

**Supplementary Planning Guidance LDP1
Affordable Housing Obligations (Revision)
Report of Consultation
July 2017**

1 Introduction

- 1.1 Supplementary Planning Guidance (SPG) LDP1 on Affordable Housing Obligations has been prepared within the context of the Caerphilly County Borough Local Development Plan up to 2021 (LDP) to give greater guidance on how policies and proposals within the LDP aimed at increasing the supply of affordable housing will be implemented.
- 1.2 LDP1 was originally adopted in February 2011, but it has been necessary to review the document in order to provide clarity and reflect procedural changes.
- 1.3 In line with the Council's agreed procedures for the preparation of SPG, the revised document was subject of a formal public consultation from 11th January 2017 to 22nd February 2017.
- 1.4 The consultation was undertaken via email and was targeted at the following stakeholders:
 - The Home Builders Federation, who circulated it to key contacts in the development industry, including all major housebuilders;
 - All Registered Social Landlords zoned to work with the area;
 - All Community Councils; and
 - All Elected Members of Caerphilly County Borough Council.
- 1.5 Copies of the document was made available for public inspection at all local libraries in the County Borough and at the Council Offices at Tredomen House and the document was available to view electronically on the Council website.
- 1.6 A total of 3 responses were received from the following external consultees:
 - Redrow Homes
 - Persimmon Homes
 - Home Builders Federation

Consideration of representations

Section 4 - Local Housing Market Assessment

Representor	Redrow Homes Home Builders Federation
--------------------	--

Summary of Representation

1. The latest Local Housing Market Assessment (LHMA) recognises that Caerphilly Basin has strong links with the Cardiff housing market and it is questioned whether joint working has been carried out.
2. It is considered that the LHMA does not provide a true picture of housing need and demand as there is little mention of private housing and should not on its own be a reason to review the SPG.
3. The LHMA is not a sufficient evidence base upon which to determine the need for Low Cost Home Ownership (LCHO) as a calculation has been carried out (p56) on the basis of LCHO being provided at 70% of open market value (OMV), yet the Council's approach in the adopted SPG is for a maximum of 60% of OMV. This would mean that there would be more households that could afford LCHO than the LHMA suggests.

Officer response

It is recognised that Caerphilly Basin has strong links with Cardiff. There are also housing markets that cross other local authority boundaries including Newport, the Mid Valleys and the Heads of the Valleys. The LHMA Guide (2006) does encourage an assessment of functional housing markets across Local Authority (LA) boundaries but highlights that the findings of such assessments should be capable of disaggregation at the LA level. It is not mandatory for LHMA to be prepared for wider than LA areas. Due to the number of cross-boundary housing markets, as well as different timescales, evidence bases and resources, it was not possible to undertake a joint LHMA. However, links between Caerphilly Basin and the Cardiff housing market, are discussed in section 2 of the 2015 LHMA. The Council is currently reviewing the LHMA as part of a duty to keep the information up to date. Whilst the current review is being undertaken at the local level, it is likely that future housing market assessments may be carried out on a regional basis as part of work on a Strategic Development Plan (SDP) or joint Local Development Plan (JLDP).

Reference is made throughout the LHMA to the private sector, although, predominately in relation to renting. There is some analysis on house prices and sales data. In terms of the affordable housing requirement, the LHMA also identifies those households whose needs could be adequately met through homeownership, including low cost home ownership. However, it is recognised that there would be benefit in expanding the market

sector element of the LHMA through the current review to provide further contextual information. This will not affect affordable housing policies or content of the SPG. It should also be noted that the update to the LHMA was not the sole reason for reviewing the SPG.

With regards to the third point, the Affordable Housing Viability Assessment (AHVA) prepared to support the affordable housing policies in the LDP used a percentage of 60% of OMV to calculate the viability requirements for LCHO. The adopted SPG acknowledged this, by identifying that LCHO units would have a minimum discount of 40%, equating to a maximum of 60% of OMV. The maximum was set to ensure that there would be flexibility to set LCHO levels at a value that was affordable to residents. The revised SPG goes one step further by defining current values based on what are considered to be affordable rents in order to provide more certainty to developers on what values would be accepted by the LA as being affordable to residents at the current time.

It is acknowledged that the LHMA uses 70% of OMV to calculate LCHO requirements as this is the percentage identified in Welsh Government and WLGA Guidance (2012). However, the guidance highlights that LCHO percentage can be varied and consideration will be given to the use of a lower percentage in the review of the LHMA to ensure that there is consistency between the documents. The LHMA acknowledges that there is a demand for an LCHO product in the County Borough as part of a significant affordable housing need figure. The SPG does not specify a split between social rented and intermediate products as this is determined on a site by site basis and therefore the percentage of OMV used in the LHMA does not directly affect the content of the SPG.

Officer recommendation

No changes should be made to the SPG.

Paragraph 2.2 - Affordable Housing Requirement

Representor	Persimmon Homes
--------------------	-----------------

Summary of Representation

Policy CW11 needs to be re-appraised in light of the housing land supply issue and findings of successive Annual Monitoring Reports (AMR). The Policy is considered to be flawed and dated.

Officer Response

Policy CW11 Affordable Housing Planning Obligation is a policy in the adopted LDP. The only mechanism to review this policy is through a review of the LDP. The Council commenced a review of the LDP in 2013 and published a Deposit Replacement LDP for public consultation in February 2016. However, in light of the Council decision of 11th October 2016, the Replacement LDP was subsequently withdrawn and therefore has no status.

Whilst it is recognised that the affordable housing policy was adopted in 2010, the evidence base that supports it, including the LHMA, has been kept up to date, and is not therefore outdated. Furthermore, Policy CW11 specifies that the targets in the policy are indicative and account will be taken of the latest information in determining site specific requirements.

Officer recommendation

No changes should be made to the SPG.

Paragraph 5.2 - Affordable Housing Viability Assessment

Representor	Redrow Homes Home Builders Federation Persimmon Homes
--------------------	---

Summary of Representation

The SPG does not reflect the latest evidence base prepared as part of the Deposit Replacement Local Development Plan.

Officer Response

As stated above, the Council commenced a review of the LDP in 2013 and published a Deposit Replacement LDP for public consultation in February 2016. However, in light of the Council decision of 11th October 2016, the Replacement LDP was subsequently withdrawn and therefore has no status. The evidence base also has no status.

The Replacement LDP did proposed slightly lower targets in some parts of the County Borough, including Caerphilly Basin. However, as part of the work on the Replacement LDP it was the Council's intention to also review the Community Infrastructure Levy (CIL) and the Affordable Housing Viability Assessment prepared to support the Replacement LDP concluded that there would be sufficient margins of viability to increase the CIL rate in those parts of the County Borough. The overall viability would therefore not have changed significantly.

Officer recommendation

No changes should be made to the SPG.

Paragraph 5.3 – Exceptional Circumstances

Representor	Home Builders Federation Persimmon Homes
--------------------	---

Summary of Representation

The phrase “*in exceptional circumstances*” should be removed as the presence of significant abnormal costs should be sufficient to enable discussions on the reduction of affordable housing provision.

Officer Response

As a starting point, it is expected that developers would provide policy compliant affordable housing. It is often the case that developments will have some costs that may relate only to that site and therefore be ‘abnormal,’ but this may not in itself have implications on viability. All applicants will have the opportunity to challenge policy requirement if they feel that there are viability issues on a site and the inclusion of the term ‘exceptional circumstances’ would not preclude this.

Officer recommendation

No changes should be made to the SPG.

Paragraph 5.4 – Development Viability

Representor	Home Builders Federation Persimmon Homes
--------------------	---

Summary of Representation

Reference to ‘exceptional’ should either be removed from the guidance or a definition included as to what is exceptional as abnormal costs, irrespective of whether they are exceptional or not, have the potential to undermine the viability of development.

Officer Response

As explained above, most sites will have costs that could be ‘abnormal’ to an average development, but the costs associated with them would not significantly affect viability. On this basis, the presence of abnormal costs is not in itself a reason to reduce affordable housing requirements. It is where the costs are significant that the viability of achieving policy compliant affordable housing targets may need to be considered. For consistency with the terminology in paragraph 5.3, however, it is suggested that the wording of this be changed to state ‘any significant abnormal costs.’

Officer recommendation

Reword to state any ‘any *significant abnormal costs*’

Paragraph 5.5 – Viability Proforma

Representor	Home Builders Federation
--------------------	--------------------------

Summary of Representation

It is questioned whether this is a new proforma that was not previously available. If so, there is concern that no consultation has been carried out with the development industry as the proforma is not included as part of the SPG.

Officer Response

The proforma has been in place since the adoption of the current SPG in 2011 and has been prepared in line with building cost definitions set out by the Build Cost Information Service (BCIS). The proforma has been completed by a number of developers where challenges have been made to affordable housing requirements. It does not include any default assumptions that are likely to be matters of concern for the development industry.

It is recognised that there would be benefit in including the proforma within the SPG to expedite the negotiation process and it is therefore proposed to include it as a new Appendix.

Officer recommendation

The Viability Proforma should be included as an Appendix to the SPG.

9.1.3 Transfer Values

Represontor	Redrow Homes
--------------------	--------------

Summary of Representation

The SPG proposes to fix the transfer values for all intermediate products, which does not reflect the Council and RSL websites which identify that LCHO would be delivered at between 50 and 70% of OMV. If this is the case what happens to the difference in money paid by the developer to the RSL? For example, a 2 bed 700sqft intermediate house in Caerphilly Basin at £210sqft would have a market value of £147,000. A purchaser could obtain at 70% MV and the cost to the developer (i.e. the transfer value of 30%) would be £44,100 but in Caerphilly the transfer values are fixed and in this scenario would be £70,373 (cost to developer). If the ability to secure LCHO product for sale is retained then this provides flexibility for site by site negotiations and would potentially secure a higher percentage of affordable housing provision on new development sites in the future.

Officer Response

The SPG proposes to set fixed values for LCHO products in order to ensure that this type of housing is affordable to those in housing need, as 70% of OMV has been found to be unaffordable. It is known from past experience that RSLs have found it difficult to find prospective purchasers who could obtain a mortgage for 70% of OMV, which could potentially result in affordable homes not being occupied. Using the example provided, where the market value of a new build 2 bed property is £147,000, this would equate to a mortgage requirement of £102,900 based on 70% of OMV. Assuming a 3.5 times income to mortgage multiplier, a purchaser would need to have an income of £29,400 to afford it. The average gross income of a full time worker across Caerphilly is £24,445 (Annual pay – gross, Annual Survey of Hours and Earnings, 2016) and many people earn significantly lower than this, so the 70% of OMV would be out of the reach of a large proportion of people that cannot afford market housing.

The previous version of the SPG was not clear as to the transfer values, instead stating that a minimum discount of 40% of OMV would be provided, which equated to a maximum of 60% of OMV. This lack of clarity as to the exact cost has caused confusion to developers and therefore in practice officers have been negotiating fixed LCHO values based on less than 60% of OMV in recent years. The SPG has been revised to provide certainty, in the same way as has been provided for social and intermediate rent.

The fixed value proposed for a 2 bed property in Caerphilly Basin is £70,373, which is just under half that of the market value example provided. Purchasers would purchase a smaller percentage of a property, but the LCHO property would be at a level that meets the needs of residents of Caerphilly. Occupiers would have the opportunity to staircase up to own a greater proportion of the property if their financial circumstances change.

It is true that setting LCHO at a higher level of OMV would mean a developer would be paid a greater transfer amount by an RSL and the consequence it could mean in theory that a slightly higher proportion of affordable housing could be negotiated. However, it is essential that affordable housing products offered to residents reflect the need for this type of product. Setting a higher percentage of OMV may not be addressing need in an appropriate manner. Furthermore, when purchasing land developers should be aware of the Council's policy position and ensure that they offer landowners an appropriate amount which reflects the value and amount of affordable housing they will need to provide.

Officer recommendation

No changes should be made to the SPG.

9.1.4 Low Cost Home Ownership

Representor	Redrow Homes
--------------------	--------------

Summary of Representation

The revised SPG proposes to remove the opportunity to deliver shared equity LCHO as an affordable housing product, despite the LHMA local housing survey showing a demand for this product and the LHMA (p70) identifying the Council “ *have been unable to assess the backlog of need for intermediate housing (this includes LCHO). This is because neither the Council nor its housing association partners maintain a formal register of those people requiring intermediate housing.....In addition, the council does not currently hold any household income data on its housing register and, therefore, is unable to identify those people whose needs could be met through an intermediate housing solution.*” This approach is not consistent with national planning policy, which promotes a range and choice of affordable housing products.

Officer Response

The representor has misunderstood the approach to LCHO. The Council is not proposing to remove LCHO as an affordable housing option, but instead is proposing to fix the transfer values for the reasons explained in response to the previous representation. Appendix 3 makes it clear that intermediate housing is both intermediate rent and LCHO, as does paragraph 3.2 of the SPG. However, for clarity, it would be beneficial to include definition for the 3 different types of affordable housing - social rent, intermediate rent and LCHO - in the glossary.

Officer recommendation

Include definitions for social rent, intermediate rent and LCHO in the glossary.

Paragraph 9.1.5 – Transfer of land

Representor	Home Builders Federation
--------------------	--------------------------

Summary of Representation

This section introduces a maximum number of 6 units where land is transferred instead of building the units. This is considered to be too low a number and on larger sites would result in the transfer of a number of parcels of land adding to the complexity of the S106 agreement. Additional wording should be added to allow flexibility to increase this number on a site by site basis.

Officer Response

Paragraph 9.1.5 relates to the transfer of land from a landowner/developer to an RSL plus a commuted sum where a developer is unable to build affordable units themselves. In these circumstances, the land that is transferred should be of a size to ensure that no more than 6 affordable houses are clustered in one location in order to promote mixed communities.

It is acknowledged that on larger schemes this may result in more than one area of land being transferred for affordable housing, but this is no different to the preferred onsite delivery method where developers build the units as clusters of no more than 6.

Officer recommendation

No changes should be made to the SPG.

Paragraph 9.3 – Commuted Sum

Representor	Home Builders Federation Persimmon Homes
--------------------	---

Summary of Representation

It is recognised that there is a need for a mechanism for calculating commuted sums, but there is concern that the proposed formula fails to distinguish between units constructed to Development Quality Requirements (DQR) and units constructed to Welsh Housing Quality Standard (WHQS) due to the use of Acceptable Cost Guidance (ACG) values within the formula. Using ACG values for the calculation of the commuted sum for WHQS units would inflate the commuted sum above what is required to meet DQR and inherently cost more to provide (approximately 20%). It is questioned why ACGs have been used when the previous calculation was based on a residual method.

Officer Response

In accordance with Section 9.2, it is anticipated that off-site provision through commuted sums would only be provided on a small number of sites where strategic aims would not be achieved or it would be difficult to deliver units, such as self-build schemes where there may be multiple developers. The proposal to change the way that the commuted sum is calculated is a different response to the fact that a residual value calculation assumes development of a whole site with full details at an early stage, which often cannot be calculated for self-build schemes with multiple owners. By calculating a commuted sum based on what it costs to deliver the affordable units, it means that this calculation can be done more effectively at outline stage.

The representor considers that the use of ACGs inflates the development costs of a commuted sum as it assumes DQR compliance. Firstly, as highlighted in 10.4 of the SPG, it is the Council's intention to require all social rented units to be DQR compliant and therefore the figures represent the cost of achieving DQR using the only available benchmark for the overall cost of delivering an affordable unit having regard to both the cost of building and the cost of land.

It will be noted from Paragraph 9.3.2 that the Council will normally ask for a contribution equivalent to providing one or more 1 bedroom flats, on the basis of need and also to ensure that the burden for the types of site where a commuted sum would be considered (smaller self-build schemes) would be minimised. The 1 bedroom flats would be social rented.

Commuted sums would not normally be based on delivering a proportion of LCHO properties and it is evidently confusing to include LCHO properties as part of the calculation as the representor is correct that the intention is to build these properties to WHQS level rather DQR.

To aid understanding of the calculation and to remove superfluous information, it is suggested that the worked example in Appendix 4 be amended to remove reference to LCHO figures.

Officer recommendation

Remove LCHO figures from the worked calculation in Appendix 4.

Paragraph 9.3.8 – Repayment

Representor	Home Builders Federation Persimmon Homes
--------------------	---

Summary of Representation

The mechanism for the repayment by the Council of unspent commuted sums is excessive and should be reduced to 5 years as private developers are not given 10 years to provide affordable housing on their sites.

Officer Response

Committed sums will generally be secured on some of the more complex sites i.e. self build schemes with multiple developers who may be paying a pro rata sum on an individual basis. Evidence from the JHLAS process has indicated that many self build schemes have taken over 10 years to complete and therefore the repayment for committed sums needs to reflect the complexities of attaining the committed sum and subsequently spending it as developments will inevitably take longer than where a volume housebuilder is involved.

Officer recommendation

No changes should be made to the SPG.

Paragraph 10.1 – Clustering

Representor	Home Builders Federation Persimmon Homes
--------------------	---

Summary of Representation

The intention to impose a clustering limit of 6 units constrains designer's ability to respond to the constraints and opportunities that exist on a site. It is therefore proposed that the clustering limit should be increased to 12 units. It is also questioned whether there is a need for a clustering limit if affordable housing units are indistinguishable from their market equivalents. RSLs are often not considered supportive of such small clusters of dwellings.

Officer Response

The clustering limit of a maximum of 6 dwellings has been in place since the previous SPG was adopted in 2011 and this requirement has been included within a number of Section 106 agreements.

There is no evidence in Caerphilly that RSLs are not supportive of the Council's approach to clustering and the figure of 6 dwellings was originally derived in consultation with the RSLs to ensure the best mix of housing with the aim of ensuring mixed tenure communities.

It is acknowledged that there may be certain circumstances where a different mix may be required on a site-specific basis for management or design reasons and therefore the inclusion of the word 'normally' within the text would allow for a certain degree of flexibility to consider this in appropriate circumstances. However, by prescribing the position of up to six dwellings it will ensure that this is given due consideration in the design of a scheme at the earliest opportunity.

Officer recommendation

No changes should be made to the SPG.

Paragraph 10.4 – Design – DQR

Representor	Redrow Homes Home Builders Federation Persimmon Homes
--------------------	---

Summary of Representation

This paragraph states that social rented and intermediate rented will be expected to meet DQR space standards and for LCHO should meet WHQS standards. The current requirement for DQR relates only to homes built with Welsh Government subsidy and is not mandatory and therefore this approach is contrary to Part 4 of the Housing (Wales) Act 2014. As no grant funding will be available for affordable housing delivered through the planning system (Paragraph 5.9), this requirement is not appropriate.

WHQS is a standard applied to refurbished existing stock and is not designed to be applied to new build so is not the appropriate standard to use for LCHO.

Officer Response

It is considered that all social and intermediate rented units should be of the same size and design standard regardless of whether the units are funded by a developer or by Social Housing Grant. The adopted SPG does not expressly specify that Section 106 rented units should be constructed to DQR. However, it has been the Council's practice since the LDP was adopted to require Section 106 social rented units to meet the DQR standard and it was considered necessary to clarify this through the revised SPG. This is also the case with intermediate rented properties, although this type of unit represents only a small proportion of negotiated units.

The AHVA prepared to justify the LDP affordable housing policy assumed all affordable units would be delivered to DQR space standards so this would not affect the viability of developments. It is not introducing new policy, but just clarifying policy and practice. It should be noted that most other local authorities in South East Wales also specify this requirement.

Whilst Part 4 of the Housing (Wales) Act does specify that grant funded units must be DQR compliant, it does not preclude other affordable housing units from meeting this standard. Indeed, Welsh Government published a consultation document on *Mandatory Quality Standards for New, Rehabilitated and Existing Homes* in 2016, which stated that "*new homes built by Housing Associations and Local Authorities without subsidy will not be required to meet DQR although they can chose to do this*". The consultation document asked for views on whether DQR should be a requirement when building new social housing whether funded or not, because of the wider and long term public benefits offered. The outcome of discussions on this are not known, but there is no evidence from Welsh Government to indicate that non-grant funded affordable units will be prohibited from meeting the standard in the future.

With regards to WHQS, it is the intention that all social houses meet the standard by 2020 to ensure units meet the needs of current and future occupiers. There are space standards identified as part of WHQS that would be relevant to new build as well as refurbished properties. It is important that intermediate properties for sale or rent are of a good quality and large enough to meet the needs of residents as generally these properties may have higher occupancy rates than those in the private sector. As with social rented properties, the LA has been requiring developers to meet this standard in recent s106 agreements.

Notwithstanding the above, the SPG does identify some indicative size standards in Appendix 4 provided by RSLs based upon the delivery of LCHO units previously. The inclusion of these figures may be interpreted as being required sizes as WHQS, which is not the case, so it is appropriate to delete these figures, particularly given that WG may change the standards following the recent consultation.

Officer recommendation

Remove indicative size standards for LCHO from Appendix 4 (also linked to representation on commuted sums)

Overall

Representor	Home Builders Federation
--------------------	--------------------------

Summary of Representation

The guidance is more onerous than the one it seeks to replace, which could be detrimental to the viability of development. This is not considered appropriate given the need to provide greater flexibility to address the lower than required delivery rates for housing overall and affordable housing specifically and lack of a 5 year land supply.

Officer Response

It is not considered that the SPG is more onerous than the one it seeks to replace.

The key changes have been put in place to reflect what is done in practice (LCHO figures, building to DQR/WHQS) and to provide more clarity in areas that have previously had insufficient guidance (commuted sums, viability proforma).

It is not possible to revise the percentages for affordable housing through this process, which the development industry consider to be a significant constraint to development, but the SPG continues to provide flexibility to allow developers to provide the necessary evidence to challenge viability requirements where appropriate to ensure that housing can be delivered. The SPG does, however, provide greater certainty on values and requirements, which should allow viability to be effectively considered as an early part of the development process, increasing the speed of decision making and delivery.

Officer recommendation

No changes should be made to the SPG.