

**CALDERDALE M B C**

**THE PROVISION OF AFFORDABLE HOUSING  
IN NEW HOUSING DEVELOPMENTS**

**1. INTRODUCTION**

This document sets out the Council's approach, using powers contained within the 1990 Town and Country Planning Act, to securing a proportion of affordable dwellings from new residential developments in Calderdale above a set size threshold.

It describes the national and local policy context, identifies the planning applications to which it will apply, sets out how affordable housing requirements will be determined and explains the process for reaching a formal Section 106 agreement.

**2. CONTEXT**

**Government Guidance**

There are two major sources of government guidance relating to affordable housing. 'Planning Policy Guidance Note 3: Housing', published in 2000, states that "A community's need for a mix of housing types, including affordable housing, is a material planning consideration which should be taken into account in formulating development plan policies and in deciding planning applications involving housing". The note also advised that the other main source, Circular 6/98, continued to apply within the policy framework set out in the guidance. This circular sets out criteria for the suitability of affordable housing provision on new developments, essentially saying that local authorities should take into account the site size, suitability in terms of the proximity of local services and public transport, and the economics of provision. The circular advocates that, where there is a requirement for an element of affordable housing, it should be provided as part of the proposed development. However, it does allow for off-site provision or a financial contribution if both the local planning authority and the developer agree this is the best solution, but only where it will result in the provision of affordable housing elsewhere.

**Calderdale Replacement Unitary Development Plan**

A major objective of the Calderdale Unitary Development Plan (UDP) is to ensure that all who need a dwelling have one of good quality, of the right size and type, and have a range of tenure options from which to choose. Affordable housing, whether for rent or low cost home ownership, is a crucial element in helping to meet the housing needs of those who cannot secure

appropriate housing on the open market. Securing an element of affordable housing on development sites is vital if the housing needs of the district are to be met. Such an approach should also help to generate mixed communities.

Adopted UDP Policy H14 sets out the Council's general approach to seeking affordable housing in suitable housing developments. Policy H12 in the Replacement Unitary Development Plan similarly deals with affordable housing policy.

### **Regional Spatial Strategy**

The Regional Spatial Strategy for Yorkshire and the Humber, published in December 2004, suggests that an indicative estimate of the number of affordable dwellings which may be required in the region is 4,000 per year between 1998 and 2016, representing 27% of the total requirement. It is acknowledged that needs will vary considerably between different parts of the region. However, Policy H4 suggests that targets should be set for the provision of affordable housing in each district, and that local authorities should consider whether there is evidence to justify application of lower thresholds.

### **Calderdale Futures Plan**

The Calderdale Futures Plan, published in 2003, identifies a key issue as "improving the quality of the housing stock in Calderdale and ensuring that people have access to appropriate housing". The corresponding objective is "to improve housing quality in all tenures and maximise housing choice within Calderdale".

### **CMBC Corporate Plan**

The Council's Corporate Plan identifies the need to improve access to good quality housing as a strategic objective, and uses new affordable housing completions as one of the performance measures against this objective.

### **Calderdale Housing Requirements Study 2005**

In late 2004, the Council commissioned a comprehensive study of housing requirements across all tenures and types in the Borough. This Study, published in July 2005, highlights the fact that very substantial parts of the local population will struggle to access the property market without intervention by public service providers and, hence, there is a significant need for more affordable homes in the Borough.

### **Calderdale Housing Strategy 2005-2010**

One of the objectives of the Calderdale Housing Strategy 2005 - 2010 is: "To meet the community's need for a choice of affordable properties based on a good understanding of the housing markets in the Borough". Key actions to achieve this objective include the development of a new Supplementary Planning Document on Affordable Housing and the maximisation of the supply

of affordable housing via the Approved Development Programme and S106 agreements. The Housing Strategy is underpinned by the needs and market information in the Housing Requirements Study.

### **Planning Consents and Housing Completions**

The current Regional Spatial Strategy (RSS) requires that Calderdale Council makes provision for 450 dwellings to come forward annually between 1998 and 2016 (8,100 in total). By December 2004 provision had already been made for 9,482 dwellings in the district (4,413 completions and 5,069 dwellings with planning permission but not completed). This provision is 17% above target, with 12 years of the RSS time period to 2016 still to run.

In recent years, an average of around 100 new affordable homes have been provided each year in Calderdale. However, the addition of new affordable homes has not kept pace with the loss of existing affordable homes through Right to Buy, which has been about 200 per year since 2001.

## **3. APPLICATIONS**

### **Type**

The requirement for affordable housing will be considered at both stages of the planning process. Permissions for outline applications will include a condition to provide affordable housing. The granting of permission on Reserved Matters and full applications will be subject to a Section 106 agreement with provisions for affordable housing.

### **Scale**

Circular 6/98 states the size threshold over which it is appropriate for local authorities to seek to negotiate an element of affordable housing. The threshold is developments of 25 or more dwellings or sites of 1 hectare or more, irrespective of the number of dwellings. In the case of settlements in rural areas with a population of 3,000 or fewer, the circular does not specify a threshold but leaves it to local planning authorities to adopt appropriate thresholds.

The thresholds used in Calderdale up until now have been the 25 or more dwellings/one hectare or more referred to above and, for rural areas, 15 or more dwellings or 0.5 hectares and above in size.

However, the Calderdale Housing Requirements Study 2005 indicates a high level of affordable housing need in the district. In the light of this, and the fact that the average annual level of housing completions is running at 45% above the regional housing target for Calderdale, there appears strong justification for reviewing the thresholds, as well as making sure that affordable housing considerations are given due weight during the planning process.

### **Location**

The Council will seek affordable housing on all sites across the Borough, unless its assessment demonstrates no need in that area (in which case a commuted sum may be required). The requirement for affordable housing applies to both new build and conversion of existing properties.

#### **4. AFFORDABLE HOUSING REQUIREMENT**

##### **Definition of affordability**

Circular 6/98 defines affordable housing as “Low cost market and subsidised housing (irrespective of tenure, ownership - whether exclusive or shared - or financial arrangements) that will be available to people who cannot afford to rent or buy houses generally available upon the open market”.

The local assessment of affordability with respect to all tenures covered within this guidance will be published within a Statement of Housing Needs and Requirements. This statement will assess the need for affordable housing across Calderdale as a whole, and at sub-district levels, taking into account incomes, prices and current provision.

Affordable rents will be defined with reference to Housing Corporation Benchmark rents, and local house prices and incomes will be taken into account when considering schemes for shared ownership and shared equity.

##### **General requirement – standard calculation**

***The Council will seek a minimum of 20% affordable housing units on all sites for new housing above the threshold, and these dwellings must be made available at a price which allows for rent levels consistent with Housing Corporation benchmarks, without the need for further subsidy.***

The price at which the affordable dwellings will be transferred to the RSL is determined from the Housing Corporation Rent calculator system. The figures will be assessed for each development proposal, but indicators will also be presented in the Statement of Housing Needs and Requirements. The costs will vary depending upon the type and size of dwellings. This standard calculation of discount will apply to all affordable dwellings, irrespective of the tenure of the housing delivered.

The Council reserves the right to seek provision in excess of the 20% level where assessment shows a particularly acute need for provision.

##### **Requirements and types of provision**

There is a presumption in favour of the provision of dwellings within the development itself, unless robust reasons can be demonstrated to justify an alternative form of provision, such as off-site dwellings or a commuted sum.

The Council is reluctant to seek the provision of land as an affordable housing contribution, as there are difficulties in securing development within given timescales. However there may be circumstances when this is appropriate to meet a particular need.

The mix of dwellings by type, size and tenure to be provided for affordable housing will be determined with reference to the Statement of Needs and Requirements, which will identify priority needs within the different localities of the District.

A sequential approach will be taken in identifying the nature of the housing need that can best be met by the proposed development. Reference to the following criteria will be made:

- a) Need for a specially designed property within the local area (to meet a specific and identified need, for instance for a wheelchair user);
- b) Local need for affordable housing;
- c) Need for properties with enhanced facilities or design to meet an identified special need;
- d) Need to provide additional funding to support existing, proposed or future scheme to provide affordable housing;
- e) District wide need for affordable housing.

The council would not normally consider the identification of 'development' costs justification for providing no affordable housing. Such costs, which are normally associated with the development of brownfield sites, would be reflected in the land values.

If an applicant is of the opinion that the viability of the scheme is at risk, the Council may consider a submission of a full Financial Appraisal as part of the assessment of an affordable housing contribution.

Where it is considered appropriate to accept a commuted sum payment, the value of the payment will be calculated at a higher value than on site, to reflect the additional cost of providing equivalent units on another or other sites.

The affordable units will be transferred to a Registered Social Landlord (RSL) unless it can be demonstrated that adequate measures, legal controls and management frameworks are in place to ensure that the properties are made affordable in perpetuity, and are occupied by households in need of affordable housing. The most effective method of ensuring these criteria are met is through the transfer of the dwellings to an RSL as endorsed in C6/98.

The applicant must choose an RSL from the Council's approved list of developing partner RSLs, who are required to enter into an agreement with the Council.

To ensure a high standard of design and to create balanced communities, the Council will expect affordable housing to:

- Be built to the Housing Corporation's Scheme Development Standards, unless there are exceptional circumstances that justify a variation;
- Be well related to, and indistinguishable from, the market housing on site;
- Be distributed across a number of different areas around the site (though, on occasions it may be prudent to group the housing in order to assist its management);
- Meet the design briefs of Registered Social Landlords, Council planning polices on design and the Building Research Establishment's 'Eco-homes' standards.

Policies relating to privacy levels, open space standards, design and materials remain relevant when considering affordable housing. Circular 6/98 requires integration of the affordable housing with the general market housing and visual consistency is therefore important. Car parking is one area in which more flexibility is advocated in Circular 6/98 (para 14) since car ownership rates are generally lower for the occupants of affordable housing than for those of general market housing. The Council's car parking standards should therefore be applied flexibly to affordable housing schemes and Policy T19 of the UDP does make provision for such flexibility.

The Council will require at least 20% of dwellings to be built to the Lifetime Homes Standard in all developments, unless there are exceptional physical constraints to justify a waiver of this requirement.

### Rented Housing

Affordable dwellings for renting will be transferred to a Registered Social Landlord and let at Housing Corporation benchmark rents. Any service charge associated with the affordable dwellings must be taken into account in the calculation of the affordable rent.

### Low Cost Home Ownership

The term Low Cost Home Ownership (LCHO) covers several models that allow households to enter the owner-occupation sector at an affordable price, including shared ownership, shared equity, and discounted sale. All LCHO dwellings, irrespective of the nature of the scheme, will be transferred to a Registered Social Landlord at the same purchase price as for rented dwellings.

Dwellings provided for 'Discounted Home Ownership' enable households to purchase a property on a long leasehold, but at a discounted value. Retention of the freehold will allow the RSL to ensure that the property is occupied by households unable to purchase on the open market, and that the discounted value is retained for subsequent occupiers.

Shared ownership dwellings enable the occupier to part rent and part purchase a property, and in subsequent years increase the proportion of

ownership. Shared Equity is where the occupier purchases a proportion of the equity but does not pay rent on the remainder. In both cases the remaining proportion is owned by the managing RSL, which again ensures the continuity of the affordability and the restriction of occupation to those who cannot afford to buy outright.

## **5. THE SECTION 106 AGREEMENT**

The Council will use a Section 106 Agreement (S106) to secure affordable housing on qualifying residential sites.

To make the process as quick and consistent as possible, the Council has adopted a model S106 relating to the provisions for affordable housing within developments.

The main principles of the agreement cover:

- Identification of the Registered Social Landlord;
- Identification of the dwellings to be transferred to the RSL, referenced by plot numbers and plan numbers;
- Purchase Price (for the total number of dwellings) payable by the RSL;
- Specification of the fallback commuted sum payment.

However, the wording of conditions and planning agreements/obligations may vary, depending on the circumstances of each case. A condition relating to the requirement for affordable housing in a particular scheme should be imposed at the outline stage, necessitating the submission of an affordable housing scheme when a reserved matters or full application is submitted.

Agreement over the details of the affordable housing and securing its affordability in perpetuity will normally be via a planning obligation under Section 106 of the Town and Country Planning Act 1990. Matters to be covered in planning agreements may include clauses to:

- a) Ensure dwellings and/or land are transferred to a Registered Social Landlord at the agreed discount or agreed price;
- b) Name the nominated Housing Association or other Registered Social Landlord;
- c) State the number of units and show their location on a plan;
- d) Refer to the Housing Corporation's Scheme Development Standards, and any Registered Social Landlord Development standards that must be met when constructing the affordable housing;
- e) If appropriate ensure the provision of a financial contribution in lieu of housing units, and set a date for payment;
- f) Ensure the units remain affordable in perpetuity;
- g) Prevent occupation of a specified proportion of the general market housing until the affordable housing has been transferred to the Registered Social Landlord.

## 6. PROCEDURE

The Development Control Officer will consult the Housing Department when an enquiry or application is received, let the developer know what the local planning authority's requirements are, and act as the contact for subsequent negotiations.

Housing Services will contact the nominated Registered Social Landlord, and will inform them of the anticipated type, number and price of the units. Discussions will then take place between Housing Services, the RSL and the developer to determine the full details, including plot numbers, and layout of the units. Planning Services will be informed of progress, and may be asked for their assistance in the negotiations.

All of the above should be agreed before the application is submitted to Planning Committee.

In cases where it is established that a developer is not prepared to provide sufficient affordable housing and fails to offer a reasonable justification, Development Control will advise of the intention to recommend refusal of planning permission. Any such refusal should be worded along the following lines:

*"The proposal fails to include sufficient provision of an appropriate type of affordable housing to address identified local needs and as such is contrary to Policy H14 of the UDP and Circular 6/98".*

Details of agreed affordable housing schemes are entered onto Planning Services' database. This assists in both measuring progress towards providing affordable housing and ensuring all agreed affordable housing contributions are delivered.