



# Supplementary Planning Document

## Affordable Housing

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## **Preface**

West Lancashire Borough Council recognises the pressing need for more affordable housing in the Borough, and considers the provision of affordable housing a priority. The Council also appreciates the ageing population in the Borough and its implications in terms of accommodation needs. The Council will seek to do all within its power to facilitate the delivery of more affordable dwellings and homes suitable for the elderly across West Lancashire, whilst recognising the constraints of the economic, policy and legal framework within which it operates.

This supplementary planning document provides more detail and guidance on the Borough Council's policy relating to the provision of affordable and specialist elderly housing in West Lancashire. It is based upon, and consistent with, policy RS2 (Affordable and Specialist Housing) of the adopted West Lancashire Local Plan 2012-2027, as well as national policy and guidance.

This document constitutes the 'Consultation Draft' version of the supplementary planning document. The Borough Council is seeking comments on the contents of this document from the public, developers, Registered Providers, and others with an interest in affordable and elderly accommodation.

The document, along with comments forms and related information, will be available during normal working hours at the Council offices and public libraries in West Lancashire, as well as on the Council's website. The consultation period runs from Thursday 14 May – Friday 26 June 2015.

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## **1.0 Introduction**

- 1.0.1 This Supplementary Planning Document (SPD) on affordable housing forms part of the suite of planning documents associated with the West Lancashire Local Plan 2012-2027 (WLLP or 'the Local Plan'). This SPD is subsidiary to the overarching Local Plan, which provides strategic and development management policies for West Lancashire Borough.
- 1.0.2 The purpose of this SPD is to provide guidance and extra detail on how policy RS2: Affordable and Specialist Housing of the WLLP will be applied, and to explain how different types of affordable housing can be provided within the Borough. The SPD will also cover specialist housing for the elderly.
- 1.0.3 West Lancashire enjoys an attractive natural environment and its settlements are pleasant places to live, within easy commuting distance of Liverpool, Preston, Wigan, Southport and Manchester.
- 1.0.4 However, over recent years housing market instability and cuts to the national affordable housing programme have reduced the overall supply of affordable housing relative to needs. A decline in mortgage lending has resulted in limited prospects and mobility for first time buyers. Changes in housing benefit payments, coupled with unemployment and net falls in household income all contribute towards people being less able to afford the homes they need. This is the case not only in West Lancashire, but across England as a whole.
- 1.0.5 West Lancashire has seen a significant increase in house prices over recent years, with the average house price up to nine times the average wage in the most affluent areas, leading to an acute need for more affordable housing across the Borough. The exception is Skelmersdale, where some house prices in the town are more affordable than elsewhere in the Borough.
- 1.0.6 WLLP Policy RS2 allows for its requirements to be varied through an affordable housing SPD, either as a result of changing viability considerations over time, or as a result of future housing needs studies demonstrating a change in the Borough's housing need. As such, this SPD allows for future variations in affordable housing policy if evidence clearly demonstrates such variations are required.

## 1.1 Definition of affordable housing

1.1.1 Annex 2 of the *National Planning Policy Framework (NPPF)* defines affordable housing as:

**Social rented, affordable rented and intermediate housing**, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

**Social rented housing** is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.

**Affordable rented housing** is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing<sup>1</sup>.

**Intermediate housing** is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.

Homes that do not meet the above definition of affordable housing, such as “low cost market” housing, may not be considered as affordable housing for planning purposes.

1.1.2 Policy RS2 of the West Lancs Local Plan and this SPD both use the above NPPF definition of affordable housing.

1.1.3 The term **specialist needs housing** is defined in the WLLP as:

*Housing providing suitable accommodation for specific sections of the community, including seasonal agricultural workers, the elderly or retired, and students.*

This SPD will cover housing for the elderly (referred to in WLLP policies RS1 and RS2). Neither student accommodation nor accommodation for temporary agricultural / horticultural workers are covered by this SPD. Student housing is addressed in WLLP policy RS3: Provision of Student Accommodation. Accommodation for seasonal agricultural workers is covered by WLLP policy RS5: Accommodation for Temporary Agricultural / Horticultural Workers.

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<sup>1</sup> Rent levels for this tenure do not exceed 80% of market rent in the locality.

1.1.4 **Specialist housing for the elderly** (or ‘accommodation designed specifically for the elderly’, as referred to in WLLP policy RS1) is not tightly defined; this looseness of definition is intentional in order to provide flexibility in the Local Plan policy. Specialist housing for the elderly is not tied down to a specific Use Class (it could be Class C2 or C3), nor is there a “minimum age threshold”. The Local Plan states that all new homes will be expected to meet the Lifetime Homes Standard, under which a property should be built in such a way that it can be adapted as its occupants get older or experience mobility problems, for example by having a stairway wide enough to accommodate a stair lift. In its most simple form, the requirement for providing specialist housing for the elderly would be satisfied by having a number of the Lifetime Homes features actually installed in a new property, rather than the property simply being capable of having the features installed. Specialist housing for the elderly could also constitute extra care accommodation, in which an element of personal care is provided to residents. Housing for the elderly is covered in more detail in Section 2.3 of this SPD.

1.1.5 The Housing our Ageing Population: Panel for Innovation (HAPPI) was established in June 2009. Its purpose was to research ways of ensuring that new build specialised housing meets the needs and aspirations of the older people of the future. HAPPI devised a set of principles (‘the HAPPI principles’) to facilitate the delivery of specialist housing. These principles are set out below, and are a useful set of standards to which providers of accommodation for the elderly should have due regard:

- Generous internal space standards;
- Plenty of natural light in the home and in circulation spaces;
- Balconies and outdoor spaces, avoiding internal corridors and single aspect flats;
- Adaptability and ‘care aware’ design which is ready for emerging telecare and tele-healthcare technologies;
- Circulation spaces that encourage interaction and avoid ‘institutional’ feel;
- Shared facilities and community ‘hubs’ where these are lacking in the neighbourhood;
- Plants, trees and the natural environment;
- High levels of energy efficiency, with good ventilation to avoid overheating;
- Extra storage for belongings and bicycles; and
- Shared external areas such as ‘home zones’ that give priority to pedestrians.

1.1.6 In addition to affordable housing and housing for the elderly, there is a need to provide accommodation for those with special needs. Delivery of such accommodation is a priority of Lancashire County Council, and will be supported by West Lancashire Borough Council (WLBC) on appropriate sites within this Borough.

## **1.2 Need for affordable housing**

- 1.2.1 In 2009, the Council engaged consultants to undertake a comprehensive housing needs assessment for West Lancashire, down to ward / parish level. The resulting 2010 Housing Need and Demand Study (HNDS) highlights the levels of affordable housing need in the Borough's different parishes (or wards, in the non-parished areas of Ormskirk and Skelmersdale), including numbers of dwellings, tenure, and types and size of dwellings.
- 1.2.2 The HNDS indicates that there is a net annual shortfall of 214 affordable homes in West Lancashire. Other evidence (e.g. the 2011 Census and population projections) indicates that the Borough's population is ageing. The HNDS is available on the Council's website<sup>2</sup>. In addition, the website contains detailed information on housing need at Parish or Ward level, based on the HNDS<sup>3</sup>.
- 1.2.3 The HNDS shows that across West Lancashire (with the exception of parts of Skelmersdale), the need for affordable housing is pressing, with median or lower quartile house prices several times the median or lower quartile wages in the area. Over recent years, only the settlement of Banks has seen any significant numbers of affordable dwellings provided.
- 1.2.4 It is expected that the Council will periodically commission further Housing Needs and Demand Studies over future years. If the results of any such studies were to indicate that a change in affordable housing policy is required, this SPD and / or the Local Plan would be likely to be amended accordingly to reflect the updated evidence.

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<sup>2</sup> <http://www.westlancs.gov.uk/media/102400/housing-needs-survey-2010.pdf>

<sup>3</sup> <http://www.westlancs.gov.uk/housing/affordable-housing/housing-surveys-and-research/parish-ward-housing-need.aspx>

## **1.3 Planning Policy Context**

1.3.1 This section sets out the policy framework within which this SPD operates, both at national and local level.

### **National Planning Policy Framework**

1.3.2 The National Planning Policy Framework (NPPF) sets out government policy on planning for affordable housing as follows:

- Paragraph 47 requires local planning authorities to use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for both market and affordable housing in the housing market area.
- Paragraph 50 states that where local authorities have identified that affordable housing is needed, they should set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities.
- Paragraph 54 advises that local planning authorities should plan housing development to reflect local needs, particularly for affordable housing, including through rural exception sites where appropriate, and should consider whether allowing some market housing would facilitate the provision of significant affordable housing to meet local needs.
- Paragraphs 89 and 90 set out types of development that may be considered appropriate in the Green Belt. These include:
  - the extension or alteration of a building;
  - the replacement of a building;
  - limited infilling in villages, limited affordable housing for local community needs under policies set out in the Local Plan;
  - limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land); and
  - the re-use of buildings provided the buildings are of permanent and substantial construction.

Some of the above categories of appropriate Green Belt development could result in the provision of affordable housing units, either directly, or as a proportion of the units delivered (if the threshold for providing affordable housing in WLLP policy RS2 is reached or exceeded – see Section 2.1 below).

- Paragraph 173 requires that, to ensure viability, the costs of any policy requirements should provide competitive returns to both the landowner and developer to enable developments to be deliverable.



## Updates to National Policy

- 1.3.3 The NPPF remains the primary source of national policy on planning matters. However, since publication of the NPPF, the government has undertaken several consultations on proposed changes to policy, and has introduced some of these changes, some on a temporary basis, and others on a permanent basis.
- 1.3.4 In March 2014, the government introduced National Planning Practice Guidance (NPPG), a web-based planning policy resource<sup>4</sup>. NPPG provides extra detail and guidance to back up the national planning policies set out in the NPPF. NPPG may be updated periodically, but should always remain consistent with NPPF policy.
- 1.3.5 In November 2014, the government announced changes to NPPG with respect to affordable housing. Firstly, in terms of thresholds, affordable housing contributions can no longer be sought for developments of 10 residential units or less (maximum 1,000m<sup>2</sup> floorspace<sup>5</sup>). Secondly, 'vacant building credit' has also been introduced. This provision applies to the redevelopment of brownfield sites, and requires local planning authorities to take account of the floorspace of any existing buildings on site when calculating affordable housing requirements for the proposed new development. These changes to the NPPG are reflected in the policies in Chapter 2 of this SPD.
- 1.3.6 Other post-NPPF changes to national planning legislation, policy and guidance include new permitted development rights, some of which (for example office to residential conversions) could result in schemes whereby the number of new dwellings created is greater than the above national affordable housing threshold. However, NPPG advises that affordable housing contributions should not be sought from permitted development.

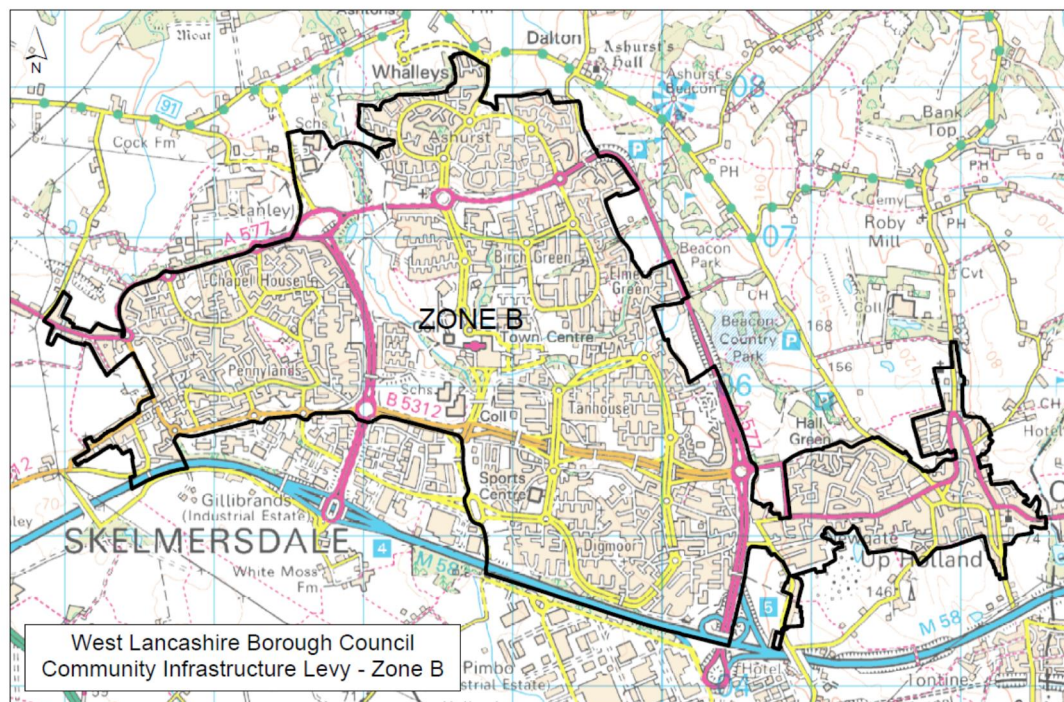
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<sup>4</sup> <http://planningguidance.planningportal.gov.uk/>

<sup>5</sup> i.e. if a development exceeds 1,000m<sup>2</sup> in floorspace, an affordable housing contribution can be required, even if the number of units does not exceed 10. Conversely, if a development is of 11 units or more, an affordable housing contribution can be required, even if the floorspace does not exceed 1,000m<sup>2</sup>.

## The Community Infrastructure Levy and Planning Obligations

- 1.3.7 The Community Infrastructure Levy (CIL) is a provision that allows local authorities in England and Wales to raise funds from developers who are undertaking new building projects in their area. The principle behind CIL is that most development has some impact on infrastructure and should therefore contribute to the cost of providing or improving local infrastructure. Money raised through CIL can be used to pay for a wide range of infrastructure that is needed to support new development, for example transport schemes, green spaces and maintenance of new infrastructure.
- 1.3.8 West Lancashire Borough Council adopted a CIL charging schedule on 23 July 2014, taking effect from 1 September 2014. As a result, developments in West Lancashire that meet the conditions for CIL are required to pay a levy at the start of the development, or in instalments throughout the project.
- 1.3.9 Affordable housing will not be funded by CIL money. Instead, it will be secured primarily from market housing schemes above the national affordable housing threshold by means of planning conditions or Section 106 planning obligations, whichever are deemed the more appropriate.
- 1.3.10 A project is liable for CIL if it involves new-build floorspace over 100m<sup>2</sup>, or a new dwelling of any size. Within West Lancashire, a CIL charge will be applied to residential, convenience retail, and food and drink development (Use Classes A3, A4, A5) within Zone A of the CIL Charging Schedule, shown below:



**Zone B – As set out in the above map**

**Zone A – The rest of the Borough outside of Zone B**

- 1.3.11 Mandatory relief from CIL may be claimed for affordable ('social') housing, subject to a number of conditions. This matter is covered in Section 2.8 of this SPD.
- 1.3.12 Extensive further information on CIL is available on the Council's website: [www.westlancs.gov.uk/CIL](http://www.westlancs.gov.uk/CIL)
- 1.3.13 The NPPF and the CIL Regulations set out the tests under which planning obligations should be sought<sup>6</sup>. If planning obligations are used, these must be:
- necessary to make the development acceptable in planning terms;
  - directly related to the development; and
  - fairly and reasonably related in scale and kind to the development.
- 1.3.14 This SPD sets out how contributions for affordable housing from individual sites are worked out, in order that each development's contribution towards affordable housing is directly, fairly and reasonably related in scale and kind to the development proposed. Provision of affordable housing is considered necessary to make developments acceptable in planning terms, and the absence of an obligation may be considered to undermine the Council's Housing Strategy and impact negatively upon the provision of affordable housing in the Borough. Taking into account the advice set out in section 2.5 of this SPD with regard to financial viability, the Borough Council considers its approach towards affordable housing provision meets the NPPF tests. Furthermore, WLLP policy RS2, on which this SPD 'hangs', has been found sound at examination, one of the tests of soundness being its compliance with NPPF policies at the time of examination.

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<sup>6</sup> These were previously contained in Government Circular 2005/05.

## West Lancashire Local Plan 2012-2027

- 1.3.15 The West Lancashire Local Plan 2012-2027 (“WLLP” or “Local Plan”) was adopted in October 2013. The policies of greatest relevance to the provision of affordable housing are policies GN1: Settlement Boundaries, RS1: Residential Development, RS2: Affordable and Specialist Housing, and IF4: Developer Contributions.
- 1.3.16 Policy RS2 sets out the percentage of affordable housing that would be required in market housing schemes, as follows:
- Outside Skelmersdale, affordable housing requirements are as follows:
    - Minimum 25% of units on schemes of 8-9 dwellings
    - Minimum 30% of units on schemes of 10-14 dwellings
    - Minimum 35% of units on schemes of 15 and more dwellings.
  - Within Skelmersdale town centre, 10% of units.
  - Elsewhere in Skelmersdale, 20% of units on schemes of 15 and more dwellings, with up to 30% on greenfield sites on the edge of the built up area of Skelmersdale.
  - Within Small Rural Villages, affordable housing should be provided on sites comprising 5 or more dwellings.
- 1.3.17 Policy RS1 also refers to affordable housing in rural areas, stating that within Small Rural Villages (the smallest type of non-Green Belt settlement), affordable housing should be provided on sites comprising 5 or more dwellings, the amount of market housing in such schemes being the minimum amount to make the overall scheme financially viable, and not less than 50% of all housing on site.
- 1.3.18 Policy RS2 advises that the precise requirements for tenure, size and type of affordable housing will be negotiated on a case-by-case basis, and that further details will be set out in this Affordable Housing SPD.
- 1.3.19 Policy GN1 refers to Protected Land. On Protected Land, small-scale (‘small scale’ is defined in the policy as being up to 10 dwellings) 100% affordable housing developments will be permitted, provided that a sequential site search<sup>7</sup> has been undertaken to demonstrate that there are no other sites within the settlement boundary (or on other Protected Land closer to the settlement centre than the site in question) that could take the proposed development.
- 1.3.20 Policy IF4 states that new development will be expected to contribute to mitigating its impact by means of contributions towards infrastructure. The types of infrastructure that may be required include affordable housing (IF4 (vii)).

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<sup>7</sup> WLLP policy GN5 sets out how a sequential site search is to be undertaken.

- 1.3.21 Amendments to affordable housing policies in the light of revisions to national guidance are set out in Section 2 of this SPD.
- 1.3.22 In terms of specialist housing, policy RS1 requires that on developments of 15 dwellings or more, 20% of the units be designed specifically for the elderly. Policy RS2 states that specialist housing for the elderly will be provided via specific schemes (e.g. Extra Care and Sheltered Accommodation), and through the requirement in policy RS1 that, in schemes of 15 dwellings or more, 20% of new residential units be designed specifically for the elderly.

### **Sustainability Appraisal**

- 1.3.23 In accordance with the *Environmental Assessment of Plans and Programmes Regulations 2004* and the *European Directive 2001/42/EC*, a Screening Report was formulated to determine whether there is a need to undertake a strategic environmental assessment as part of a sustainability appraisal on this Supplementary Planning Document.
- 1.3.24 An SPD does not require a sustainability appraisal to be completed if it relates to a parent document that has already been subject to sustainability appraisal. This is the case for this SPD, given the sustainability appraisal work on housing policies carried out throughout the preparation of the West Lancashire Local Plan 2012-2027, including policies RS1 and RS2.
- 1.3.25 An SA / SEA Screening Determination report was prepared for this SPD, and sent to the relevant statutory consultees (English Heritage, English Nature, and the Environment Agency). The consultees agreed that no SA / SEA of this supplementary planning document is considered necessary.

## 2.0 Affordable Housing Policies

2.0.1 This section of the SPD sets out West Lancashire Borough Council's policies on the provision of affordable housing. It reinforces and provides an update or more detail on policy RS2 of the West Lancashire Local Plan.

### 2.1 Quantity of affordable housing

#### Policy AH1 Affordable Housing Requirements

In line with WLLP policies RS1 and RS2, but reflecting changes to national planning guidance announced in December 2014 with regard to affordable housing thresholds, affordable housing will be required and / or permitted in West Lancashire (subject to other relevant policies) as follows:

Location	Development Size (No. units)	Affordable Housing Contribution
(i) Within Skelmersdale Town Centre (Strategic Development Site)	1-10 dwellings	No contribution
	11+ dwellings	10%
(ii) Elsewhere in Skelmersdale / Up Holland	1-14 dwellings	No contribution
	15+ dwellings	20%
(iii) Greenfield sites on the edge of Skelmersdale / Up Holland	1-14 dwellings	No contribution
	15+ dwellings	Up to 30%
(iv) Key Service Centres, Key Sustainable Villages, Rural Sustainable Villages	1-10 dwellings	No contribution
	11-14 dwellings	30%
	15+ dwellings	35%
(v) Small Rural Villages	1-4 dwellings	No contribution
	5+ dwellings	At least 50%
(vi) Protected Land	1-10 dwellings	100%
(vii) Green Belt	1-4 dwellings	100%
(viii) Green Belt (NPPF paragraph 89 brownfield sites only)	1-10 dwellings	No contribution
	11-14 dwellings	30%
	15+ dwellings	35%

The above percentage contributions of affordable units will be sought by the Council as a minimum. If more affordable housing is offered, this will usually be welcomed. Conversely, if less affordable housing is offered, robust information on viability (and any other relevant matters) will be expected from the applicant to justify the level of affordable housing proposed (see policy AH5).

When considering proposals to redevelop previously developed sites for housing, the Council will take account of the gross floorspace of any buildings on the site at the time the planning application is made which are to be redeveloped or converted as part of the development proposals for the site. This floorspace will be translated into an equivalent number of residential units, and, when calculating affordable housing requirements for the scheme, will be deducted from the total number of proposed dwellings for the site. This provision will not apply to vacant buildings which have been abandoned.

Developers and the Council should collaborate with the aim of ensuring that schemes are deliverable.

If future Housing Needs and / or Housing Viability Studies demonstrate that the above percentage contributions for affordable housing should change, West Lancashire Borough Council policies on affordable housing provision will be amended accordingly.

## **Justification**

- 2.1.1 Policy AH1 is consistent with policies RS1 and RS2 of the adopted West Lancashire Local Plan 2012-27 (WLLP), except in the case of affordable housing thresholds, where policy AH1 reflects the increased national threshold announced by the government in December 2014 and contained in National Planning Policy Guidance (NPPG). The change to the national threshold postdates and overrides the thresholds set out in the WLLP, and thus the thresholds set out in policy AH1 of this SPD supersede those in WLLP policy RS2.
- 2.1.2 The reasons for the changes (or otherwise) to the requirements of WLLP policies RS1 and RS2 are set out below:
- (i) The threshold of 11 units in Skelmersdale Town Centre reflects the new national affordable housing threshold.
  - (ii), (iii) Elsewhere in Skelmersdale and Up Holland, there is no change to the requirements of WLLP policy RS2, as the WLLP threshold of 15 units is above the NPPG threshold.



(iv) In Key Service Centres, Key Sustainable Villages and Rural Sustainable Villages, the WLLP requirement to provide affordable housing on developments of 8-10 units no longer stands, having been superseded by the new national threshold. For developments of 11 dwellings and above, the percentage affordable housing requirements remain the same as in WLLP policy RS2, these requirements being based upon a robust affordable housing viability study that was judged to be sufficiently up-to-date at the WLLP Inquiry in 2013.

(v) There is no change to the requirements of WLLP policies RS1 and RS2 in Small Rural Villages (SRVs). The settlement hierarchy for West Lancashire is set out in WLLP policy SP1. SRVs constitute the lowest tier of the West Lancashire settlement hierarchy. They have few (if any) services, and tend to be in less sustainable locations than settlements further up the hierarchy. Whereas market housing is encouraged in the larger, more sustainable, settlements, it is specifically restricted in SRVs to developments of 4 dwellings or fewer by policy RS1, unless the market housing functions as 'enabling development' to facilitate the delivery of a larger scheme predominantly comprising affordable dwellings. In such schemes, the Council would expect that at least 50% of the overall units provided will be affordable, the number of market dwellings being the minimum to ensure the financial viability of the scheme as a whole (WLLP policy RS1(a)).

This approach towards market and affordable housing in small rural villages is considered consistent with paragraph 54 of the NPPF, which states:

*In rural areas ... local planning authorities should in particular consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs.*

The raising of the national threshold to 11 units is not deemed pertinent in this instance, as the policy for SRVs is restrictive in terms of market housing, and only allows for developments of 5 or more dwellings as a limited exception to this restrictive approach, the purpose behind the exception being the provision of much-needed affordable housing in rural areas.

(vi) The policy relating to affordable housing on Protected Land remains unchanged. This is justified on the basis of there being a restrictive policy for development in general on Protected Land, with 100% affordable housing a limited exception to the general restrictions on development.

(vii), (viii) WLLP policy RS1(b) allows for 'very limited' affordable housing in the Green Belt ('very limited' defined as being up to 4 units), provided a sequential site search has been undertaken to demonstrate there are no sites in non-Green Belt areas that could realistically accommodate the proposed development. Housing permitted under this policy may be on greenfield or brownfield sites, and there is no requirement that the new development have no greater impact on openness than whatever was on site previously. WLLP



policy RS1(b) is in accordance with NPPF paragraph 89 (penultimate bullet point), which allows for limited affordable housing for local community needs under policies set out in the Local Plan.

Other than the reference to 'very limited affordable housing' in the Green Belt, the WLLP does not contain any specific policy on development in the Green Belt. Instead, the WLLP defers to national policy. WLLP policy GN1 (Settlement Boundaries) states:

*Development proposals within the Green Belt will be assessed against national policy and any relevant Local Plan policies.*

The NPPF (paragraph 89, final bullet point) allows for market housing on brownfield sites in the Green Belt, provided it does not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

Therefore, on Green Belt sites where redevelopment would have a greater impact on openness, or on greenfield sites in the Green Belt, the only housing that would be permissible would be up to 4 units of 100% affordable housing. On a brownfield site where redevelopment for housing would not have a greater impact on openness, market housing would in theory be permissible, and it would not necessarily be limited to 4 dwellings.

The WLLP policy RS1 provision for 'very limited affordable housing' is a limited exception to a restrictive policy for the Green Belt, and as such, it is not considered necessary to change this policy in the light of the new NPPG threshold.

The WLLP is silent on such matters as the redevelopment of brownfield sites in the Green Belt. However, given:

- (a) there is a demonstrable need for affordable housing across the Borough, especially in rural areas,
- (b) affordable housing contributions have been assessed as being viable (both in the Affordable Housing Viability Study and in the subsequent CIL Economic Viability Report) in all areas of the Borough outside Skelmersdale, and
- (c) the WLLP seeks affordable housing contributions at all levels of the settlement hierarchy,

... it is considered that requiring an affordable housing contribution from market housing-led developments on brownfield sites in the Green Belt is both reasonable and justified, consistent with the policy applied in Rural Sustainable Villages. In requiring an affordable housing contribution, Policy AH1 applies the NPPG threshold, and the percentage requirements for affordable housing are consistent with WLLP policy RS2.

2.1.3 The concept of 'vacant building credit' was introduced via the NPPG in November 2014<sup>8</sup>. When considering proposals to redevelop brownfield sites for housing, local planning authorities (LPAs) will note the gross floorspace of any vacant buildings on the site at the time the planning application was made. (This provision does not apply to vacant buildings which have been abandoned.) The LPA will calculate the affordable housing contributions required from the development, as set out in the WLLP. A 'credit' will then be applied which is the equivalent of the gross floorspace of any non-abandoned vacant buildings demolished or brought back into use as part of the scheme. This 'credit' will be deducted from the overall affordable housing contribution calculation.

2.1.4 West Lancashire Borough Council will use gross internal area as a measure of 'floorspace' when applying vacant building credit, consistent with CIL procedure<sup>9</sup>. The 'vacant building credit floorspace' needs to be converted into a number of housing units in order to calculate revised affordable housing requirements. The Council will use a 'conversion factor' equivalent to the average floorspace of units in the proposed development in question. An example of the use of vacant building credit is provided below:

A site has existing buildings with a total 1,200m<sup>2</sup> floorspace.  
It is in an area where a 35% affordable housing requirement applies.

The site is proposed to be redeveloped by demolishing the buildings and replacing them with 40 dwellings, average floorspace 90m<sup>2</sup>.

Vacant building credit = **1,200m<sup>2</sup>**;

This translates to 1,200 / 90 units, i.e. **13.3** residential units.

Affordable housing requirement = 35% of (40 – 13.3) = 35% of 26.7  
= **9.4 dwellings.**

(Without VBC, the requirement would have been 14 dwellings (35% of 40))

2.1.5 WLLP policy RS2 states that viability will be taken into account when assessing affordable housing percentage requirements in individual schemes. More detail on viability is set out in Section 2.5 of this SPD.

2.1.6 The requirement to provide affordable housing will apply to incremental developments on sites which, cumulatively, would result in the development of a greater number of dwellings than the relevant threshold, on a larger site. An example would be where a large site was divided up into smaller sites and proposals were submitted for 10 dwellings or fewer on a piecemeal basis.

<sup>8</sup> NPPG References - paragraph ID: 23b-021-20141128 and 23b-022-20141128; <http://planningguidance.planningportal.gov.uk/blog/guidance/planning-obligations/planning-obligations-guidance/> Further guidance is expected from central government in spring 2015; the draft SPD will be amended as necessary to reflect this guidance once the guidance is published.

<sup>9</sup> The government statement announcing the introduction of vacant building credit cited one reason for its introduction as being to make the procedure consistent with CIL procedure.

## 2.2 Tenure and type of affordable housing

### **Policy AH2 Affordable housing tenure and type**

At present, West Lancashire Borough Council operates on the basis that 80% of affordable units provided should be social rented tenure, and the remaining 20% intermediate housing.

Whilst WLBC will usually require, as a starting point for negotiation, that 80% of affordable housing provided should be social rented tenure, the Council may consider the substitution of some social rented units for affordable rented units if it is demonstrated that this would result in an otherwise unviable scheme being made viable.

The following types of housing will count as 'affordable housing' for the purposes of policy AH1:

- Social rented units;
- Affordable rented units;
- Shared ownership units;
- Discounted market units.

Low cost market housing and housing for sale under the 'Help to Buy' programme will not count as 'affordable housing'.

In terms of size of affordable housing, the HNDS sets out the housing need by property size. This evidence, and any more up-to-date and robust evidence, will be taken into account when negotiating affordable housing provision on a site-by-site basis. The developer should liaise with the Council's Housing Strategy and Development Programme Manager to ascertain the most appropriate size (and tenure) of affordable units to satisfy local needs relating to the scheme in question.

## Justification

2.2.1 This tenure mix currently advocated by the Council stems from the findings of the HNDS, and reflects the evidence base available to the Council. The table below shows the gross Borough-wide need for affordable housing, by tenure.

<b>Gross need by social rent / intermediate housing requirements</b>		
Equity-based intermediate	Intermediate rented	Social rented
3%	9%	88%

*Source: West Lancashire HNDS Table 6.17 (p69)*

2.2.2 If updated evidence demonstrates that a different tenure mix is more appropriate, the Council will take this into consideration in its decision making and future policies.

2.2.3 In 2011, the 'affordable rent' tenure was introduced. Affordable rent has been designed to give Registered Providers scope to increase rents on new lettings, at up to 80% of market rents in the area (in comparison, social rents are typically 40-50% of market rents). This ability to increase rents allows Registered Providers to borrow more and raise additional finance to fund their development activities. This is necessary because of reductions in affordable housing government grant funding.

2.2.4 The affordable rent tenure can positively affect the viability of housing developments in situations where viability is marginal, as it changes the amount that Registered Providers are able to pay the developer for the affordable elements of the scheme. However, affordable rented tenure properties are not as effective as social rented tenure properties at meeting affordable housing needs. In order to aid the viability of a scheme that would otherwise be unviable, the Council may consider the substitution of some social rented units for affordable rented units, balancing the above two factors. Viability is discussed further in Section 2.5 below.

2.2.5 West Lancashire Borough Council will consider the following types of housing to count as 'affordable housing' for the purposes of WLLP policy RS2:

- **Units for Social Rent**

These units are normally managed by a Registered Provider (RP) and will provide 100% nomination rights to the Council on the first letting and subsequent lettings, unless otherwise agreed.

- **Units for Affordable Rent**

Units for affordable rent are normally managed by an RP and will provide 100% nomination rights to the Council on the first and

subsequent lettings. Rents are set at up to 80% of the market rental value in the locality.

In West Lancashire, applicants for social rented and affordable rented tenure properties are required to register their details via an online application process, West Lancs HomeFinder<sup>10</sup>. Once approved, applicants are then able to bid on properties. Those with higher priority needs will be banded in a higher category and therefore given priority in the bidding process.

- **Shared Ownership Units**

A shared ownership property is owned partly by an RP, with rent being payable to the RP for their percentage of the property value, whilst the remaining proportion of the property is owned by the occupier. The occupier's share is usually purchased through private finance, for example by means of a mortgage arranged with a bank or building society.

Shares may start as low as 25%, with the purchaser being able to buy further shares when they are able. This is known as 'staircasing'. Most new schemes will allow staircasing to 100% (i.e. the occupant buys / owns the whole property).

In order for shared ownership units to be affordable in perpetuity, it is necessary for there to be mechanisms in place to ensure that the subsidy is recycled for alternative affordable housing provision.

- **Discounted Market Units**

This tenure involves offering housing for sale at a discount from the full market value of the property. The discount is set as a percentage of the full market value, i.e. 35% of the market value (the buyer thus pays 65% of the full market value). The resale price should be maintained at a discounted level for subsequent re-sales through an appropriate legal agreement, in order to retain the availability of lower-cost properties for sale in perpetuity.

Alternatively, when the property is resold, the same 'discount percentage' of the full market value of the property at the time of resale would be paid to the Council, to use in provision of affordable housing by other means and / or related enabling activity. This approach (the 'discount sale model') is set out in more detail in Appendix A to this SPD.

Discounted market units should be affordable in the context of house prices generally in the local area (settlement / parish), not just in the

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<sup>10</sup> See <https://www.westlancshomefinder.co.uk/Data/ASPPages/1/30.aspx>

context of the particular site. Owing to high house prices across most of West Lancashire, it is unlikely that this option would provide genuinely affordable housing to those on lower incomes without a 35% discount ( from the market price. Occupants of such housing are selected in order of eligibility against a set of criteria set out in the advertised details for the property in question. The applicant at the top of the list will normally be offered the property.

- 2.2.6 As per the definition of affordable housing in the NPPF, 'low cost' market housing will not be considered as affordable housing for the purposes of WLLP policy RS2 nor for this SPD.
- 2.2.7 Similarly, housing for sale under the current 'Help to Buy' programme does not qualify as affordable housing for the purposes of WLLP policy RS2 nor for this SPD.

### Self Build Housing

- 2.2.8 Self build housing, also known as 'custom build housing', comprises housing built or commissioned by individuals, or by groups of individuals, for their own occupation. There is no single, tightly-defined model for self build housing, but rather a wide range of ways by which self build housing can be delivered.
- 2.2.9 Self build housing does not usually qualify as affordable housing; rather, it would generally be considered to be market housing. Only self-build properties that satisfy the NPPF / WLLP definition of affordable housing (p2 above) will count as affordable for the purposes of policy RS2<sup>11</sup>.
- 2.2.10 Self-build schemes above the affordable housing thresholds in policy AH1 above would normally be required to provide the defined amount of affordable housing unless it is demonstrated that such provision would undermine the viability of the development. Viability is discussed in Section 2.5 below.

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<sup>11</sup> For example, the properties would need to be rented from a Registered Provider.

## 2.3 Specialist Housing for the Elderly

### **Policy AH3 Specialist Housing for the Elderly**

Policy RS1(e) of the West Lancashire Local Plan (WLLP) requires that 20% of units within residential developments of 15 dwellings or more should be designed specifically to accommodate the elderly.

The following types of housing can constitute specialist housing for the elderly:

- Mainstream homes;
- Specialised homes;
- Extra care housing;
- Care homes.

The requirement to provide housing for the elderly (WLLP policy RS1(e)) is independent of the requirement to provide affordable dwellings (WLLP policy RS2). However, where appropriate, the two requirements may overlap to an extent, i.e. some units may be both affordable and designed for the elderly.

The policy RS1(e) requirement for elderly accommodation will apply to 100% affordable housing developments of 15 units or more.

### **Justification**

2.3.1 WLLP policy RS1<sup>12</sup> provides the background to, and justification for, the requirement to provide specialist housing for the elderly.

2.3.2 As explained in paragraph 1.1.4 above, specialist housing for the elderly (or 'accommodation designed specifically for the elderly', as referred to in WLLP policy RS1) is not tightly defined, in order to give flexibility to those providing the accommodation. Specialist housing / accommodation for the elderly could be in Use Class C2 or C3, although it is expected that it will usually be Class C3. Where possible and / or appropriate, specialist housing for the elderly should be consistent with the HAPPI principles (see 1.1.5).

2.3.3 Specialist housing for the elderly may take (but is not limited to) the following forms:

- **Mainstream Homes**

These comprise individual homes for purchase or rent, and could take the form of bungalows, flats, or houses. They cannot be designated for any specific user group (e.g. there is no age restriction on their purchasers), but such homes are likely to contain specific features for elderly

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<sup>12</sup> See paragraphs 7.13-7.18 of the WLLP (pages 95-96).

occupants. Personal care, support, other services and amenities are not specifically made available as part of such housing.

- **Specialised Homes**

These are groups of homes (usually flats) to buy or rent – designated for older people (typically 55+). Personal care and support may be arranged or provided within the development together with shared facilities and activities. This category of accommodation could also include housing for elderly people with special needs. Whether these properties fall within Use Class C2 (Residential Institutions) or C3 (Dwelling Houses) depends on the level of care provided for individual dwellings, and their degree of self-containment.

- **Extra Care Housing**

For the purpose of this SPD, extra care housing is defined as purpose-built accommodation, usually for frailer, older people, in which varying levels of care and support can be offered on site, and where some services are, or can be, shared between properties. People who live in extra care housing have their own self-contained homes, their own front doors and a legal right to occupy the property. Extra care housing may also be known as very sheltered housing or assisted living. It can come in many built forms, including blocks of flats, bungalow estates and retirement villages. Extra care housing is often popular amongst the elderly, as it is an alternative to care homes. Whether this type of accommodation falls within Use Class C2 or C3 depends on the extent of care provided for individual dwellings and their degree of self-containment. It is possible for an extra care development to comprise both C2 and C3 units.

2.3.4 Whilst Care Homes (Class C2) provide residential care for the elderly, this tends to be in the form of non-self-contained units. Such accommodation would count towards the 20% elderly housing requirement if it can be demonstrated that the units are self-contained<sup>13</sup> and provide independent living.

2.3.5 It is noted that WLLP policies RS1(e) and RS2<sup>14</sup> place an expectation on developers to build all new homes to the Lifetime Homes standard. Thus, all new homes should be readily adaptable to accommodate older people.

2.3.6 Any Class C2 accommodation that counts towards the 20% specialist housing requirement will also count towards the Borough's general housing supply where the provision of the accommodation results in its occupants being able to release their current property back into the general housing market and thus "free up" housing supply.

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<sup>13</sup> A property is considered self-contained where all the rooms (including kitchen, bathroom and toilet) are behind a single door which only that household can use.

<sup>14</sup> See WLLP policy RS1(e), paras. 7.16-18, and policy RS2 (bullet points after seventh paragraph)



## Relationship between affordable and specialist elderly accommodation

2.3.7 The requirement to provide specialist housing for the elderly (WLLP policy RS1; 20% of units) is independent of the requirement to provide affordable dwellings (WLLP policy RS2; typically up to 35% of units), although the two types of residential unit can overlap to an extent, i.e. some of the affordable units may be designed for the elderly (see example below). The extent of overlap between the two requirements will vary from scheme to scheme, and will usually depend on the nature of the affordable housing need in an area, e.g. the age profile of those in need of affordable housing.

### Overlap between affordable and elderly housing requirements

For a scheme of 80 dwellings,

- Affordable housing requirement =  $0.35 \times 80 = 28$  dwellings
- Elderly housing requirement =  $0.2 \times 80 = 16$  dwellings

If the affordable and elderly units were to be mutually exclusive, total affordable and / or specialist units =  $28 + 16 = 44$  units (**55% of total site**)

The local housing need is such that 7 of the affordable units should be for older people. The breakdown of the affordable / elderly units becomes:

- 21 affordable units for non-elderly persons
- 7 affordable units for elderly persons
- 9 market units for elderly persons

Total affordable and / or specialist units =  $21 + 7 + 9 = 37$  units (**46% of site**)

2.3.8 Prior to a planning application being submitted, the applicant is encouraged to liaise with the Council's Housing Strategy and Development Programme Manager, who can advise as to the nature of affordable housing needs in a particular area<sup>15</sup>, and *inter alia* to what extent the affordable and specialist housing requirements may overlap. The applicant will be expected to provide a brief statement justifying their proposed levels of affordable and elderly accommodation, and how these contribute towards meeting local needs.

2.3.9 Section 2.5 of this SPD deals with viability. The WLLP makes clear that if the provision of accommodation designed for the elderly has a negative impact upon viability, this will be taken into account when assessing affordable housing and / or other policy requirements for the proposed development.

<sup>15</sup> Information on affordable housing needs at Parish and Ward level is provided on the Council's website at:

<http://www.westlincs.gov.uk/housing/affordable-housing/housing-surveys-and-research/parish-ward-housing-need.aspx>

2.3.10 For clarity, the WLLP policy RS1 requirement that 20% of units in schemes of 15 or more units be designed specifically to accommodate the elderly will also apply to 100% affordable housing schemes of 15 or more units. If it is proposed that less than 20% of the units be designed for the elderly, the Council would expect justification to be provided, e.g. lower proposed provision based on the nature / demographics of affordable housing need in the area.

## 2.4 On / Off-site Provision

### **Policy AH4 Off-site provision of affordable housing**

Exceptionally, and where it is robustly justified, off-site provision of affordable housing may be considered as an alternative to on-site provision, where a site(s) has been identified and secured for the delivery of the required affordable housing to the satisfaction of the Council.

Delivery of such a site(s) should be programmed alongside the delivery of the main site through a Section 106 agreement and the number of units of affordable housing required should be derived from the relevant proportion from the policy above of the total number of units on the combined sites.

In such circumstances, off-site provision should be provided in the locality, i.e. within the same (or, exceptionally, an adjacent) parish as the development site, or within the same settlement in non-parished areas.

### **Justification**

- 2.4.1 Policy AH5 originates from paragraph 7.30 of the WLLP, which sets out the Borough Council's approach to off-site provision.
- 2.4.2 Paragraph 50 of the NPPF states that where local authorities have identified that affordable housing is needed, they should set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities. It is the view of WLBC that NPPF paragraph 50 does not *require* local authorities to set policies allowing for a financial contribution to be provided in lieu of physical dwellings, but *allows* them to set such policies, should they wish to do so. The Inspector carrying out the WLLP examination in 2013 agreed with the Council's interpretation of NPPF paragraph 50.
- 2.4.3 WLBC consider that affordable housing should be provided on site wherever possible, that affordable housing should only be provided off-site in exceptional circumstances and where robustly justified, and that commuted sums in lieu of affordable housing provision are not acceptable.
- 2.4.4 Under policy AH5, if, for example, a development of 20 houses were proposed on a site in Ormskirk, the policy would require 7 of the 20 dwellings (35%) to be affordable. If the developer demonstrated to the Council's satisfaction that this affordable housing contribution could not be provided on-site, then they would be required to secure a site in the local area suitable for

the affordable element of the scheme. If 20 market dwellings were provided on the 'original' site, then the number of affordable dwellings on the additional site would need to be sufficient to constitute 35% of the combined scheme.

2.4.5 The formula below shows how to calculate the number of off-site affordable housing units:

$$\text{No. off-site AH units} = \text{No. on-site market units} \times \frac{\text{Required AH \%}}{(100 - \text{Required AH \%})}$$

*... where AH % = percentage affordable housing required by WLLP policy RS2 or policy AH1 of this SPD.*

So, in the above example, the number of affordable units required would be

$$20 \times (35 / 65) = 20 \times 0.54 = 11 \text{ affordable units}$$

2.4.6 As the above example shows, the permitting of off-site affordable housing should result in more affordable units being provided overall<sup>16</sup>. Whilst, as with any planning application for residential development, the Council will have regard to viability considerations, the applicant will be expected to provide very robust justification if the overall percentage of affordable housing proposed on the two sites were to be less than what could be achieved in normal circumstances (i.e. if it had actually been possible to provide affordable housing) on the 'original' site.

2.4.7 'The locality' (as stated in policy AH5) means the same parish (or exceptionally an adjacent parish), or the same settlement. The Council would normally only consider an adjacent parish if the 'original' site in question were close to the boundary of a particular parish. In such circumstances, the 'additional' site should be as close as is realistically possible (within the restrictions of adopted planning policy<sup>17</sup>) to the original site. In non-parished areas (i.e. Ormskirk and Skelmersdale), the 'additional' site should be not just within the same settlement, but also within a similar character area as the 'original' site. For example, the Council would be unlikely to support market housing in the most affluent part of the settlement, with the associated off-site affordable housing being proposed in one of the least affluent parts of the settlement.

<sup>16</sup> In the example given, the single site scheme would, in normal circumstances have 13 market and 7 affordable dwellings (total 20). The two-site scheme would have 20 market and 11 affordable dwellings.

If the two sites (20 units and 11 units) were to be developed separately in compliance with the policy RS2 requirements, the overall number of market houses would be 21 (13 plus 8) and the number of affordable units would be 10 (7 plus 3) as there would be a 30% requirement on the 11 unit site, rather than the 35% requirement applied to the combined sites.

<sup>17</sup> For example, it would not be expected that the 'additional' site would be located within the Green Belt.

2.4.8 The aim of the requirement for the off-site provision to be situated 'in the locality' (and the aim of the usual policy RS2 approach for affordable housing to be provided on-site, rather than off-site) is to create sustainable mixed and balanced communities by discouraging the segregation of affordable housing and market housing.

2.4.9 WLLP policy RS2 does not allow for a financial contribution as a substitute for provision of actual affordable units. The primary reason for the Council's stance on this matter is that receipt of a commuted sum means the Council would need to take on the risks associated with finding a suitable site, obtaining planning permission, and delivering the affordable units. Any unforeseen problems could result in fewer affordable housing units being delivered. It is the view of the Council that such risks should remain with the developer behind the original market housing-led scheme, and that it be guaranteed that the required number of affordable units are provided rather than the risk being transferred to the Council.

## 2.5 Viability considerations

### **Policy AH5 Viability of development**

Where an applicant / developer proposes not to meet in full the requirements of policies of the West Lancashire Local Plan (WLLP) with regard to affordable housing, elderly housing, and other developer contributions, they will be required to submit a viability assessment setting out how the WLLP policy requirements would render the development unviable, and demonstrating how the proposed scheme best contributes towards meeting policy requirements viably.

The Council will have regard to evidence submitted by the applicant and will consider whether any flexibility in planning obligations is justified. If an independent assessment of viability evidence is required, the Council will require the applicant to pay for the cost of the assessment.

For large schemes, the Council will require a phasing plan. In order to take account of changing market conditions, levels of affordable and specialist housing provision will be agreed on a phase by phase basis.

### **Justification**

2.5.1 Viability is a key consideration when assessing residential (and other) development schemes. Paragraph 173 of the NPPF states:

*To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer*

2.5.2 National Planning Practice Guidance (NPPG) contains a number of paragraphs on viability. In terms of decision-making, NPPG states:

*In making decisions, the local planning authority will need to understand the impact of planning obligations on the proposal. Where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations.*

*This is particularly relevant for affordable housing contributions which are often the largest single item sought on housing developments. These contributions should not be sought without regard to individual scheme viability.<sup>18</sup>*

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<sup>18</sup> NPPG Paragraph 019 Reference ID: 10-019-20140306

- 2.5.3 The affordable housing requirements set out in Policy RS2 were derived taking into account the findings and recommendations of a comprehensive and robust Affordable Housing Viability Study<sup>19</sup> which concluded that a 35% affordable housing target could viably be applied to sites with as few as six dwellings. The evidence base behind the WLLP (including policies RS1, RS2 and IF4) was found sound at the Local Plan Examination in 2013.
- 2.5.4 More recently, the Council commissioned a viability study to inform its plans for adoption of a Community Infrastructure Levy (CIL) charging schedule. The resulting CIL Economic Viability Report<sup>20</sup> examined the viability (or otherwise) of a CIL charge on residential development schemes on brownfield and greenfield sites in various parts of West Lancashire. The final report (August 2013) concluded that a CIL charge would be justifiable in most locations in the Borough, taking into account the cost implications of the suite of WLLP policy requirements related to residential development. This evidence was accepted at the CIL Examination in early 2014.
- 2.5.5 Notwithstanding the findings of the AHVS and CIL Economic Viability Report, the Council does recognise that its policies have financial implications for developers (e.g. affordable housing, Lifetime Homes, open space, transport contributions), and that in individual cases, the cumulative impact of the WLLP policy requirements, coupled with the individual circumstances of a particular site (for example a site with significant abnormal costs, or a site in a weaker housing market area) may render a proposed development unviable.
- 2.5.6 For this reason, there is scope built into WLLP policies for viability to be taken into account. For example, WLLP paragraph 7.15 (Policy RS1 justification) advises that if the provision of specialist housing for the elderly would have a material negative impact upon viability, this can be taken into account when assessing affordable housing and / or other policy requirements<sup>21</sup>. On the same subject, paragraph 7.35 (Policy RS2 justification) adds that if a scheme is unable to meet the elderly accommodation and affordable housing requirements viably, consideration should be given on a case-by-case basis

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<sup>19</sup> Affordable Housing Viability Study, November 2010, Fordham Research:  
<http://www.westlancs.gov.uk/media/85124/AFFORDABLE-HOUSING-VIABILITY-STUDY-NOV-2010-OPTI.pdf>

<sup>20</sup> The CIL Economic Viability Report is available on the Council website by following links from:  
<http://www.westlancs.gov.uk/planning/planning-policy/community-infrastructure-levy/examination/submission-evidence-document.aspx>

<sup>21</sup> Notwithstanding the above, it is anticipated that, given the increasing number / proportion of elderly persons in the Borough, demand for accommodation for the elderly should increase markedly, and such properties should be popular and achieve healthy sales prices, meaning that impact on viability should not be significant. Indeed, developers may provide such accommodation in future, even without a policy requirement to do so. On a related issue, government research has shown that homes with higher energy efficiency standards are selling at higher prices, indicating that in future, costs associated with the implementation of energy efficiency measures will be recouped by the developer, thereby removing any negative impact upon viability. See:  
<https://www.gov.uk/government/news/energy-saving-measures-boost-house-prices> .  
The same could be argued about Lifetime Home features.

to whether the affordable housing requirement, specialist housing requirement, or both requirements, should be reduced in order to achieve a viable scheme.

2.5.7 Similarly, and more generally, WLLP policy IF4 states:

*Where a development is made unviable by the requirements of a planning obligation, the Council will have regard to appropriate evidence submitted by an applicant and consider whether any flexibility in the planning obligation is justified.*

2.5.8 Some requirements are non-negotiable (e.g. CIL, or Building Regulations). However, there are various 'policy-related adjustments' that can be made to proposed schemes to improve viability, for example:

- Reduce the affordable housing percentage requirement;
- Amend the tenure mix of affordable dwellings (e.g. substitute a proportion of the social rented units with affordable rented units);
- Introduce an element of discount sale housing;
- Reduce the elderly housing requirement;
- Waive the policy expectation to meet Lifetime Homes standards;
- Combine parts of the affordable and elderly housing requirement;
- Relax other policy requirements (for example to do with climate change or public open space).

2.5.9 The Council will treat each application on its individual merits. There is no simple formula or 'hierarchy of viability' that can be set out, to be applied to every residential scheme. Solutions to improve viability in some situations may not be appropriate in other situations. For example, in one location, it may be most appropriate to meet the policy RS2 / AH1 percentage in full and to adjust the tenure mix to include affordable rented properties, whereas in another location, the most appropriate solution may be to keep the affordable units as predominantly social rented tenure, but to reduce the overall percentage of affordable housing below the policy RS2/AH1 requirement.

2.5.10 Pre-application discussions with the Council are recommended and encouraged. If achieving a viable development is likely to be an issue, such discussions can provide a steer on the most acceptable way of facilitating the viability of a proposed development.

2.5.11 NPPG advises that where the deliverability of development may be compromised by the scale of planning obligations and other costs, a viability assessment may be necessary.

2.5.12 In line with the above guidance, WLLP policy RS2 and policy AH5 above recognise that there may be occasions where it may not be viable to provide the specified percentages of affordable or specialist housing. In such cases, the policies require the developer to submit an 'open book' viability



assessment to the Council demonstrating on what basis such a scheme would be unviable and the assumptions made in relation to build costs and capital receipt for the proposed housing. **Appendix B** sets out the type of information that the Council would expect in a viability assessment. WLLP policy RS2 allows for such viability assessments to be independently verified by the Council, and / or on the Council's behalf, with the cost of the verification being met by the applicant.

#### Phasing of affordable housing

2.5.13 NPPF paragraph 174 requires that policies facilitate development through the economic cycle. NPPG adds clarification, advising that whilst viability assessments should be based on current costs and values, where a scheme requires phased delivery over the medium and longer term, changes in the value of development and changes in costs of delivery may be considered<sup>22</sup>.

2.5.14 The viability of providing affordable units may change significantly over time, for better or for worse. For example, unforeseen costs may arise (e.g. associated with land stability or contamination) meaning that development is less viable than originally judged. Conversely, the housing market may pick up, meaning that it would be viable to provide more affordable housing than the amount originally agreed (e.g. this would be expected to be the case for schemes where affordable housing contributions agreed during the time of the 'credit crunch' and subsequent recession c 2008-11, but where the housing units were delivered in 2013 onwards). It is also recognised that the timescales within the development programme for the delivery / handover of the affordable units can influence the viability of a scheme. These matters will be taken into account when assessing the details of a scheme's phasing, and when negotiating planning obligations.

2.5.15 For large schemes that are to be delivered in phases, the Council will require a phasing plan. Levels of affordable and specialist housing provision will be agreed on a phase by phase basis, allowing for changing market conditions to be taken into account at each stage of the development.

2.5.16 Furthermore, in cases where a scheme is not found sufficiently viable to accommodate some or all of the affordable and specialist housing requirement at the time of determining the planning application, the Council may require additional viability assessments by legal agreement, should the development not be implemented within a reasonable timescale (normally 2 years), as viability changes over time.

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<sup>22</sup> NPPG Paragraph 017 Reference ID: 10-017-20140306

## **2.6 Involvement of a Registered Provider**

- 2.6.1 The Council has a preference for Registered Providers to be involved in the delivery of affordable housing units, as this provides greater certainty that the affordable housing will be delivered, and that it will be managed well. Affordable housing should be secured for the long-term and should have a clear governance regime agreed with the Homes and Communities Agency.
- 2.6.2 As early as possible in the process, in order to understand acquisition values, the developer is advised to negotiate with a Registered Provider registered with the Homes and Communities Agency.

## **2.7 Occupancy Control**

- 2.7.1 In line with the National Planning Policy Framework, the Council will ensure that affordable housing provision in a development will include provisions to ensure it remains affordable for future households in affordable housing need.
- 2.7.2 Such requirements will be included in the Section 106 Agreement and will apply across all affordable housing tenure types. Examples of such requirements are:
- The Borough Council reserving the right to approve / nominate households to the affordable housing;
  - Households having the required local connection as defined in the Borough Council's Housing Allocation Policy;
  - Households meeting any specific affordability criteria;
  - Any other relevant and appropriate occupancy controls related to the affordable housing.

## **2.8 Affordable Housing and CIL**

- 2.8.1 Mandatory relief from the Community Infrastructure Levy may be claimed for social housing, subject to the following conditions:

The individual or organisation claiming social housing relief must:

- have assumed liability to pay CIL through submission of an Assumption of Liability Form, prior to commencement;
- be an owner of the relevant land;
- submit a claim for social housing relief on a Claiming Exemption or Relief Form, prior to commencement;
- include a relief assessment that identifies on a plan the location of the dwellings to which social housing relief applies, sets out the gross

internal area of each of those dwellings, and includes a calculation of the chargeable amount; and

- supply evidence that the chargeable development qualifies for social housing relief (by reference to the conditions in CIL Regulation 49 / 49c).

2.8.2 The provisions above are derived from the CIL Regulations 2010 (as amended)<sup>23</sup>. Residential development within the majority of West Lancashire (see p7 / paragraph 1.3.9 and the map showing Zones A and B) will be liable to receive a CIL charge. Social housing, whether it be a 100% affordable housing scheme, or the affordable housing element within a mixed residential scheme, falls under the umbrella of residential development and, as such, is liable to receive a CIL charge.

2.8.3 However, social housing is eligible for mandatory relief from CIL. CIL Regulation 49A covers social housing relief and sets out the condition(s) a property must satisfy in order to qualify as social housing. Whilst these conditions are very similar to the NPPF definition of affordable housing (paragraph 1.1.1 above), developers should consult the CIL Regulations to verify that the housing product they offer qualifies as social housing for the purposes of CIL relief. Regulation 49C sets out the requirements for social housing communal development.

2.8.4 Social housing relief (SHR) is not applied automatically; claims for relief must be submitted to, and determined by, the Council before the development commences, subject to the policy AH6 conditions being met. The *Assumption of Liability Form* and the *Claiming Exemption or Relief Form* are available on the government's Planning Portal website<sup>24,25</sup>. Links to the Portal are provided from [www.westlancs.gov.uk/CIL](http://www.westlancs.gov.uk/CIL).

2.8.5 Claims for SHR will lapse if the development commences before the Council has notified the claimant of its decision on relief. In addition, the development will also cease to be eligible for SHR if:

- “Form 6”: *Commencement Notice*<sup>26</sup> is not submitted to the Council prior to commencement, or
- the claimant's assumption of liability is withdrawn or ceases to have effect, or
- the claimant transfers liability to another person.

2.8.6 Developers should refer to the Council website<sup>27</sup>, for a more in-depth summary of the relevant provisions and requirements.

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<sup>23</sup> See <http://www.legislation.gov.uk/all?title=community%20infrastructure>

<sup>24</sup> The Assumption of Liability form is referred to as “Form 1” and is available at:

[http://www.planningportal.gov.uk/uploads/1app/forms/form\\_1\\_assumption\\_of\\_liability.pdf](http://www.planningportal.gov.uk/uploads/1app/forms/form_1_assumption_of_liability.pdf)

<sup>25</sup> The Claiming Exemption or Relief form is referred to as “Form 2” and is available at:

[http://www.planningportal.gov.uk/uploads/1app/forms/form\\_2\\_claiming\\_exemption\\_and\\_or\\_relief.pdf](http://www.planningportal.gov.uk/uploads/1app/forms/form_2_claiming_exemption_and_or_relief.pdf)

<sup>26</sup> For Form 6 – Commencement Notice, see:

[http://www.planningportal.gov.uk/uploads/1app/forms/form\\_6\\_commencement\\_notice.pdf](http://www.planningportal.gov.uk/uploads/1app/forms/form_6_commencement_notice.pdf)

## 2.9 Planning conditions and S106 agreements

2.9.1 A Section 106 agreement is a legal agreement between the developer / landowner and the local planning authority, made under Section 106 of the Town and Country Planning Act 1990 (as amended). It is the means by which the local planning authority controls the affordable / specialist function of the dwellings provided, either on a 100% affordable site, or where the affordable / specialist housing is provided within a market-housing led scheme.

2.9.2 The Section 106 agreement will normally cover (but is not limited to) the following points:

- A description of the affordable/specialist units and the property type and tenure mix if appropriate;
- The location of affordable housing provision within the site;
- The phasing of on-site affordable housing provision within the overall scheme to ensure that affordable housing units are developed at an agreed rate in relation to the market housing;
- A property marketing mechanism in respect of the affordable units;
- Arrangements for the involvement of Registered Providers or any other appropriate agency;
- 'Mortgagee clauses' to define the conditions attached to the affordable housing, should the mortgagee exercise their power of sale;
- Occupancy controls;
- Local connection requirements;
- Any Council nomination rights in respect of rented units / units for sale; and:
- A mechanism to assess or change the scope of the S106 Agreement.

2.9.3 Applicants are advised to provide a draft Section 106 agreement with their planning applications, based on the template available on the Council's website, to ensure that their application can be dealt with as speedily as possible. Any significant changes to the Council's template will delay determination of the application and may not necessarily be agreed.

2.9.4 Applicants will need to make sure that they are familiar with the CIL and Section 106 requirements; these sit alongside each other, but have different approaches and regulations. Section 106 agreements are finalised pre-decision, whereas CIL is dealt with post-decision. As a general process, an applicant would need to finalise the Section 106 agreement, receive planning approval, then assume liability for CIL, apply for relief from CIL, receive a decision on relief, and then submit a commencement notice before starting any work on site.

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<sup>27</sup> <http://www.westlincs.gov.uk/planning/planning-policy/community-infrastructure-levy/relief-and-exemptions-from-cil/social-housing-relief.aspx>

## **Appendix A     Discount Sale Model**

The 'Discount Sale Model' is an approach that will, over time, provide funds that can be used for affordable housing development and / or affordable housing enabling purposes, although it is not a commuted sum approach in itself (commuted sums are not allowed for by WLLP policy RS2). This model is attractive to developers and also provides affordable housing to buy.

The approach is straightforward in that the Council will negotiate affordable housing on a given site. This may include rental products but can also include the provision of property to be sold at a discount to open market value. The homes would be sold to those households who can demonstrate that they cannot afford to buy on the open market.

The purchaser would buy 100% equity of the property but at a price which equates to a discount from open market value. After discount, the affordable housing price is based on a predetermined multiplier (3.5 times the average salary for the area).

A typical example would involve a property being sold at 65% sale price with 35% equity in favour of the local authority. The equity would be secured by way of a second charge. The legal fees and second charge are registered by the developer and there is no cost to the council.

The equity (35%) is released in favour of the Council when the owners (who were granted the discount) sell and move on. The initial equity stake can go up or down in value dependant on the housing market at the time.

This equity approach model means that any funds the Council receives are not time limited as might be the case for commuted sum receipts, although the Council fund only grows when properties are sold.

The most common type of units that this product would be used for is apartments and two bed houses. Using the approach on smaller units helps first time buyers to get on to the housing ladder and then enables them to move on when they require larger housing as their household size grows. Applying the model on larger dwellings may not encourage subsequent moves to occur.

## Appendix B

### Viability Assessment Checklist

Where a viability assessment is required to justify the provision of a lesser percentage of affordable housing than specified by policy AH1 of this SPD, the Borough Council would expect the appraisal to include the following information:

#### Proposed development

Description of proposed scheme: site area, numbers / type of dwellings, floorspace / number of bedrooms, number / tenure of affordable units.

#### Development Values

Market values of units for sale (price per m<sup>2</sup> floorspace; price per whole unit); total revenue for whole site.

Sale of affordable housing units (i.e. the amount the Registered Provider are to pay for the units).

Service charges / ground rents / leases.

#### Development Costs

Site acquisition costs – including legal / agents' fees, stamp duty, any costs associated with covenants / ransom strips, etc.

Services / site preparation / roads / other infrastructure.

Build costs of residential units; source(s) of build costs.

Abnormal costs.

Costs associated with planning obligations – open space, commuted sums, etc.  
(a) for the proposed development, and  
(b) as required by policy (AH1, etc.).

Community Infrastructure Levy.

Professional fees.

Cost of finance – timescales and interest rate(s).

Contingencies (amount of percentage).

Cost of sales / letting, marketing, legal / agents' fees.

Developer's profit / margin (amount or percentage).