards from this. The Council will expect land transactions to reflect policy, rather than the other way around.
- Evidence should be provided to show what consideration has been given to alternatives in order to improve viability. Such measures can include altering development densities, layout, dwelling tenure, and design and build specifications.

**(ii) Development incomes / Revenues**

**Open Market Sales income.**

Projected sales values should be evidenced by either a bespoke valuation provided by an independent chartered surveyor (RICS), using the red book valuation approach, or three local estate agent market appraisals specific to the unit type and location. Recent sales evidence of comparable development sites should be submitted in support of these assumptions.

**Social Rented and Intermediate Tenure income.**

Projected values of rented units to be sold to a RSL must be based on what an RSL would pay taking into account the maximum rent levels and reasonable costs associated with managing and maintaining the properties. In respect of LCHO the value of units to be sold to an RSL, will be required to take into account the relevant required discount percentage from open market value (as set out in section 5 of this SPG).

**Any other potential revenues to the scheme, such as**

- Grant/subsidy
- Ground rents
- Cross subsidy from a commercial element

**(iii) Development costs**

Cost estimates should be provided by a Quantity Surveyor or other suitably qualified professional. Build costs should be provided as £ per m<sup>2</sup> of Gross Internal Area (GIA) and should cover sub and super structure. This will be different for different types of dwelling (e.g. flats compared with housing; conversion compared with new-build).

**(iv) External works and infrastructure.**

Site Preparation/Demolition – site preparation/prelims and a reasonable allowance for demolition is included within BCIS so additional cost should not be included in this section if BCIS data is used. If substantial demolition is required the costs should be evidenced by quotes.

- Roads and sewers
- Services (power, water, gas, telecommunications and IT)
- Strategic landscaping
- Off-site works
- Public open space
- Site specific sustainability initiatives
- Plot specific external works

**(v) Professional fees.**

These may include fees for planning application(s), land acquisition, architect, planning agent, quantity surveyor, building control and stamp duty.

**(vi) Finance costs (including how these have been calculated).**

Details of project finance, related to phasing of construction and sales, should be clearly set out. The proportion of the overall cost to be met by securing bank loans, and the rate of interest applicable to these, should be included in the open book assessment. Developer internal overheads– often included within developers return/profit, where shown as a separate item should be reflected in the projected profit margin.

**(vii) Fees relating to the marketing and sale of the units.**

These may include the reasonable costs of sales (e.g. marketing agent commission) and legal input for the sale or transfer of units. These costs must be benchmarked in line with current industry standards and phased appropriately.

**(viii) Abnormal/exceptional development costs.**

Any developer buying a site would be expected to undertake a proportionate amount of due diligence work to ensure that the price paid for the land reflects the prevailing conditions. Whilst the following may be considered as 'abnormal costs' the Council would expect the land transaction price to reflect these costs:

- demolition works - included in external works and infrastructure
- noise bunds
- knotweed removal
- decontamination
- archaeological and ecological surveys



- land stabilisation
- drainage and flood prevention measures

**(ix) Build contingency.**

This will not normally be allowed, but the Council will consider this where the applicant has made a contingency allowance for sales values.

**(x) Land Value Benchmark and /or Land Acquisition Cost**

The Council will need to agree with the applicant an appropriate Land Value Benchmark (LVB). Normally the LVB will be the Existing Use Value (EUV) of the site, although in some instances an AUV (Alternative Use Value) may be considered appropriate. A reasonable amount of uplift from EUV will be expected to incentivise a landowner to release land for development, and typically this would be expected to be between 10-20% more than existing use values.

Examples of EUV are agricultural value, or industrial value; typically £10,000 per hectare and £200,000 per hectare respectively in South Wales. The Council will consider the uplift and whether returns to land owner are competitive. Normally a 10 to 20 fold increase in value from agricultural is considered viable (Homes and Communities Agency Area Wide Viability Model).

The Council will be receptive to cases where an applicant has property evidence and existing use value. But this must be based on the current use value and not hope value for residential or any other use.

**(xi) Developer margin / profit**

The developer margin on open market units should be shown as a % of the Gross Development Value (GDV). Developer margin on affordable units should be shown as a % of costs. The level of developer profit will reflect the degree of risk to the developer. The required profit margin should be fully justified. For affordable units the level of profit should be significantly less than for open market units, to reflect the lower risk profile. Typically, the level of developer profit on the open market housing will be between 15% and 20% depending on the prevailing market conditions, the site specific circumstances and the degree of risk involved. Typically, the level of developer profit on the affordable housing would be 10-15%.

Where a developer is seeking a reduction in affordable housing or other planning obligations, they should be prepared to be flexible on the amount of developer profit and should not expect to protect a 20% profit margin at the expense of affordable housing or planning obligations. A balanced approach should be taken to have regard to both the commercial interests of the developer and the public interest being secured through planning obligations and affordable housing delivery.

**(xii) Phasing**

In some cases, a phased approach will be recommended. The anticipated build period should be stated, along with an estimate of projected sales values and projected development costs for the period of the build. The applicant should state whether the affordable housing or other planning obligation requirements have been front loaded in their appraisal.

## **Mechanisms for Dealing with Development Viability Issues**

6.10 Following the independent validation of the evidence provided, the Council will assess the viability of the development against the land value benchmark under consideration. Where the Council is satisfied that the development cannot meet the affordable housing requirement the Council will discuss with the developer the options available to achieve economic viability. Before exploring the potential for either off site provision or a commuted sum payment, the council will also consider the balance between seeking affordable housing and its other planning obligation requirements and wider strategic planning issues.

6.11 The Welsh Government guidance on Delivering Affordable Housing Using Section 106 Agreements, A Guidance Update (2009) identifies a range of mechanisms which aim to enhance scheme viability while guarding against the developer/landowner 'pocketing' an advantageous planning permission, which they implement when development viability improves. The Council endorses this guidance, which also states that reducing or otherwise altering planning obligations (including affordable housing requirements) should not be agreed without such mechanisms in place. Appropriate mechanisms include:

- Altering the affordable housing delivery on site, including the tenure mix or phasing which may assist to release early capital receipt;
- Re-phasing planning obligations;
- Reduced obligations associated with a time-limited permission;
- Reviewing obligations through the life of a permission; or
- A deferred payment arrangement.

6.12 The Council will seek to agree with developers, which is the most appropriate mechanism on a case by case basis.

## **7. Affordable Housing in Rural Areas**

### **Rural Exceptions Affordable Housing**

7.1 The Council recognises that communities need housing to meet their local housing requirements and in many of the small villages in the Vale of Glamorgan, it may only be possible to provide housing of an appropriate scale on sites outside the existing built up area, traditionally in the way in which settlement patterns have evolved to what they are today.

7.2 Consequently, within the smaller rural communities, where it would not normally be appropriate to develop housing because of limited availability of facilities and services, there may be circumstances where the provision of housing to meet a local need outweighs these factors.

7.3 Such proposals are commonly described as "rural exceptions housing", where permission is granted solely for affordable dwellings that are built to meet the housing needs of the immediate village or community ward within which the housing is proposed. Before the Council will grant planning permission for affordable housing on a rural exception site, it must therefore be satisfied that there is an evidenced need for affordable housing in the locality. LDP Policy MD11 sets out criteria against which these proposals will be assessed.

**POLICY MD11 - AFFORDABLE HOUSING DEVELOPMENTS OUTSIDE SETTLEMENT BOUNDARIES ~~IN RURAL AREAS~~<sup>35</sup>**

**SMALL SCALE AFFORDABLE HOUSING DEVELOPMENTS WILL BE PERMITTED OUTSIDE SETTLEMENT BOUNDARIES WHERE THEY HAVE ~~IT HAS~~ A DISTINCT PHYSICAL OR VISUAL RELATIONSHIP WITH AN EXISTING SETTLEMENT AND WHERE IT IS DEMONSTRATED THAT:**

1. THE PROPOSAL MEETS AN IDENTIFIED LOCAL NEED WHICH CANNOT BE SATISFIED WITHIN IDENTIFIED SETTLEMENT BOUNDARIES;
2. THE NUMBER OF DWELLINGS IS IN PROPORTION TO THE SIZE OF THE SETTLEMENT;
3. THE PROPOSED DWELLING(S) WILL BE ~~CONSTRUCTED TO~~ OF A SCALE SIZE, TENURE AND DESIGN WHICH IS COMMENSURATE WITH THE AFFORDABLE HOUSING NEED;
4. IN CASES WHERE THE DWELLING IS TO BE PROVIDED BY EITHER A PRIVATE LANDLORD OR THE INTENDED OCCUPIER, SECURE MECHANISMS ARE IN PLACE TO ENSURE THE PROPERTY SHALL REMAIN AFFORDABLE IN PERPETUITY; AND
5. THE DEVELOPMENT HAS REASONABLE ACCESS TO THE AVAILABILITY AND PROXIMITY OF LOCAL COMMUNITY SERVICES AND FACILITIES; ~~AND~~
6. ~~THE DEVELOPMENT COMPLIES WITH POLICIES MD 2 AND MD 3. [MAC89]~~

7.4 Additionally, the Council will expect rural exception sites to:

- Comply with local and national planning policy,
- Be of a scale appropriate to the size and character of the individual village concerned and the level of services and facilities available in the village
- Demonstrate that the affordable housing could not reasonably be provided elsewhere on a site allocated for residential development
- Undertaken consultation with the community or ward council and local residents
- Be subject to a "local lettings and sales policy" developed in partnership with the local Community Council (see below), and remain affordable in perpetuity.

### **Cross-subsidised Rural Exceptions Housing**

7.5 In exceptional circumstances, the Council may allow rural exception housing to include an element of market housing where it is clearly demonstrated that the market housing element is essential to the delivery of the affordable housing, by increasing the viability of the development and incentivise landowners to bring forward sites, rather than maximising development value.

7.6 In this regard proposals must be affordable housing led and the tenure mix of both the market and affordable dwellings are aligned with local need. Accordingly, it is expected that the market housing element should seek to address any particular shortages of property types and sizes locally. Such proposals will be restricted to sites of less than 10 dwellings and the housing mix strictly controlled to a ratio of at least 70% affordable dwellings to 30% market dwelling.

7.7 The Council will expect such proposals to involve a RSL so as to ensure that the affordable housing element of the scheme remains available to those in local need; at an affordable rate initially and in

perpetuity; and is managed appropriately. Other providers may be considered if it can be demonstrated satisfactorily that the affordable housing will be retained as such in perpetuity.

### **Local Community Engagement**

7.8 The Council will expect that all rural affordable housing proposals to be developed in partnership with the local community. This can be achieved through effective community engagement at the pre-application stage to take into account of the view of local residents and the community council as well as explore any alternatives and the earliest stages. When submitting a planning, applicants should provide a brief statement outlining the measures undertaken to engagement with the community and how the proposal has taken on board any feedback received.

7.9 Engagement with the Community Council may also provide the opportunity to discuss any specific housing needs of the community, as well as the scope of criteria to be considered in the local lettings criteria (see below) to enable priority for affordable housing to be given to existing residents and those who have a local connection to the area. In this regard, the Council has its own rural housing enabling officer who seeks to deliver rural exception sites, working alongside Community Councils, local communities and landowners and can assist in this process.

### **Local Connection Criteria and Cascade Arrangements**

7.10 Affordable Housing in the Vale of Glamorgan is allocated via the Homes4U lettings scheme. Homes4U 'bands' applicants according to their housing need and members are then able to 'bid' for properties they wish to live in.

7.11 Within rural areas the Council uses a local letting criteria, developed in partnership with RSL's and the local Community Council's to identify the priorities that will be given to the allocation of affordable housing lettings and in the determining of what qualifies as a local connection. Local lettings and sales policies will apply to all new affordable housing, including social housing and low cost home ownership properties developed in the rural Vale.

7.12 The purpose of the local connection criteria is to ensure that priority for affordable housing is given ensuring affordable housing meet the needs of the local resident population and wherever possible provide for the needs of the immediate community. For this reason, all rural schemes will be subject to a local connection policy.

7.13 In all cases relevant occupancy controls will be included within a section 106 legal agreement to ensure that the local connection criteria applies to initial and subsequent occupants.

### **Agricultural Workers and Rural Enterprise Dwellings**

7.14 Where proposals for new dwellings in support of an agricultural business or rural enterprises are justified and found to satisfy the assessment tests of Technical Advice Note 6 Planning for Sustainable Rural Communities, it will be necessary to ensure that the dwellings are kept available for this need. Accordingly, the dwelling(s) shall be subject to occupancy conditions restricting occupation to those employed in either agriculture or a rural enterprises; and where it is shown that the dwelling is no longer required for such purposes, the dwelling will be made available to persons eligible for affordable housing under the Council's housing policies<sup>4</sup>.

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<sup>4</sup> Technical Advice Note 6 Planning for Sustainable Rural Communities (paragraph 4.13.1)

## 8. Design Considerations

8.1 The Council is determined to ensure that affordable housing should not imply substandard accommodation, poor quality design or materials. Affordable housing should blend in with the neighbouring open market housing in order that they are integrated properly whilst providing quality and choice in the neighbourhood. Consequently, in order to facilitate greater social mix and enable a greater variety in building form and design, the different types of affordable houses will be dispersed about the site, in clusters of no more than 10 dwellings.

8.2 The identification of the affordable housing areas will be secured through a Section 106 agreement and where relevant require the involvement of a RSL at the outset to ensure that the completion and occupation of the affordable housing groups is phased in relation to the market housing.

8.3 In this regard, the ratio of market dwellings to affordable housing to be completed and available for occupation at any time should normally be no more than 3:1. This will ensure a phased development of a mixed and integrated development.

8.4 Attention should be given to the complementary policies contained within the LDP, relevant development briefs or other supplementary planning guidance (e.g. amenity standards and parking standards). This will ensure that the design, layout and development standards that apply to other residential development proposals are maintained within affordable housing schemes, are appropriate to the residential character of the area, and provides a satisfactory standard of accommodation.

### Development Quality Requirements (DQR)<sup>5</sup>

8.5 All new and refurbished housing built for RSLs, including LCHO, irrespective of whether Social Housing Grant is received must be designed and built in accordance with the standards set out by the Welsh Government 'Development Quality Requirements: Design Standards and Guidance, July 2005'. DQR cover issues such as space, standards, accessibility, energy efficiency and security. The Council shall not require this to apply to low cost home ownership products which do not receive Social Housing Grant.

### Secured By Design<sup>6</sup>

8.6 The WG requires all homes funded by Social Housing Grant to be built to "Secured by Design" standards. These are provided in the Assembly's Design Quality Requirements and Standard Contract Documentation. When RSLs are considering developing a site, they are required to discuss at the outset how to incorporate Secured by Design principles with their Police Force Architectural Liaison Officer.

## 9. Schemes for 100% Affordable Housing of 25 units or less

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<sup>5</sup> <http://gov.wales/topics/housing-and-regeneration/publications/devqualityrequire/?lang=en>

<sup>6</sup> <http://www.securedbydesign.com/industry-advice-and-guides/>

9.1 On 5th September 2016, Cabinet agreed that schemes for 100% affordable housing developments of twenty-five residential units or less delivered either by the Council or its four Housing Association Partners (Hafod Housing, Newydd Housing, United Welsh Housing and Wales & West Housing) will be exempt from paying financial planning obligations (Minute C3271).

9.2 Historically, for the majority of 100% affordable housing developments financial contributions were usually sought for sustainable transport, education, public open space, community facilities and public art, in order to mitigate the impact of such a development, in accordance with the Council's Planning Obligations SPG and evidence contained with the LDP background papers. However, due to the relatively limited subsidy available and the overall cost of delivering new affordable housing, such contributions often made a site marginally unviable. Consequently, this approach seeks to maximise the use of Council funding and any subsidy available to RSLs, in order to maximise the delivery of affordable housing units.

9.3 This approach does not seek to waive any necessary 'in kind' contributions necessary to make a development acceptable in planning terms. There may still be site-specific impact mitigation requirements, without which a development should not be granted planning permission. Some of these needs may be provided for through planning obligations, particularly if they are very local in their impact. Each individual scheme will be considered on its own merits, on a site by site basis.

9.4 It is recognised that the lack of section 106 financial contributions for matters such as sustainable transport, public open space, community facilities and education will inevitably lead to pressure from future residents for those service areas to meet their needs through their own budgets as service providers. However, there is a critical need in the Vale of Glamorgan for affordable housing and previous research has shown that if a person does not live in a stable and good quality home, it can have a detrimental impact on both their health and educational attainment. Therefore this is a policy decision to prioritise affordable housing over other service areas.