



Exeter City Council

To the Chair and Members
of the Executive

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Our ref:

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A meeting of the **EXECUTIVE** will be held in the Rennes Room, Civic Centre, Paris Street, Exeter at **5.30 pm** on **TUESDAY 18 SEPTEMBER 2012** to consider the following business. If you have an enquiry regarding any items on this agenda, please contact Rowena Whiter, Member Services Manager on **Exeter 265110**.

Entry to the Civic Centre can be gained through the Customer Service Centre, Paris Street.

Pages

AGENDA

Part I: Items suggested for discussion with the press and public present

1 **APOLOGIES**

To receive apologies for absence from Committee members.

2 **MINUTES**

To sign the minutes of the meetings held on 19 June and 3 July 2012.

3 **DECLARATIONS OF INTEREST**

Councillors are reminded of the need to declare interests in relation to business on the agenda, before any discussion takes place on the item. Councillors requiring clarification should seek the advice of the Monitoring Officer prior to the day of the meeting.

4 **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 -
EXCLUSION OF PRESS AND PUBLIC**

RESOLVED that, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of items 12 to 14 on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1, 3 and 4 of Part I, Schedule 12A of the Act.

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- 5 **KITCHEN AND BATHROOM REPLACEMENT PROGRAMME**
- To consider the report of the Assistant Director Housing and Contracts. 1 - 6
- Scrutiny Committee – Community considered the report at its meeting on 4 September 2012 and comments will be reported.
- (Report circulated)
- 6 **REVIEW OF ANTI-SOCIAL BEHAVIOUR POLICY AND PROCEDURES FOR HOUSING LANDLORD SERVICES**
- To consider the report of the Assistant Director Housing and Contracts. 7 - 10
- Scrutiny Committee – Community considered the report at its meeting on 4 September 2012 and comments will be reported.
- (Report circulated)
- 7 **TENANCY SUCCESSION AND ASSIGNMENT**
- To consider the report of the Assistant Director Housing and Contracts. 11 - 22
- Scrutiny Committee – Community considered the report at its meeting on 4 September 2012 and comments will be reported.
- (Report circulated)
- 8 **ACQUIRING S106 AFFORDABLE HOMES**
- To consider the report of the Assistant Director Housing and Contracts. 23 - 24
- (Report circulated)
- 9 **AFFORDABLE HOUSING SUPPLEMENTARY PLANNING DOCUMENT**
- To consider the report of the Assistant Director City Development. 25 - 48
- (Report circulated)
- 10 **PROPOSED ARTICLE 4 DIRECTION TO CONTROL DEMOLITION OF THE CRAWFORD HOTEL, ALPHINGTON ROAD**
- To consider the report of the Assistant Director City Development. 49 - 58
- (Report circulated)

11 **APPOINTMENT OF REPRESENTATIVES TO SERVE ON OUTSIDE BODIES**

To consider the appointment of representatives to serve on the outside bodies set out in the schedule. 59 - 60

(Schedule circulated)

Part II: Items suggested for discussion with the press and public excluded

12 **EXETER SCIENCE PARK**

To consider the report of the Strategic Director reporting progress on the development of the Exeter Science Park. 61 - 66

(Report circulated to Members)

13 **EXETER AND HEART OF DEVON GROWTH BOARD MINUTES**

Members are requested to note the minutes of the Exeter and Heart of Devon Growth Board meeting held on 16 July 2012. 67 - 72

(Minutes circulated to Members)

14 **HR UNIT RESTRUCTURE**

To consider the report of the Assistant Director Business Transformation on proposals for restructuring the HR Unit. 73 - 80

(Report circulated to Members)

DATE OF NEXT MEETING

The next scheduled meeting of the Executive will be held on **Tuesday 2 October 2012** at 5.30 pm in the Civic Centre.

A statement of the executive decisions taken at this meeting will be produced and made available as soon as reasonably practicable after the meeting. It may be inspected on application to the Customer Service Centre at the Civic Centre or by direct request to the Member Services Manager on 01392 265110. Minutes of the meeting will also be published on the Council's web site as soon as possible.

***Membership -
Councillors Edwards (Chair), Denham, Fullam, Hannaford, Mrs Henson, Martin, Sheldon and Sutton***

Find out more about Exeter City Council services by looking at our web site <http://www.exeter.gov.uk>. This will give you the dates of all future Committee meetings and tell you how you can ask a question at a Scrutiny Committee meeting. Alternatively, contact the Member Services Officer on (01392) 265115 for further information.

Individual reports on this agenda can be produced in large print on request to Member Services on 01392 265111.

EXETER CITY COUNCIL

SCRUTINY COMMITTEE - COMMUNITY 4 SEPTEMBER 2012

EXECUTIVE 18 SEPTEMBER 2012

KITCHEN AND BATHROOM REPLACEMENT PROGRAMME

1. PURPOSE OF THE REPORT

- 1.1 To seek approval for increasing the housing capital programme for the next three years to accelerate the programme of kitchen and bathroom replacement in the Council's housing stock.

2. BACKGROUND

- 2.1 The Council aims to replace kitchens and bathrooms in its stock every 20 years. With 5000 properties, this should equate to 250 a year. As much of the stock was built in the 1930s and 1950s, there is a natural "spike" of demand every so often. The current kitchen refurbishment programme started in 2005/06 and around 200 kitchens a year were installed up to 2010/11. The bathroom refurbishment programme started in 2006/07 and around 82 bathrooms a year were installed up to 2010/11. The latest HRA 30 year business plan approved in March 2012 sought to eliminate the demand spikes as far as possible, flattening the replacement profile to a constant level over the plan period. However, failures in the delivery of the kitchen and bathroom replacement contracts has led to an under-spend on the capital budget since 2010/11 and a backlog in the programme. This report seeks to reverse the impact of this and kick-start the replacement programme so that it can get back on track as per the HRA business plan.
- 2.2 Members will remember that, when the kitchen and bathroom replacement contract was re-tendered in 2010/11, the successful contractor went into administration after six weeks having completed 20 kitchens and no bathrooms. The contract was taken over by another contractor but after six months they handed back the contract because it was not economically viable. They had completed 97 kitchens and 50 bathrooms. In October 2011, the Kitchen and Bathroom contract was re-tendered once again and the lowest tendered rates came back even lower than the previous tendering process. Concerns were raised over the risks involved in awarding the new contract at these very low rates because previous contractors were unable to deliver the higher rates and this had resulted in the programmes falling behind. As a result, officers proposed a new way of delivering the Kitchen and Bathroom programmes using multiple contractors at the same rate called the Total Project Delivery (TPD). After a successful trial period, the scheme was approved by Committee in July 2012.
- 2.3 The current capital programme for 2012/13 is £1.794M and will deliver 291 kitchens (£1.3m) and 214 bathrooms (£494k) using three contractors – Spectrum, D R Jones and MD Building.
- 2.4 However, the impact of the failure of the contracted programme in 2010 and 2011 on the Council's housing stock has been highlighted by the Housing Stock Condition Database and a significant proportion of the stock is likely not to meet the Decent Homes standard if no action is taken:

Year	Kitchens	Bathrooms
2012/13	1002	650
2013/14	190	155
2014/15	116	67
Total	1308	872

2.5 The figures in 2012/13 include the backlog properties attributed to having two years where the programmes have not been achieved due to contractor performance as mentioned above.

3. PROPOSAL

3.1 It is proposed to bring the kitchen and bathroom programmes back on track and to prevent further spikes in the programme with increased investment over the next 3 years. This would be achieved as follows:

2012/13

3.2 To increase the capital programme by £1.775M, funded from the revenue contribution to capital, to deliver an extra 276 kitchens and 136 bathrooms by the end of March 2013. This will be achieved by increasing the installation rates of the three existing contractors and bringing a fourth contractor, Mi-Space (Midas), into the TPD scheme.

3.3 The additional funding required to carry out these works is £1.25m for kitchens and £370K for bathrooms, £105K for associated asbestos surveys and licensed asbestos removal and £50K for additional staff to manage the increased programme.

2012/13	Current		Proposed	
	Programme	Budget £000s	Programme	Budget £000s
Kitchens	291	1,600	567	2,850
Bathrooms	214	360	350	730
Asbestos surveys	300	150**	500	180
Asbestos removals	151	250**	275	325
Staff	2.5 FTE	67*	4.5 FTE	117*
Total		2,360		4,135

*£67K staff budget funded from revenue

** This is the budget for all housing asbestos surveys and removals

2013/14

3.4 To increase the capital budget from £1.8m to £4m to provide 516 kitchens and 368 bathrooms using the four contractors on the TPD scheme.

3.5 The additional funding required to carry out these works is £1.5m for kitchens and £430K for bathrooms, £219K for associated asbestos surveys and licensed asbestos removal and £50K for additional staff to manage the increased programme. This is an additional £2.2m on what is currently set out in the Housing Revenue Account Business Plan.

2013/14	Current		Proposed	
	Programme	Budget £000s	Programme	Budget £000s
Kitchens	194	900	516	2,400
Bathrooms	215	600	368	1,030
Asbestos surveys	245	100**	530	160
Asbestos removals	122	200**	265	359
Staff	2.5 FTE	67*	4.5 FTE	117*
Total		1,800		3,999

*£67K staff budget funded from revenue

** This is the budget for all housing asbestos surveys and removals

2014/15

- 3.6 To increase the capital budget from £1.8m to £4.1m to provide 516 kitchens and 368 bathrooms using the four contractors on the TPD scheme.
- 3.7 The additional funding required to carry out these works is £1.57m for kitchens and £460K for bathrooms, £219K for associated asbestos surveys and licensed asbestos removal and £50K for additional staff to manage the increased programme. This is an additional £2.3m on what is currently set out in the Housing Revenue Account Business Plan.

2014/15	Current		Proposed	
	Programme	Budget £000s	Programme	Budget £000s
Kitchens	188	900	516	2,470
Bathrooms	209	600	368	1,060
Asbestos surveys	238	100**	530	160
Asbestos removals	119	200**	235	359
Staff	2.5 FTE	67*	4.5 FTE	117*
Total		1,800		4,099

*£67K staff budget funded from revenue

** This is the budget for all housing asbestos surveys and removals

- 3.8 The impact on the decent homes position is summarised in the following table and shows that, after three years of increased investment, the programme will be back on track and can be reduced to the levels originally planned:

	Kitchens			Bathrooms		
	2012/13	2013/14	2014/15	2012/13	2013/14	2014/15
Brought forward	1002	435	109	650	300	87
Additional in year	-	190	116	-	155	67
Removed in year	567	516	516	350	368	368
Remaining non-decent	435	109	(291)	300	87	(214)

- 3.11 There are a number of risks that will need to be considered that may impact on this enhanced programme delivering the required number of kitchens and bathrooms in the housing stock. These are:
- The contractors failing to perform as required. Officers will need to monitor this closely and report back to Members on the progress on a regular basis.
 - Tenants not responding to or providing access for asbestos surveys and refusals. This will require the Neighbourhood Management Team and Contracts unit working closely with tenants to reduce this risk.
 - The asbestos surveying company being able to carry out the required asbestos reports in line with the proposed installation rate. We will need to monitor this closely and ensure that associated works to the kitchen and bathroom programme are able to deliver in line with the increased programme.
- 3.12 The current kitchen and bathroom programme is resourced by two full time surveyors carrying out design approvals, materials ordering (kitchen units, worktops, bathroom suites etc), contractor/tenant queries and site visits, and contract handover visits. They are supported with a 0.5 FTE administrator carrying out ordering, processing asbestos surveys and booking in initial survey visit for contractors. These costs are met by the Housing Revenue Account (HRA).
- 3.13 The proposal will double the existing programme for three years and will require additional resources to facilitate the increased workload. Every effort has been made to keep the additional resources to a minimum and drive capacity within the existing team. The additional resources required are one surveyor and one administrator at a cost of £50K. These posts would be on a fixed term contract until March 2015.
- 3.14 The Council's recruitment policy gives priority to any staff at risk of redundancy and internal staff. The vacancies would only be advertised externally if suitable internal candidates cannot be found.

4. CAPITAL FINANCING IMPLICATIONS

- 4.1 The cost of proposed increases to the Kitchen and Bathroom Replacement Programmes and associated asbestos works and internal staff costs will be met from a revenue contribution to capital (RCCO). This will significantly reduce the surplus the HRA was projected to achieve in the three financial years; 2012-13, 2013-14 and 2014-15.
- 4.2 It was projected that surpluses of £2.3m, £2.6m and £2.9m would be achieved during the three financial years respectively by the HRA and the additional RCCO required to support the increases to the Kitchen and Bathroom Replacement Programmes will take this down to £370k, £390k and £650k.
- 4.3 Broadly, it will leave the HRA with approximately £6m of available capital resources at the end of the current financial year rising to £9m by the end of 2014-15, which will be available for service improvements/priorities, investment in the stock and other strategic capital requirements. Projected available capital resources comprise; HRA revenue surpluses, the HRA working balance, the Major Repairs Reserve and useable capital receipts.

4.4 In addition to this, a prudent HRA Working Balance of £2.5m will continue to be maintained.

5. CHOICE OF CONTRACTOR ON THIS PROGRAMME

5.1 The requirements for quality of service delivery, increased service delivery, minimising resource usage, minimising tenant impact, health and safety implications and council policy all preclude the use of small contractors on these works delivered by Total Project Delivery (TPD).

5.2 All TPD contractors are required to be members of the Council's select lists. The current requirements for health and safety and accounts checks ensure that contractors do not place tenants at risk, nor do they become solely dependant on the Council for turnover given the high values associated with each contractor on this programme. All contractors must be NICEIC approved for electrical works and Gas Safe approved for gas works.

5.3 Appointing trade specific contractors or those that cannot carry out the majority of works themselves:

- increases resource requirements through extra management, checking and programming of the works and tenant liaison
- increases the risk of health and safety issues
- risks quality reduction through lack of cohesion between different trades
- increases tenant impact and uncertainty through number of different contractors involved
- increases duration of works in each property through lack of continuity of works, this has potential impact on tenant requirements to be at the property for an extended period

5.4 To mitigate this situation for construction works in general, the Council is proposing to update the Contract Regulations to better reflect current working practices and needs of the local economy. This should enable smaller contractors to be included on the select lists. Use of small contractors on TPD would then be possible for works that are individual in nature, for example non-programmed works such as boiler replacements and bathroom adaptations.

6. RECOMMENDED

6.1 That, subject to satisfactory half-yearly progress reports on the contractors' performance, Scrutiny Committee supports and Executive approves:

- (i) an additional £1.775M allocated to the capital programme in 2012/13 for replacement kitchens, bathrooms, associated works and staff costs;
- (ii) an increase in the Housing Capital Programme to £3.7m in 2013/14 and £3.8m in 2014/15 for replacement kitchens, bathrooms, associated works and staff costs;

SARAH WARD
ASSISTANT DIRECTOR HOUSING & CONTRACTS

S:PA/LP/ Committee/912SCC4
21.8.12

Local Government (Access to Information) Act 1985 (as amended)
Background papers used in compiling this report:

HRA Business Plan 2012-2042

EXETER CITY COUNCIL

SCRUTINY COMMITTEE – COMMUNITY 4 SEPTEMBER 2012

EXECUTIVE
18 SEPTEMBER 2012

REVIEW OF ANTI-SOCIAL BEHAVIOUR POLICY AND PROCEDURES FOR HOUSING LANDLORD SERVICES

1. PURPOSE OF REPORT

- 1.1 To seek approval for the Council's amended Anti-Social Behaviour (ASB) Policy and Procedures for tackling anti-social behaviour on the Council's housing estates.

2. BACKGROUND

- 2.1 The current anti-social behaviour policy and associated procedures have been in place since 2009. The Anti-Social Behaviour Act 2003 requires us to review these policies and procedures regularly and we have committed to carry out a comprehensive review every three years.

- 2.2 The latest review has taken the following into account:

- Changes in legislation. The Government White Paper "Putting Victims First: more effective responses to ASB."
- Ensuring the policy statement complies with the requirements of the Anti-Social Behaviour Act 2003.
- The Chartered Institute of Housings, Respect ASB charter for housing.
- Consultation outcomes with tenants through our Status Survey 2012 and focus groups with tenants looking specifically at how we dealt with reports of Anti-Social Behaviour (ASB).
- The views of the Editorial Board with regards to the wording of the suite of ASB letters.
- Staff feedback via a working group of those staff involved in tackling ASB as part of their day to day responsibility.
- Existing procedures for investigating reports including timescales and action taken.
- The experience of the Housing Solicitor and the ASB Case Manager.
- Use of partnership working to address anti-social behaviour, including our relationship with the police and the Crime & Disorder Reduction Partnership.

- 2.3 As a result of the review, the policies and procedures have been revised. A copy of the revised document *Anti-Social Behaviour - Statement of Policy and Procedure* is available on the website and is linked to the agenda. It is also available in the Members' Room and by request from Member Services. This document will replace the Council's previously published policy and procedures for dealing with reports of Anti-Social Behaviour on the Council's housing estates.

- 2.4 The document sets out how the Council will deal with anti-social behaviour and harassment on its estates and includes sections on dealing with racist incidents, domestic abuse and providing support and protection for witnesses.

- 2.5 Investigating reports and tackling anti-social behaviour is one of a number of activities carried out by the Neighbourhood Housing Officers. They are supported by the ASB

Case Manager and Housing Solicitor who provide advice and support and take over responsibility for cases where require legal action is required.

- 2.6 Between April 2011 and March 2012, 740 new cases of anti-social behaviour were reported to the Neighbourhood Housing Team, with an average of 146 cases open at any one time. For the same period, the following legal actions were taken, demonstrating the Council's robust and pro-active approach to tackling anti-social behaviour:

Injunction Orders	20
Possession Orders	6
Demotion Orders	1
Evictions	7
Acceptable Behaviour Contract's	34
Extension of an Introductory Tenancy	9
Mediation	4

3. TENANT CONSULTATION

- 3.1 The Housing Service Customer Satisfaction Survey 2012 stated that 70% of our tenants were satisfied with the way that anti-social behaviour was being addressed by the Council, with just 11% dissatisfied. However, overall satisfaction with the anti-social behaviour service was down on the figures from 2008. This is disappointing, particularly given that satisfaction in all other areas of landlord services has improved.
- 3.2 A focus group of tenants who have received the anti-social behaviour service met with an independent facilitator to review the Policy, specifically at what worked well and what needed improving. The Tenants' Editorial Board were also asked to comment on the suit of standard letters that are used to respond to various stages of the anti-social behaviour escalation process.
- 3.3 An Equality and Diversity Impact Assessment was carried out and will be published on the Council's website.

4. REVISIONS FOLLOWING CONSULTATION

- 4.1 The table below sets out the focus group's two main areas of concern. They were keen to point out that they felt these issues were particularly a problem during the early stages of the complaint and expressed far more satisfaction at the way the complaint was dealt with when the complaint escalated towards any formal legal action. It is important for Members to note there were many positives that came from the focus group but that as part of our commitment to improve the service we have concentrated on the areas where improvement is required.

Focus Groups Areas of Improvement	Outcomes within the ASB Policy and Procedure
There was an issue raised about Neighbourhood Housing Officers in relation to what action we can take and how we deal with reports of ASB.	Regular in-house training has commenced to ensure that staff remain fully briefed regarding this policy and procedure. There will also be further external training for staff around customer care and managing expectations.

The focus group stated that communication particularly at the early stages of the complaint or for low level non-serious ASB were poor. The issues raised related to the way we communicated what we did, rather than what we actually did.	Again this is a training issue the procedure clearly states that a plan of action should be agreed with the complainant and regular contact maintained whilst the complaint is open and being investigated and action taken.
Editorial Board	Outcomes within the ASB Policy and Procedure
The Editorial Board reviewed the standard letters that staff use to address issues of ASB.	Various changes have been made to the letters to ensure that plain English is used enabling clients to have a far better understanding of the ASB process.

4.2 Apart from the revisions raised in 4.1 the review of the ASB policy and procedure has not led to any major changes in policy as it was considered fit for purpose. However, it has been an opportunity to update the contact details of agencies and groups the Housing staff work with to tackle ASB and as a reminder to staff of the commitment the Council has to deal effectively with reports of ASB and what is expected of them as part of this commitment.

5 STAFF CONSULTATION

5.1 Following the completion of the previous governments highly regarded 'Respect' Initiative, the Chartered Institute of Housing, in conjunction with Housemark and the Social landlords Crime and Nuisance Group, have devised a Respect ASB Charter of their own. Using the good practice guidelines detailed within the charter, the strengths and weaknesses of our current procedures have been analysed. The results were largely very positive and the analysis concluded that the existing policy and procedures contain the necessary tools for us to address the many varied incidents of ASB that we experience in our neighbourhoods. It was also evident that the Respect Charter contains challenges that we need to aspire too. We have since become a signatory to this new Respect ASB Charter for Housing.

6. PUTTING VICTIMS FIRST: MORE EFFECTIVE RESPONSES TO ASB – HOME OFFICE WHITE PAPER

6.1 After a much anticipated consultation response, the Home Office has published details of the reform to the antisocial behaviour (ASB) toolkit. Social housing providers play a vital role in tackling ASB and have been successful in resolving the majority of cases through early intervention with disruptive residents. However, in the minority of cases there is a need for tough action and making sure that housing providers have the right tools to do that job is essential. The toolkit aims to replace 19 complex existing powers with six simple ones, providing more clarity for the judiciary and for officers on the ground. As part of the consultation, victims were asked what they wanted to see happen. Victims had three requests; first, they want their problem to be taken seriously. Second, they want an efficient service and a quick response. And third, they want the problem to stop and for it not to happen again.

6.2 Tenant feedback would suggest that our responses to issues that require legal proceedings are sufficient and working efficiently. We have developed an excellent working relationship with the courts and believe that approach is fully understood and appreciated. The suggested changes to legislation will not have a significant effect on the way that we currently deal with cases requiring court intervention.

7. RECOMMENDED:

- 7.1 That the revised Anti-Social Behaviour – Statement of Policy and Procedure is adopted.

**SARAH WARD
ASSISTANT DIRECTOR HOUSING AND CONTRACTS**

S:LP/PA/Cttee/912SCC1
21.8.12

**Local Government (Access to Information) Act 1985 (as amended)
Background papers used in compiling the report:**

None

EXETER CITY COUNCIL

SCRUTINY COMMITTEE - COMMUNITY 4 SEPTEMBER 2012

EXECUTIVE
18 SEPTEMBER 2012

SUCCESSION & ASSIGNMENT POLICY

1. PURPOSE OF THE REPORT

- 1.1 To consider changes to the Council's policy on the succession and assignment of tenancies.

2. SUMMARY

- 2.1 The succession and assignment of tenancies is a difficult area of tenancy management. Generally, it happens as a result of a bereavement of a spouse, partner or parent and officers will often be working with tenants and their families who are in a highly distressed and vulnerable state. Recently, the council has received representations from some tenants and their representatives, including local members, about the decisions the council has made about where the surviving family member should live when a tenant has died. In particular, the surviving family members have found it difficult when, in line with the current Succession and Assignment Policy, officers have advised them that they will be required to move to different accommodation. This report sets out the current policy and its objectives so that Members can decide whether a review of the policy is required.

3. POLICY BACKGROUND

- 3.1 The existing policy seeks to balance the rights of existing tenants with the needs of applicants on the housing register, making best use of our stock in terms of household size and disabled adaptations.
- 3.2 The demand for social housing in Exeter, particularly for family sized accommodation of two bedrooms and above and adapted properties, has meant that the Council has traditionally adopted a fairly rigorous approach to under occupation and the suitability of accommodation when considering whether to allow surviving tenants to remain in the family home.
- 3.3 This is supported by national policy with the Government's Housing Strategy being stating that "housing is an important asset" and "social housing is not providing the right support to people who need it most". They assert that "Demand for social housing has increased significantly, and the stock that is available is not being well used: there is widespread overcrowding and under occupation, and tens of thousands of properties are occupied by people who ought not to be there." The strategy also states that the Government "do not expect social homes to be allocated to people who do not need them...while at the same time those in genuine need should be prioritised".

4. THE COUNCIL'S CURRENT POLICY ON SUCCESSION AND ASSIGNMENT

- 4.1 The Succession & Assignment Policy and Procedure is available on the intranet and is linked to the agenda. It is also available in the Members' room and on request from Member Services. The key elements of the policy are summarised below:

Succession

- 4.2 Succession is when someone takes on a tenancy after the original tenant's death. It does not require the creation of a new tenancy. For secure tenancies, the legal basis of the right of succession is contained in section 87 of the Housing Act 1985. By law, only one succession is allowed for each tenancy.

- 4.3 A secure tenant is a successor if they become the tenant by statutory succession or if the tenant was formerly a joint tenant and became a sole tenant under the same tenancy.

Tenancy

- 4.4 A tenant can hold either a joint tenancy or a sole tenancy.

- 4.5 **Joint Tenancies:** On the death of a joint tenant, the tenancy will pass to the surviving tenant (technically by the 'right of survivorship'). This will count as one succession. When the sole surviving tenant subsequently dies, there is no further right of succession. A surviving joint tenant is a successor under section 88 of the Housing Act 1985.

- 4.6 **Sole Tenancy:** When the sole tenant dies, the tenancy may be succeeded to by a "qualified successor". The law defines a qualified successor as "someone who occupied the dwelling house as his or her only or principle home at the time of the tenant's death and was the tenant's:

- Spouse
- Civil partner
- Immediate family (if they had been living with the tenant continuously for the 12 months prior to the tenants death). 'Immediate family' means partner, parent, child, grandparent, grandchild, brother, sister, uncle, aunt, nephew or niece."

Surviving family members outside these criteria would normally not be granted succession. Where it is deemed appropriate to take possession action, officers have regard to the matters that the court would take into account in determining reasonableness, which include:

- Their age
- The period of time in which they lived in the property as their only or principal home.
- Any financial or other support they gave to the deceased tenant

Discretion

- 4.8 The Policy allows officers exercise sympathetic discretion to grant succession where the surviving persons have no rights of succession but have been in residence for a

long time, or where there are special housing needs. This is done on a case by case basis and should always be dealt with sensitively and sympathetically.

Refusal to Grant a Succession

4.7 The law allows councils to refuse to grant a succession to a tenancy where the accommodation afforded by the dwelling is deemed to be more extensive than is reasonably required - e.g. if a single person succeeds to a two-bed property or larger the council can seek to move the new tenant to another suitable property. As a result, despite the fact that the surviving family member may have lived in the property for many years, local authorities will generally seek to recover repossession of under-occupied properties in order to ensure the best use of their stock. This is particularly the case in areas of high housing demand.

4.8 The Housing Act 1985 sets out the grounds on which a council can seek to evict a secure tenant, which are under-occupation and disabled adaptations. We are required to serve a notice of seeking possession no earlier than six months and no later than twelve months after the previous tenant's death. The court may only order possession if suitable alternative accommodation is available and it is reasonable to require the resident to give up the property. The council's current policy, based on the legal provision, is as follows:

1) Under Occupation

If the property is larger than is reasonably required by the successor (and the successor is not the deceased tenant's spouse or civil partner – who will be allowed to remain whatever size the accommodation) we will arrange for them to move to more suitable alternative property in consultation with Devon Home Choice. The downsizing policy will apply. Should we regard a property to be under occupied as a result of a succession and the tenant refuses to move then we can seek possession of the property under schedule 2, part 111, ground 16 of the Housing Act 1985.

Ground 16 states that “the accommodation afforded by the dwelling house is more extensive than is reasonably required by the tenant.” More extensive is currently defined in our policy as having one extra bedroom in excess of requirements.

2) Disabled Adaptations

Ground 13 of the Housing Act 1985 states that succession of a tenancy can be refused if the dwelling-house has features which are substantially different from those of ordinary dwelling-houses which are designed to make it suitable for occupation by a physically disabled person who requires accommodation of a kind provided by the dwelling house and:

- a) There is no longer such a person living in the dwelling house and
- b) The landlord requires it for occupation (whether alone or with members of his family) by such a person.

Assignment

4.9 Assignment is where a tenant passes on their tenancy to some one else. This does not create a new tenancy; it passes the existing tenancy to the assignee.

Our current policy is to only grant permission to assign those people who would have succeeded to the tenancy had the tenant died immediately before the proposed assignment, this means

- A spouse
- A partner, or civil partner
- Immediate family (if they had been living with the tenant continually for the 12 months prior to the tenants death)

We would, however, treat any partner (other than a married partner or civil partner) in the same way as an immediate family member, and expect them to have lived with the tenant continuously for twelve months before agreeing to the assignment.

Under Occupation after Assignment

- 4.10 An assignment in these circumstances is a statutory right; it **can not** be restricted by the terms of the tenancy agreement. There are no grounds for possession and our only option is to offer alternative accommodation. The downsizing policy will apply in these cases.

In the case of an assignment made to a person who would have been a successor it may be that the property will be under occupied.

5. POLICY MATTERS FOR CONSIDERATION

5.1 Under-Occupation

The Council currently defines “more extensive” as having one bedroom in excess of requirements. The justification for this stance has been the high demand for social housing property in Exeter.

Although the demand for Housing in Exeter is extremely high, Members may wish to reconsider this element of the policy. Elderly residents often appreciate an extra bedroom as a safeguard should they become ill and require over night assistance or to accommodate visiting family members.

5.2 Disabled Adaptations

Due to the demand and cost of disabled adaptations we have consistently administered the policy robustly with regards the housing needs of the surviving tenant who has no need for adaptations; although at the same time we have always tried to find them acceptable alternative accommodation. We have not as yet been subject to legal challenge.

The Housing Act 1985 Ground 13 states that we can seek possession of a property in succession or assignment circumstances if “the dwelling-house has features substantially different from those of ordinary dwelling-houses and which are designed to make it suitable for occupation by a physically disabled person”

There is no definition or case law to help us interpret the term ‘substantially different’. This can lead to inconsistencies in the application of the policy and is currently being applied to disabled adaptations of any sort, however minor. Members may feel that a more specific definition is required, such as an assessment of the equivalent monetary value of the existing adaptations. For example, a minimum equivalent

value of £1000 might be a more sensitive interpretation of the law. Alternatively, Members may feel that the involvement of the court in the possession provides sufficient protection for the tenant.

5.3 Appeals Procedure

The policies and procedures of many social landlords contain the same clauses and references to government legislation as our own. Many also refer to the high demand for property in their areas and make reference to an appeals procedure.

We currently have in place an appeals procedure for issues concerning mutual exchanges (assignments) but no formal appeals procedure for issues relating to successions. An appeals procedure for successions may be something that we would like to consider as part of any policy review.

5.4 Members may find the case studies set out in Appendix 1 and data in Appendix 2 helpful in reaching a view.

6. RECOMMENDATIONS

6.1 That the current Succession and Assignment Policy is revised to:

6.1.1 Define properties as “more extensive” when there is more than one bedroom in excess of requirements;

6.1.2 Define properties which have had disabled adaptations as “substantially different” where the value of the adaption exceeds £1000;

6.1.3 Introduce an appeals procedure.

SARAH WARD
ASSISTANT DIRECTOR HOUSING AND CONTRACTS

S:PA/LP/ Committee/912SCC3
21.8.12

Local Government (Access to Information) Act 1985 (as amended)
Background papers used in compiling this report:

None

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Case study 1

Mr & Mrs A were the joint tenants of a two bedroom bungalow which had received adaptations due to Mr A's disability.

Mr A died leaving Mrs A as the sole occupant of the property. Due the right of survivorship Mrs A would become the sole tenant as our policy states that the spouse in these circumstances can remain in the property regardless of size.

However, due to the adaptations that have been carried out to the property the Council would advise Mrs A that under our current policy she would have to move to accommodation more suitable to her needs i.e. a one bedroom property. We would do all we could to ensure that Mrs A was made a suitable offer of alternative accommodation.

If Mrs A chose not to engage with the neighbourhood team as she wanted to remain in the two bed bungalow and an agreement could not be reached on alternative accommodation. We would rely on legislation to remove her from the property. The legislation states that between 6 and 12 months after the death of Mr A the landlord must serve Mrs A with a Notice of Intention to Seek Possession .

If challenged in Court by Mrs A the Council would have to prove that it had someone who needed the property and its adaptations.

Case study 2

Mr B lived with his mother who in a two bedroom bungalow which has extensively adapted to accommodate Mrs B. Mrs B died and Mr B succeeded the tenancy. Mr B would now be under occupying a two bedroom adapted bungalow. Under our current policy that due to the under occupation and the extensive adaptations that had been carried out to the property the Council would advise Mr B that he would have to move to a one bedroom property. We would ensure that he was made an offer of suitable alternative accommodation.

Under our current policy if Mr B does not want to move from the property (possibly stating that he wants to remain in the family home and that he would like to stay close to friends and support network) we would again look to serve a notice between 6 to 12 months of the death of Mrs B. .

Comment Although the Council is confident that in both cases it would be successful in court and that the property would be used by someone requiring the adaptations and therefore be granted possession we are looking for the committee consider if the policy remains appropriate.

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APPENDIX 2

Relevant information in relation to discussions on assignments and successions to tenancies

Table 1: Numbers on the Devon Home Choice register July 2012

Bedroom Need	Band A (Emergency)	Band B (High)	Band C (Medium)	Band D (Low)	Band E (No Housing Need)	Total
1	3	203	284	2796	1819	4090
2	3	151	534	295	1061	1702
3	1	74	254	96	327	602
4	1	31	70	32	35	144
5	0	12	6	4	6	33
6	0	2	1	5	1	5
8	0	0	0	1	0	1
Total	8	473	1149	3229	3249	6577

Table 2: Number of tenants on Devon Home Choice requiring wheel chair adapted properties

Bedroom Need	Devon Home Choice Banding	Number of tenants
1 bed	A	2
	B	17
	C	2
		Total 21
2 bed	A	14
	B	3
		Total 17
3 bed	B	3
		Total 3
4 bed	B	2
		Total 2
5 bed	B	1
		Total 1

Table 3: Costs of a General Adaptation

Level Access Shower	£4,200
Ramp	£2000 to £4000
Hardstanding including drop curb	£5,300
Ceiling track hoist	£1,600
Wheel Chair Accessible Kitchen	£2,500 to £6,000

Amount spent on adaptations	
Year	Amount
2010/11	£456,230
2011/12	£514,170

Numbers of adaptations over £2000	
Year	Number
2010/11	88
2011/12	99

Table 4: Department of Health Projecting Older People Population Information System.

Projected Population growth in Exeter

Age Group	2009	2015	2020	2025	2030
65-69	4600	5700	5000	5300	6100
70-74	4100	4300	5200	4700	5000
75-79	3600	3700	3900	4800	4300
80-84	2900	3000	3200	3500	4300
85 and over	3000	3600	4000	4700	5500
Total	18200	20300	21300	23000	25200

Table 5: Current age range of Exeter City Council's tenants

Total Current Tenancies	4992			
16 - 25	268	6%	16 - 35	19.7%
26 - 35	606	13.7%	36 - 55	34.2%
36 - 45	717	16.2%	56 - 75	28.6%
46 - 55	796	18%	76 - 95	17.1%
56 - 65	702	15.8%	96+	0.4%
66 - 75	566	12.8%		100.0%
76 - 85	513	11.6%		
86 - 95	245	5.5%		
96+	19	0.4%		
TOTAL	4432	100%		

Table 6: Exeter City Council's tenants where the property is occupied by at least one resident that has a disability.

Mobility impairment	1039	59.0%
Wheelchair user	206	11.7%
Hearing impairment	485	27.6%
Visual impairment	421	23.9%
Speech impairment	78	4.4%
Learning difficulties	150	8.5%
Mental illness	317	18.0%
Physical coordination difficulties and reduced physical capacity	423	24.0%
Severe disfigurement	2	0.1%
Other	753	42.8%
Total Sole/Joint Tenant 1 with Disabilities	1760	35.3%
Total Current Tenancies	4992	

Number of properties registered with disability = 35% (1760 tenancies)

Table 7: Number & type of lettings made in Exeter from June 2011 – June 2012

	A	B	C	D	E	Total
1 Bed	3	117	43	27	15	205
2 Bed	6	147	30	14	14	211
3 Bed	1	61	9	0	0	71
4 Bed	1	22	2	0	0	25
5 Bed	1	0	0	0	0	1
Total	12	347	84	41	29	513

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EXETER CITY COUNCIL

EXECUTIVE
18 SEPTEMBER 2012

ACQUIRING S106 AFFORDABLE HOMES

1 PURPOSE OF THE REPORT

- 1.1 To seek approval for the purchase of 16 new build affordable homes on two separate development sites in the city at a total cost of £212,546.

2 BACKGROUND

- 2.1 The 16 new affordable homes would be secured on sites at Dean Clarke House, Southernhay and the former Royal Naval Stores Depot, Topsham Road.
- 2.2 Dean Clarke House: This site forms part of the phased development of the former NHS buildings in Southernhay including Dean Clarke House and the Victoria Wing. Despite viability issues on the site, the council has secured five two-bedroom flats on a 125 year lease, as the affordable housing provision on the site. Of the five flats, four will be fully wheelchair accessible.
- 2.3 This site has very recently been sold to a different developer, and it is expected that they will want to make some minor amendments to the design. It is expected that the conversion will start on site in late 2012/early 2013 and the flats will be completed in late 2013, if the developer continues with the current scheme.
- 2.4 Royal Naval Stores Depot: Following the renegotiation of Phase 7 of this development, the council has secured eleven new homes as the affordable housing provision for this phase. These properties would be obtained on a freehold basis and the mix is as follows: 2 one-bedroom flats, 4 two-bedroom flats, 2 two-bedroom houses, 2 three-bedroom houses and 1 four-bedroom house. The one-bedroom flats, 3-bedroom houses and 4-bedroom house, 5 in total, will all be built to full wheelchair accessible standards. To date, 68 affordable homes have been provided on this site and transferred to Housing Associations.
- 2.5 The properties at Royal Naval Stores Depot are all currently on site with completion expected in stages from early October 2012 through to early January 2013.
- 2.6 During the affordable housing negotiations on both of these sites the opportunity presented itself for these 16 properties to be secured for the Council rather than being transferred to Housing Associations. These properties represent affordable housing provision under the S106 agreement on each site.
- 2.7 Nine of the 16 properties will be built to full wheelchair accessible standards; presenting a unique opportunity to acquire these much needed properties for the Council and giving the Council much greater control over the use of them.

- 2.8 Once purchased these properties would be owned by Exeter City Council, they would sit within the HRA in a separate ring-fence and would be let at social rent levels to those on the Housing Register using Devon Home Choice.

3 FINANCIAL IMPLICATIONS

- 3.1 The 11 properties on Phase 7 of the Royal Naval Stores Depot site have an agreed purchase price of £1 per property, a total of £11.
- 3.2 The five Dean Clarke House flats have an agreed purchase price of £42,507 per property, a total of £212,535. This cost is derived from the Exeter Homes Partnership approved transfer values for affordable housing on S106 sites. It represents excellent value for money in comparison to other ways in which the council could increase its housing stock.
- 3.3 The acquisition of these properties will be reflected in the HRA Capital Programme as the 16 properties will be added to the Council's existing stock for social housing. The capital cost will be met by the HRA making a revenue contribution to capital.
- 3.4 Once acquired these properties would sit within the HRA and would be let out at Target (Social) Rent levels, generating additional revenue income into the HRA.

4 RISKS

- 4.1 There is potential that in the future tenants could apply to purchase these properties under right to buy. The legislation suggests that the wheelchair accessible homes would be excluded from RTB, but the other 7 standard properties would be at risk.

5 CONCLUSIONS

- 5.1 The purchase of these 16 affordable homes presents an excellent opportunity for the Council to increase its housing stock for an average investment of only £13,284.13 per new home.
- 5.2 This purchase would secure 9 new fully wheelchair accessible homes for the city, under the control of the Council, which is a key action in the Council's Corporate Plan.

6 RECOMMENDED

- 6.1 That the purchase of 16 new affordable homes at Dean Clarke House and the Royal Naval Stores Depot be approved at a cost of £212,546 to be met from the HRA Capital Programme.

SARAH WARD
ASSISTANT DIRECTOR HOUSING AND CONTRACTS

Local Government (Access to Information) Act 1985 (as amended)
Background papers used in compiling the report:

None

EXETER CITY COUNCIL

PLANNING MEMBER WORKING GROUP 21 AUGUST 2012

EXECUTIVE 18 SEPTEMBER 2012

AFFORDABLE HOUSING SUPPLEMENTARY PLANNING DOCUMENT

1 PURPOSE OF REPORT

- 1.1 This report has been prepared in order to brief and seek Members' views on:
- the contents of a draft Affordable Housing Supplementary Planning Document (SPD), prepared to amplify affordable housing policy contained in the Exeter Core Strategy;
 - the intention to publish the SPD for public consultation; and
 - the contents of an Initial Screening Statement prepared to accompany the draft SPD.

2 BACKGROUND

- 2.1 Policy CP7 of the Exeter Core Strategy (adopted in February 2012) requires the provision of 35% affordable housing on development sites capable of delivering 3 or more dwellings, subject to considerations of viability and feasibility. The Core Strategy states that the Council will prepare an Affordable Housing SPD to provide more detailed guidance to support Policy CP7.
- 2.2 Policy CP7 was drafted during a period of economic prosperity, when a 35% target and 3 dwelling threshold were considered to be viable and realistic policy parameters for Exeter. Amongst other guidance, the draft SPD sets out how Policy CP7 will be applied in light of the economic downturn and its impact upon development viability.
- 2.3 It is proposed that the draft SPD should be published for a 6 week period of public consultation in early Autumn.
- 2.4 To comply with European Union regulations, the Council is required to assess whether or not the draft SPD is likely to have significant environmental effects and, consequently, whether it needs to be subject to a full Sustainability Appraisal/Strategic Environment Assessment. The results of the assessment must be published in an Initial Screening Statement and sent to a number of statutory consultees.

3 CONTENT OF THE SPD

- 3.1 The draft SPD is attached to this report as Appendix 1.
- 3.2 Policy CP7 allows for the consideration of economic viability when negotiating for the provision of affordable housing. In the current economic climate, housing schemes coming forward in Exeter are generally proving unable to deliver 35% affordable housing. In addition, smaller housing schemes have historically represented an important source of new housing in Exeter, but the strictures of Policy CP7 are rendering many of these schemes unviable. To address this, the draft SPD states that the Council will:

- not seek an affordable housing contribution from schemes of between 3 and 14 dwellings; and
- accept the provision of 25% (or more) affordable housing without having recourse to a development appraisal.

3.3 The draft SPD advises that this approach will be taken for a period of 3 years from adoption of the Council's Community Infrastructure Levy (CIL), which is imminent. To encourage applicants to implement their planning permissions swiftly, and thereby deliver much needed housing in Exeter, the draft SPD also states that consents will be time limited to a period of 2 years.

3.4 In addition, the draft SPD:

- sets out the types of housing development which will be subject to affordable housing policy. This includes schemes for people receiving care or support and non-self contained dwellings (e.g. HMOs), but excludes purpose-built student accommodation (paragraphs 3.1-3.2);
- sets out the affordable housing mix that will be sought on each scheme (paragraphs 3.10-3.11);
- clarifies the Council's policy on wheelchair accessible housing. Policy H7 of the Exeter Local Plan First Review states that on sites capable of yielding 15 or more dwellings or measuring 0.5 hectares, the Council will negotiate for 5% of the total number of dwellings to be provided as wheelchair accessible housing. There is a clear need in the City for affordable housing that is also wheelchair accessible. The draft SPD therefore amplifies Policy H7 by stating that up to 10% of the affordable housing element should be wheelchair accessible and designed to meet the needs of households on the Council's Housing Register (paragraph 3.13);
- provides guidance on the design and distribution of affordable housing, with reference to the Council's Residential Design Guide SPD (paragraphs 3.14-3.18);
- advises that in order to promote mixed and well balanced communities, affordable housing should be provided on the development site, unless there exceptional reasons to justify off-site provision or provision by means of a financial contribution. Appendix 2 of the draft SPD contains a formula for calculating financial contributions (paragraphs 3.20-3.25);
- gives details of the development appraisal process, which developers will be required to undertake in order to demonstrate that the provision of 25% affordable housing is not viable (paragraphs 3.26-3.29);
- describes how the affordable housing provided will be managed, how occupancy will be controlled and how the Council will ensure that the affordable homes remain affordable in perpetuity (Section 4);

3.5 The draft SPD has been produced in consultation with Housing Services.

4 PUBLIC CONSULTATION

4.1 It is proposed that the draft SPD will be published on the Council's website and the consultation advertised in the local press. All individuals and organisations listed on the Local Development Framework consultation database will be contacted directly for their views, either by email or letter. Comments received will be compiled and responded to

in a Consultation Statement, which will be published alongside the SPD when it is finally adopted.

5 INITIAL SCREENING STATEMENT

- 5.1 An Initial Screening Statement is available from City Development.
- 5.2 The Initial Screening Statement concludes that the draft SPD will not have any significant environmental effects and, therefore, that it does not need to be subject to a full Sustainability Appraisal/Strategic Environment Assessment. The Council is required to consult English Heritage, the Environment Agency and Natural England on the results of the Initial Screening Statement. The responses of these bodies are awaited.

6 PLANNING MEMBER WORKING GROUP

- 6.1 Planning Member Working Group on 21 August supported the draft supplementary planning document. Members expressed the desire that officers consider whether S106 agreements could be designed to ensure implementation of provision of affordable housing within a limited period. Officers will report further at Executive.

7 RECOMMENDATION

- 7.1 Executive is recommended to agree publication of the draft Affordable Housing Supplementary Planning Document at Appendix 1 for public consultation for about six weeks and that authority be delegated to the Assistant Director City Development to make any minor editorial changes prior to publication.

RICHARD SHORT
ASSISTANT DIRECTOR CITY DEVELOPMENT

Local Government (Access to Information) Act 1985 (as amended)
Background papers used in compiling this report:
None

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Affordable Housing Supplementary Planning Document

Adopted **DATE** 2012

DRAFT



Exeter City Council

www.exeter.gov.uk

Exeter Local Development Framework

1.0 INTRODUCTION

Purpose of the Supplementary Planning Document

- 1.1 It is important that everyone living in Exeter has the opportunity of a decent and affordable home. One of the nine themes of the Sustainable Community Strategy¹ is 'a *City with homes for everyone*', reflecting the Council's commitment to helping local people who cannot afford to buy or rent a home on the open market in Exeter.
- 1.2 Where there is an assessed need for affordable housing, the Government allows local authorities to deliver affordable homes by requiring developers to provide them within new housing schemes. Policy CP7 of the *Core Strategy*² sets out the Council's approach towards achieving this.
- 1.3 This Draft SPD provides more detailed guidance on how Policy CP7 will be implemented. Once adopted, it will form part of the Exeter Local Development Framework and will be a material consideration in the determination of planning applications. Its contents will need to be taken into consideration from the earliest stages of the development process, including in the purchase of sites and the negotiation and preparation of residential schemes.

The Policy Context

- 1.4 Government policy on planning for affordable housing is set out in paragraphs 47 and 50 of the *National Planning Policy Framework (NPPF)*³. Annex 2 of the *NPPF* defines affordable housing as comprising social rented, affordable rented and intermediate housing (see Appendix 1 of this SPD for more detail). For the purposes of planning policy, the *Core Strategy* and this SPD use the *NPPF*'s definition of affordable housing.
- 1.5 Policy CP7 of the *Core Strategy* reflects the provisions of the *NPPF* at a local level and is set out below:

Policy CP7: On sites capable of providing 3 or more additional dwellings (irrespective of the number of dwellings proposed) 35% of the total housing provision should be made available as affordable housing for households whose housing needs are not met by the market. At least 70% of the affordable housing should be provided as social rented housing. The overall percentage of affordable housing and the tenure split will be subject to considerations of viability and feasibility. Where it is not possible for viability reasons to provide the full requirement of social rented housing, affordable rent provision would be considered, let as far as possible at social rented levels. The remaining balance of the affordable housing should be delivered as intermediate affordable housing.

¹ *Exeter Vision*, Exeter Vision Partnership. www.exeter.gov.uk/visionstrategy

² *Core Strategy (adopted February 2012)*, Exeter City Council (2012). www.exeter.gov.uk/corestrategy

³ *National Planning Policy Framework (2012)*, Department for Communities and Local Government. <http://www.communities.gov.uk/publications/planningandbuilding/nppf>

2.0 AFFORDABLE HOUSING NEED IN EXETER

Strategic Housing Market Assessment

- 2.1 In 2007, Exeter City Council and neighbouring authorities⁴ commissioned a *Strategic Housing Market Assessment (SHMA)*⁵ to assess the need for both market and affordable housing across the Exeter and Torbay Strategic Housing Market Area. An update to the *SHMA* was produced in 2010, specifically for Exeter (*2010 SHMA*)⁶.
- 2.2 To meet housing needs in Exeter between 2010 and 2015, the *2010 SHMA* identifies a requirement for 5,294 additional dwellings to be provided, of which 3,165 dwellings (nearly 60%) should be affordable. This demonstrates a significant need for affordable housing in the City. Of the 3,165 affordable dwellings, the *2010 SHMA* concludes that around 70% need to be provided as social rented housing.

Housing Register

- 2.3 The Council's Housing Register provides more detail about the level of affordable housing need experienced by households in Exeter. The Housing Register currently shows a high overall requirement for smaller affordable dwellings and a reduced requirement for larger dwellings. However, the Register also shows that larger households tend to have a more acute degree of affordable housing need. In addition, the supply of larger dwellings from Exeter's existing affordable housing stock is very small, leading to extended waiting times (for example, it currently takes around 3 years to address the needs of a household requiring a 1-bed property, but around 14 years to address the needs of one requiring a 4-bed home and longer still for one requiring a 5-bed home).

⁴ Devon County Council, East Devon District Council, Mid Devon District Council, Teignbridge District Council, Torbay Council and Dartmoor National Park Authority.

⁵ *Exeter & Torbay Strategic Housing Market Assessment (2007)*, ORS.

⁶ *Exeter Strategic Housing Market Assessment (2010)*, ORS.

3.0 AFFORDABLE HOUSING PLANNING POLICY

Applying the policy

- 3.1 The requirement to provide affordable housing will apply to all proposals for residential development, including:
- new build, conversions and mixed use schemes;
 - phased developments where the threshold of 3 dwellings will be exceeded by cumulative totals;
 - developments by Registered Providers (RPs);
 - schemes providing housing for people receiving care or support, including supported housing developments;
 - schemes involving non-self contained dwellings and the sharing of amenities, including houses in multiple occupation.
- 3.2 Proposals for purpose built student accommodation will not be subject to affordable housing requirements.

Amount of affordable housing

- 3.3 Policy CP7 sets out the Council's intention to negotiate 35% affordable housing on all sites capable of providing 3 or more new dwellings (net), subject to considerations of viability and feasibility. In light of these considerations and informed by the Council's Community Infrastructure Levy (CIL) evidence base and other market indicators, for the present the Council will:
- not seek an affordable housing contribution from schemes of between 3 and 14 dwellings; and
 - accept the provision of 25% (or more) affordable housing without having recourse to a development appraisal.
- 3.4 In these cases, the commencement period for planning permission will usually be restricted to 2 years.
- 3.5 This approach will only be taken for a period of three years from adoption of the Community Infrastructure Levy.
- 3.6 Under the approach set out in paragraphs 3.3 to 3.5 above, a lower percentage of affordable housing will be negotiated where the applicant can soundly demonstrate that 25% is not financially viable, having explored all possible forms of residential development that would be suitable in terms of amenity and design. This will require the submission of a development appraisal at the pre-application stage (see paragraph 5.1 below). Further details of the development appraisal process are provided in paragraphs 3.27-3.30 below.
- 3.7 In some cases, the percentage of affordable housing negotiated will not equate to a whole number of dwellings⁷. In order to make up the balance, the Council will seek to negotiate a financial contribution to provide 'part' of an affordable home. The formula in Appendix 2 will be used as the basis to calculate the financial contribution.
- 3.8 Where the Council considers that the number of new dwellings proposed is inappropriate for the site area or the building to be converted, a revised scheme will be negotiated at the

⁷ For example, 25% of a 90 dwelling scheme equates to 22.5 affordable homes. In addition to 22 affordable homes, the Council would seek a financial contribution equivalent to half (0.5) of an affordable home.

more appropriate density. This may alter the affordable housing requirement under Policy CP7.

Tenure Mix

- 3.9 As set out in paragraph 2.2 above, the *2010 SHMA* shows that around 70% of households in need of affordable homes can only afford social rented housing provided by RPs or the Council. On each qualifying site the Council will therefore seek to negotiate, during pre-application discussions, at least 70% of the affordable housing to be provided as social rented housing. Where the applicant is able to demonstrate by means of a development appraisal that this is not viable, the Council may accept the provision of affordable rent units let, as near as possible, to social rent levels. The remaining balance of the affordable housing should be provided as intermediate affordable housing.

Size Mix

- 3.10 In order to meet identified needs, the Council will seek to deliver the following mix of new affordable housing across the City. The mix is based on the findings of the *2010 SHMA* and has been weighted to take into account the more acute need for affordable housing amongst larger households, as demonstrated by the Housing Register:

1 bed :	15%
2 bed :	59%
3 bed :	14%
4 bed :	7%
5 bed :	5%

- 3.11 The actual mix of affordable housing will be negotiated scheme-by-scheme, also taking into account the characteristics of the site and surrounding area, but the above mix will form a starting point for negotiation. On smaller schemes, the Council may be willing to negotiate an amount of affordable housing based on floor space rather than number of units. In all cases during the negotiation process, the Council will be mindful of waiting times and turnover of occupancy in the existing affordable housing stock.

Supported and Wheelchair Accessible Housing

- 3.12 The supporting text to Policy CP7 states that the affordable housing mix should include specialist housing, where there is an evidenced need. The Council's Older Person's Housing Strategy identifies a need for affordable supported housing in the City. The Council may therefore seek an element of affordable supported housing in its negotiations under Policy CP7.
- 3.13 The Council's Housing Register demonstrates that there is also a clear need in the City for affordable housing that is wheelchair accessible. Under Policy H7 of the Exeter Local Plan First Review, on sites capable of yielding 15 or more dwellings, or measuring 0.5 hectares, the Council will seek to negotiate 5% of the total dwelling provision as wheelchair accessible housing⁸. Of this, up to 10% of the affordable housing element should be provided as wheelchair accessible housing.
- 3.14 The Council will require the wheelchair accessible bedroom to be located on the same floor as other bedrooms and it is essential that private amenity space is provided. These requirements will ideally be met in the form of bungalows, but the exact type and size of wheelchair accessible housing will be negotiated in more detail during pre-application

⁸ The Council is preparing a *Site Allocations and Development Management DPD*, which will, it is proposed, include a policy to replace H7.

discussions. Wheelchair accessible housing should be built in accordance with the Council's Wheelchair Accessible Housing Design Standards 2011⁹.

Distribution and Design

- 3.15 The design and appearance of affordable housing will be expected to comply with Policy CP17 of the *Core Strategy*, which sets out strategic design principles for all development; and design/conservation policies in the forthcoming *Site Allocations and Development Management Development Plan Document*.
- 3.16 Developers should also have regard to the Council's *Residential Design Guide SPD*¹⁰, which provides more detail about the standard of design required for all new residential development. The Council expects new housing to have sufficient space to cater for a variety of household needs, with the aims of promoting high standards of liveability, accessibility and comfort and of producing adaptable and flexible homes to meet long term needs. All housing should be designed to meet Lifetime Homes Standards where feasible and practical.
- 3.17 Within the broader constraints of these policies, affordable housing should conform to the design standards normally required by funding bodies (e.g. the Homes and Communities Agency (HCA)) in order to qualify for grant. These standards may be higher than those applicable to market housing, reflecting the needs of the occupants and the implications of the difference in tenure.
- 3.18 The Council supports the principle of tenure blindness and, as far as is reasonably practical, it should not be possible to ascertain the difference between market and affordable housing in any one scheme. Innovative design of affordable homes and their environment will be encouraged, within the context of overall planning policies. To aid the promotion of inclusive and sustainable communities, the affordable housing should integrate seamlessly into the layout of the development and be distributed amongst the market housing in clusters of no more than 10 units.
- 3.19 On any one development site, the Council will require at least half of the 2 bed affordable homes provided to be in the form of houses with gardens.

Timing of provision

- 3.20 The timing of the delivery of affordable housing is a key issue in securing mixed and balanced communities. This is particularly important on larger schemes, where poor timing can result in isolated pockets of development and cause problems with infrastructure delivery, leading in the short term to a poor living environment for new residents. Wherever possible, affordable housing should be provided in tandem with market housing. In all cases, the Council will require the affordable housing to be completed before a certain percentage of the market housing is completed.

Commuted provision

- 3.21 The Council considers it important to integrate different tenures throughout housing schemes, in order to promote mixed and well balanced communities and create more varied patterns of house types and ownership. Where affordable housing is required under Policy CP7, the Council will therefore expect it to be provided on the development site.

⁹ *Exeter Wheelchair Accessible Housing Design Standards 2011*, (2011), Exeter City Council.
www.exeter.gov.uk/index.aspx?articleid=12340

¹⁰ *Residential Design Guide SPD (2010)*, Exeter City Council.
<http://www.exeter.gov.uk/index.aspx?articleid=12730>

- 3.22 Commuted provision in one of the following ways will only be agreed in exceptional circumstances and at the Council's discretion, where it is satisfied that:
- the affordable housing cannot be managed effectively on the site; or
 - the affordable housing cannot be provided on site for design reasons, as agreed with the Council's Urban Design Team; or
 - providing the affordable housing elsewhere in the City would significantly widen housing choice and encourage a better social mix, or help to make more effective use of the existing housing stock.

Off-site provision

- 3.23 The first priority will be to seek provision on an alternative site in the locality of the application site, in the interests of delivering mixed and sustainable communities. The 35% affordable housing target will be applied across both sites to ensure a pro-rata contribution since, in effect, two sites will be developed for housing. However, it is unlikely that the Council will accept a proposal that results in an inappropriate mix of tenures or excessive dominance of affordable housing within a particular location.
- 3.24 In the case of off-site provision, the Council must also be satisfied that there is a suitable and available alternative site to accommodate the affordable housing. The site should be identified by the applicant during pre-application discussions and either:
- already have planning permission for housing, in which case the Council will need to be satisfied that the site can, in principle, accommodate the off-site provision; or
 - be acceptable to the Council for housing in principle. In this case, the site will need to be the subject of a concurrent planning application.

Off-site purchase

- 3.25 Alternatively, the applicant may buy equivalent dwellings on the open market for use as affordable housing. The dwellings should be of a type and in a location agreed by the Council at the pre-application stage and have the potential to meet all required standards. The applicant will be required to sell each dwelling to the Council for £1.

Financial contribution

- 3.26 Should the Council agree to the provision of affordable housing by way of a financial contribution, this will be calculated using the formula set out in Appendix 2 of this SPD. For the duration of the approach referred to in paragraph 3.5 above, the contribution will be calculated on the basis that dwellings on the subject site represent 75% and the financial contribution represents 25% of the total dwelling provision. The contribution will be spent at the discretion of the Council for the provision of affordable housing in the City. The Council will periodically review the values in the formula, to ensure that they remain up to date.

Development Appraisal

- 3.27 Applicants are expected to consider the overall cost of development, including affordable housing provision, prior to negotiating the purchase of land or an option. Applicants will be required to submit a development appraisal to the Council at the earliest opportunity, in order to justify the amount of affordable housing they propose to provide if it is below the 25% target.
- 3.28 The Council will adopt an 'open book' approach to the development appraisal. The applicant will be required to provide all relevant financial and other information sufficient to enable the Council, or an independent consultant, to assess the nature, extent and impact of the constraints upon the viability of the scheme. Commercial confidentiality will be

protected. It is a condition of undertaking a development appraisal that the applicant agrees to pay the Council's costs of reviewing the information submitted.

- 3.29 The Council wishes to avoid situations where developers purchase land without taking the requirement to provide affordable housing into account. Developers should not expect that the requirement will be waived where this has not been accounted for in the land purchase price.
- 3.30 If the Council concludes that it is in fact economically viable to meet the requirements of Policy CP7 then, in the absence of appropriate affordable housing provision, planning permission may be refused. However, if the Council is satisfied that there are genuine economic constraints for not meeting the requirements, it will seek to negotiate and fully explore all available options to achieve as much affordable housing as is possible within the constraints of economic viability. Guidance on what should be included in a development appraisal is set out in Appendix 3.

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4.0 MANAGEMENT AND OCCUPANCY

Management

- 4.1 The Council's preference is for affordable housing to be transferred to either the Council's Housing Department or an RP, once it has been built. It will then be managed as affordable housing in accordance with HCA guidelines. A list of the Council's preferred RPs is provided at Appendix 4.
- 4.2 In certain circumstances, developers may choose to retain ownership of the affordable housing and manage it directly. In such cases, the Council will ensure that appropriate management arrangements are in place.

Control of occupancy

- 4.3 The Council will ensure that occupancy of affordable housing provided under Policy CP7 is restricted to eligible households in housing need. The eligibility of any household will be based firstly on its ability to afford suitable market housing and secondly on its level of housing need relative to other households. To assess this and to fulfil its statutory obligations, the Council jointly operates the Devon Home Choice (DHC) choice-based letting system, which not only allows for the registration of need and waiting time, but also gives applicants greater opportunity to choose which home they live in when they reach the front of the waiting list.
- 4.4 All RPs in Exeter contribute to the costs of running Devon Home Choice. If an applicant wishes to let or sell affordable homes without involving an RP, the Council will ensure that they are available to successive occupiers nominated by the Council through DHC. The applicant will be required to bear a fair share of the running costs of the DHC scheme.

Affordability

- 4.5 Before granting planning permission, the Council will need to be satisfied that rental levels, service charges and shared ownership costs will be affordable both initially and in the long term to occupants.
- 4.6 For social rented housing, rents should be in line with the HCA calculation for 'target rents', as set out in the HCA's latest Capital Funding Guide¹¹. Increases should be limited annually according to the HCA's requirements on annual rent and service charge increases.
- 4.7 Affordable rented housing is not subject to the national rent regime, but requires a rent no greater than 80% of the local market rent. This figure will be net of service charges and based on the Royal Institute of Chartered Surveyors' approved valuation methods. A guidance note can be found on the Tenant Service Authority website¹².
- 4.8 Outgoings on intermediate low cost home ownership should in no case exceed the average market rent for comparable properties. The mortgage element of the outgoings should be assessed on the basis that there is a 30 year repayment mortgage at standard variable rates (i.e. ignoring any introductory discounts). Any rents payable on low cost home ownership homes will be dependent upon the viability of an individual site, but should not

¹¹ E.g. *Affordable Housing capital funding guide 2012-13 (2012)*, Homes and Communities Agency.

http://www.homesandcommunities.co.uk/cfg?page_id=&page=1

¹² *Rents, rent differentials and service charges for private registered providers 2012-13 (2011)*, Tenant Services Authority. <http://www.tenantservicesauthority.org/server/show/ConWebDoc.21665>. The Tenant Services Authority is no longer functional, but the guidance note is still relevant.

exceed 2.75% of the retained equity. This is to ensure that as much income as possible is available to occupants to pay off mortgage costs.

- 4.9 For intermediate rented housing, rents should be set at 80% of Local Housing Allowance Rates. In every case, rents must fall within any relevant ceiling set within the Housing Benefit system (e.g. Local Reference Rents or Local Housing Allowance).
- 4.10 Schemes should be designed to ensure that service charges applicable to any affordable housing are kept as low as reasonably possible. Failure to take affordability issues into account within the scheme design could be grounds for refusing planning permission. In any event, service charges should not exceed the maximum amount an eligible household would be entitled to claim under the housing benefit regulations in force at the time.

Perpetuity

- 4.11 In accordance with the *NPPF* definition of affordable housing, the Council will ensure that affordable homes delivered under Policy CP7 either remain available at affordable rents/prices in perpetuity, or their value is recycled to provide other forms of affordable housing to meet an identified local need.
- 4.12 All money received as a result of occupants purchasing either their property (e.g. through the 'right to acquire') or a further equity share (e.g. through 'staircasing') will, subject to any statutory restrictions, be used to provide affordable housing within the City. If dwellings that have benefitted from City Council housing grant are purchased, the grant should be paid back to the Council's Housing Department. Recovered HCA grant must either be paid back to the Agency or recycled to provide affordable housing in the same market area, in accordance with the HCA's guidance on recycled capital grant funding¹³.

¹³ *Affordable Housing Capital Funding Guide 2012-13 (2012)*, Homes and Communities Agency. http://www.homesandcommunities.co.uk/cfg?page_id=&page=1

5.0 PLANNING PROCEDURES

Pre-application discussions

- 5.1 Pre-application discussions with the Council are encouraged. These help to identify any potential issues before detailed plans are drawn up and submitted, often saving considerable time and money. In terms of affordable housing, the Development Management and Housing Development Teams (see Appendix 5 for contact details) will seek to agree with the applicant the amount, type and nature of the requirement. Applicants are encouraged to involve their partner RPs in these discussions.

Outline applications

- 5.2 In the case of outline applications, the delivery of affordable housing must be agreed in principle. The Council will require details of the number and types of affordable homes to be provided and, once agreed, this will be set out in a Section 106 Agreement (see below).

Full / reserved matters applications

- 5.3 It is essential that applications for full planning permission and approval of reserved matters include full details of the affordable housing proposed, following agreement at the pre-application stage. The location, tenure and size of affordable units / plots should be specified on layout plans.

Section 106 Agreement

- 5.4 Before a planning application is determined, the Council will require completion of a Section 106 Agreement to secure the negotiated affordable housing. The Planning Solicitor (see Appendix 5 for contact details) will be pleased to supply a draft agreement to the applicant once the relevant details have been provisionally agreed. A specimen agreement and sample clauses are displayed on the Council website at www.exeter.gov.uk/planningobligations, but note that these are liable to change from time to time. Further details of the matters likely to be covered by the Agreement are also contained in Appendix 6.

APPENDIX 1

WHAT IS AFFORDABLE HOUSING?

The following text is extracted from Annex 2 of the *NPPF*.

Affordable housing: *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 not eligible for social rented housing. Affordable rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).

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.

APPENDIX 2

FORMULA FOR CALCULATING FINANCIAL CONTRIBUTIONS

The Formula and Values

	Average Size m ²	Typical Build Costs m ²	Sub Total	Average Plot Value	Commuted Sum Payment
1 Bed Flat	55	£1,247	£68,585	£22,217	£90,802
2 Bed Flat	72	£1,247	£89,784	£22,217	£112,001
2 Bed House	83	£1,247	£103,501	£22,217	£125,718
3 Bed House	91	£1,247	£113,447	£22,217	£135,694
4 Bed House	103	£1,247	£128,441	£22,217	£150,658
5 Bed House	114	£1,247	£142,158	£22,217	£164,375

The Breakdown

Average Size – These are average sizes (+10% for communal space for flats) taken from the *Residential Design Guide SPD*, page 60.

Typical Build Costs – Analysis of a number of schemes taken from BCIS online and co-ordinated by a local Chartered Quantity Surveyors practice. The schemes are typical estate type housing schemes in similar city locations to Exeter. The figure of £1,247 per m² is an average of the schemes investigated and includes building works, external works, preliminaries and design fees.

Plot Value – An average per acre figure derived from recent land sales in and around Exeter during 2011-2012 as investigated by an external development consultant. This per acre figures is then divided by an average density figure taken as the mid point between the per acre densities as listed in the Strategic Housing Land Availability Assessment Methodology (September 2010)¹⁴. – 12 to 41 = mid point of 26.5. Detail in table below.

Exeter City Council will carry out a periodic review of the values in the formula.

¹⁴ *Methodology for Strategy Housing Land Availability Assessments, Exeter Housing Market Area (September 2010)*, East Devon District Council, Exeter City Council, Mid Devon District Council, Teignbridge District Council, Dartmoor National Park Authority and Devon County Council.

APPENDIX 3

INFORMATION REQUIRED for AFFORDABLE HOUSING VIABILITY APPRAISALS

1. List of **open market dwelling types**, specifying for each one:
 - number of bedrooms;
 - number of habitable rooms;
 - gross/net internal floor areas;
 - estimated open market value (selling price, freehold) with supporting evidence / professional advice;
 - total number of each dwelling type within the proposed development.
2. List of **affordable dwelling types**, specifying for each one:
 - number of bedrooms;
 - number of habitable rooms;
 - gross/net internal floor areas;
 - estimated open market value (unrestricted freehold selling price);
 - details of any offer(s) received from Registered Providers, or an estimate of likely offers;
 - total number of each dwelling type within the proposed development.
3. Site layout plan for the development (outline, or detailed if available) with net developable areas and dwelling numbers for each element/phase of the proposed development.
4. Estimated construction and sales programmes for the development.
5. Details of current land ownership and, if not already owned by the developer, details of the contractual terms for its acquisition by the developer. Where applicable, this should include the land price paid (or, if estimated and not yet paid, the basis for that estimate) and allowance made for acquisition fees & SDLT.
6. Estimated planning costs, and period allowed (in months) after land acquisition, before commencement of development.
7. Housing construction costs (“plot costs”), as a total sum or £/m², noting any allowance made for achieving compliance with the Code for Sustainable Homes and/or Building Regulations.
8. Physical infrastructure costs, broken down between:
 - off-site drainage and/or highway works, with detailed analysis/justification;
 - normal on-site costs for providing road access and services to individual plots (including “externals” such as detached garaging and landscaping);
 - abnormal site costs (if any) with detailed analysis/justification.
9. Allowance made for professional fees in connection with (a) housing construction costs and (b) physical infrastructure works.
10. Estimated sum (or percentage allowance) for contingencies.
11. Community infrastructure (e.g. CIL, s.106 obligations / contributions).
12. Sale & marketing costs for open market dwellings.
13. Finance Costs, and basis of their calculation, including interest rate(s) applied.
14. Details of any proposed non-residential uses (C3 Use Class), together with estimated costs and revenues associated with those parts of the development.

APPENDIX 4

CONTACT DETAILS

Planning Policy Team

TEL: 01392 265283

FAX: 01392 265431

ldf@exeter.gov.uk

Development Management Team

TEL: 01392 265223

FAX: 01392 265431

planning@exeter.gov.uk

Planning Solicitor

TEL: 01392 265236

FAX: 01392 265431

matthew.page@exeter.gov.uk

Housing Development Team

TEL: 01392 265685

FAX: 01392 265859

Website: www.exeter.gov.uk

Address:

Exeter City Council

Civic Centre

Paris Street

Exeter

EX1 1NN

APPENDIX 5

LIST OF PREFERRED REGISTERED PROVIDERS (RPs)

- Affinity Sutton
- Cornerstone
- Magna
- Aster
- Devon and Cornwall Housing
- Home Group
- YMCA
- Sovereign
- Guinness
- Sanctuary
- Spectrum

The above RPs and Exeter City Council form the Exeter Homes Housing Partnership. The partnership works together to maximise the delivery of good quality affordable homes, deliver innovative development opportunities that meet local housing priorities and create sustainable communities in the City of Exeter.

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APPENDIX 6

SECTION 106 AGREEMENT – MODEL HEADS OF TERMS

- A The Section 106 Agreement will contain some or all of these terms, subject to site by site negotiations:
- define the amount of affordable housing or, in the case of full permission, specify specific units and detail the breakdown between different tenures and amount of wheelchair accessible housing, all in accordance with Policy CP7;
 - require the affordable housing to comprise a mixture of dwelling types in accordance with the latest SHMA and housing register data, to be integrated with and indistinguishable from market housing;
 - set a timescale for the affordable housing to be provided, usually that it shall be available for occupation by the time a percentage of the market housing is available;
 - include a mechanism for selecting an RP, unless another approach has been agreed;
 - limit the rent and outgoings which can be charged to occupants and the price at which an initial share can be sold under a shared ownership arrangement;
 - include a mechanism for limiting and selecting the occupants of the affordable housing, which will require supplementary agreements to entered into as follows:
 - where the Council provides grant aid, the RP or other provider will be required to enter into a nomination agreement;
 - in the case of a provider that is not an RP, or in other special cases (e.g. an unusually large grant payment), the Council will require additional security for repayment of grant on disposal of the land;
 - where the provider is not an RP, the S106 Agreement will include provisions governing letting and management arrangements.
 - provide for the housing to remain affordable in perpetuity, subject to:
 - any statutory right to acquire, buy or 'staircase';
 - a mortgagee in possession clause, where the affordable housing is transferred to an RP.
- B The applicant will be required to pay the Council's reasonable legal costs in connection with the Agreement. The Council's costs in connection with any related Agreement (e.g. a nomination agreement) shall be paid by the applicant, RP or other provider, depending upon which of those parties is involved in negotiating the terms of that Agreement.
- C Where the Council has refused an application which, if allowed, would have been subject to a requirement for affordable housing, it will endeavour to negotiate a Section 106 Agreement on a 'without prejudice' basis, to take effect in the event that an appeal is allowed.
- D In the case of an outline application, the Section 106 Agreement will require the applicant to agree with the Assistant Director of Housing and Contracts (in practice, delegated to the Housing Development Manager), prior to the commencement of development, the physical locations, type, layout and tenure of the affordable dwellings.
- E The agreement will require the applicant to notify the Assistant Director of Housing and Contracts of the anticipated date(s) when the affordable housing will be available for occupation, a specified period(s) in advance.
- F Section 106 Agreements will include mechanisms to record when key stages are reached in the development and requirements are triggered.
- G The Council will use its enforcement powers if a Section 106 Agreement is not complied with. In addition, the fact that a development is taking place despite non-compliance with a

Section 106 Agreement will be included as a standard response to searches from prospective purchasers.

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GLOSSARY

Affordability

A measure of whether housing may be afforded by certain groups of households.

Affordable Rent

This refers to rented housing let by RPs of social housing to households who are eligible for social rented housing. Affordable Rent is not subject to the national rent regime, but is subject to other rent controls that require rent of no more than 80 per cent of the local market rent.

Affordable housing

Affordable housing includes social rented, affordable rented and intermediate housing, provided to specified eligible households whose needs are not met by the market.

Homes and Communities Agency (HCA)

The non-departmental public body that funds new affordable housing in England.

Intermediate affordable housing

Housing at prices and rents above those of social rent, but below market prices or rents. It can include shared equity products (e.g. New Build HomeBuy), other low cost homes and intermediate rent, but does not include affordable rented housing.

Local Development Framework

The name for the portfolio of Local Development Documents (LDDs) that provide the planning policy framework for a local authority area. It comprises of the Core Strategy, Development Plan Documents (DPDs), Supplementary Planning Documents (SPDs), a Statement of Community Involvement (SCI), the Local Development Scheme (LDS) and Monitoring Reports.

Market housing

Private housing for rent or for sale, where the price is set in the open market.

National Planning Policy Framework (NPPF)

Sets out the Government's planning policies for England and how these are expected to be applied.

Registered Provider (RP)

An independent, registered, non-profit making organisation to build, improve and manage affordable housing for sale or rent. An RP must be registered with and regulated by the current government regulating authority.

Section 106 Agreement

Planning obligations are agreements entered into between the Council and developers, usually in conjunction with the granting of planning permission. Planning obligations apply to land, binding it and whoever owns it. They are made using powers under section 106 of the Town and Country Planning Act 1990, which is why they are also called "section 106 agreements".

Social Rented Housing

Rented housing owned and managed by local authorities and RPs, for which guideline target rents are determined through the national rent regime. It may also include rented housing owned or managed by other persons and provided under the same rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency as a condition of grant.

Strategic Housing Land Availability Assessment (SHLAA)

An assessment of sites across a local authority area, to determine whether or not they have the potential to be developed for housing. Production of a SHLAA by the local authority is a requirement of the NPPF.

Strategic Housing Market Assessment (SHMA)

A cross-boundary study of the operation of a Housing Market Area. Planning Policy Guidance Note 3: Housing, which has been superseded by the NPPF, required local authorities to prepare SHMA as part of the evidence base to inform LDFs and the development of planning and housing policy.

Supplementary Planning Documents (SPD)

These provide amplification in respect of policies in the LDF Core Strategy and other DPDs. They are not subject to independent examination.

Sustainable Communities Strategy

A document prepared by a Local Strategic Partnership - a collection of organisations and representatives working voluntarily to represent key interests in an area's economy, society and environment. The Strategy should set out a sustainable 'vision' for an area and highlight measures to achieve it.

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EXETER CITY COUNCIL

EXECUTIVE
18 SEPTEMBER 2012

PROPOSED ARTICLE 4 DIRECTION TO CONTROL DEMOLITION OF THE CRAWFORD HOTEL, ALPHINGTON ROAD

1 PURPOSE OF REPORT

- 1.1 To propose an Article 4 Direction (under the Town and Country Planning (General Permitted Development) Order 1995, as amended), to remove the permitted development right for demolition, with immediate effect, for The Crawford Hotel, Alphington Road, Exeter.

2 BACKGROUND

- 2.1 The Crawford Hotel is an early to mid nineteenth century neo-classical villa over two storeys, set back from road. It is on the Exeter list of Buildings of Local Importance. The description, including a photograph and plan, can be found at Appendix 1.
- 2.2 The public house operation ceased trading approximately a year ago and since then, there have been advertising hoardings up that suggested a new hotel/pub use, however the property is being actively marketed and, given its location and the amount of land available, it is likely that developers will be interested in it.
- 2.3 The building does not fall within a conservation area and as such, demolition would not require consent.
- 2.4 It is considered appropriate to protect the building from any threat of speculative demolition or other alterations prior to any planning application. It should be noted however that redevelopment plans that proposed limited demolition of more recent elements of the building are likely to be acceptable and there is potential for extension/new development to the rear.
- 2.5 Under the National Planning Policy Framework (NPPF), Buildings of Local Importance identified by a Local Authority are included in the description of Non-Designated Heritage Assets and as such, policies within this document apply. The NPPF further endorses the use of an Article 4 Direction to remove permitted development rights where this is considered necessary to protect local amenity or the wellbeing of the area. (Paragraph 200).

3 PROCEDURE FOR MAKING THE DIRECTION

- 3.1 Article 4 of the Town and Country Planning (General Permitted Development) Order 1995, as amended by Statutory Instrument 2010 No. 654 allows for local authorities to remove certain types of permitted development to bring those specific items under planning control.
- 3.2 The proposed Direction must be advertised in a local paper, advertised on a site notice and the owner be sent copies of the formal notice and plan. The Secretary of State must also be informed. A period of not less than 21 days must be allowed for any representations to be submitted and the Direction may be confirmed by the local authority, subject to any representations being taken into account, followed by notification to the owners and Secretary of State and by local advertisement.

3.3 The Direction may have immediate effect where it relates only to development permitted by Part 31 of Schedule 2 to the Order (Demolition of Buildings), and the local planning authority consider that would be prejudicial to the proper planning of their area or constitute a threat to the amenities of their area.

3.4 A draft Direction is attached at Appendix 2.

4 CONSIDERATIONS

4.1 In proposing an Article 4 Direction, the local authority must take into account the possibility of a claim for compensation for losses directly attributable to the Direction, i.e. if planning permission is subsequently refused for what was, prior to the Direction being made, permitted development.

4.2 Compensation can be claimed under two headings: abortive expenditure (which would not appear to be relevant in this case) and other loss or damage, including depreciation in the value of the land.

4.3 It will not necessarily be the case that the Direction will affect the value of the land, it would however prevent the site owner from demolishing the building without planning permission.

4.4 The most recent use as a hotel/public house has come to an end, possibly due in part to financial viability problems, but even if that use is still potentially profitable, the site might have a higher value as a cleared site with the benefit of planning permission for residential development. That difference in site value could be the subject of a compensation claim, but that is assuming planning permission would be forthcoming for a scheme involving demolition, which may not be the case given the protection for locally listed buildings afforded by Local Plan Policy C3. Furthermore, such a scheme might not be significantly more profitable than a residential scheme involving retention of the existing building.

4.5 It is impossible to put an accurate figure on potential compensation liability because the possible permutations (e.g. in terms of redevelopment options) are infinitely variable. In practice, the problems of showing a causal link to the Article 4 Direction (as opposed to other planning issues) and of valuation mean that making a compensation claim can be a complex and expensive business, and it may be for this reason that a report on research into the use of Article 4 Directions on behalf of English Historic Towns Forum (*RPS Planning, October 2008*) found no evidence for any compensation payments actually being made. Clearly, however, the possibility of a successful claim in this case cannot be ruled out.

5 CONCLUSIONS

5.1 The Crawford Hotel has been identified as a Building of Local Importance and as such it is a Heritage Asset that warrants protection from uncontrolled demolition. The most appropriate protection the local authority can impose is an Article 4 Direction that will remove permitted development rights to demolish the property without the need for a planning application to be made.

- 5.2 By applying this Direction, demolition will be brought under planning control. The owners may still submit a planning application for the demolition and rebuilding of the property and they will have to submit their reasoning and justification for wanting to do this. Members will then have the opportunity to comment on the proposals and justification and determine the application accordingly.
- 5.3 Members will remember that an Article 4 Direction was successfully applied at 60 – 66 Union Road, a group of 4 properties owned and managed by the Licensed Trades Association (formerly the Licensed Victuallers Association), and following this, the building was statutorily Listed by English Heritage.

6 RECOMMENDATION

- 6.1 Executive is recommended to resolve:
- (i) That it considers that the demolition of The Crawford Hotel without the benefit of planning permission would be prejudicial to the proper planning of the Council's area or constitute a threat to the amenities of the Council's area and that it is expedient that such demolition should not be carried out unless permission is granted for it on an application to the Council;
 - (ii) To delegate to the Assistant Director City Development in consultation with the Portfolio Holder for Sustainable Development and Transport the responsibility to make an Article 4 Direction relating to The Crawford Hotel, Alphington Road in the form (or substantially in the form) of the draft Direction in Appendix 2, to consider any representations and to decide whether to confirm the Direction with or without amendments.

RICHARD SHORT ASSISTANT DIRECTOR CITY DEVELOPMENT

Local Government (Access to Information) Act 1985 (as amended) Background papers used in compiling this report:

Town and Country Planning (General Permitted Development) Order 1995, as amended by Statutory Instrument 2010 No. 654
Research into the Use of Article 4 Directions (*RPS Planning, on behalf of English Historic Towns Forum, October 2008*)

BUILDING OF LOCAL IMPORTANCE DESCRIPTION**ALPHINGTON
ROAD**

Crawford Hotel

Group value:	N/A
Grid ref:	SX 9154 9121
Date:	31 March 2005
Conservation Area:	No

Description

Large detached building over two storeys, set back from road. Rendered central block in classical style, with pediments and columns, and original wooden sash windows. Building (named Lion House) shown on the footprint of the central block on 1840 and 1890 maps, but without the single storey side wings; the eastern rear part of the northern side wing was added by 1905, the front part and the whole of the western wing were added after 1938. The rear wing (shown in photo with pitched roof) is on the same footprint as buildings and yards shown to the rear in 1840 and 1890, and may still incorporate the former. These were probably a service range and outbuildings; a detached building adjoining the southern boundary is also shown on both maps, fronting a yard, and may have been a coach house and/or stables.

Rear buildings and elevations, or interior, not viewed.

Summary of significance

Has historic interest as an example of a neo-classical villa, probably built by a wealthy local merchant, businessman and/or landowner, in a convenient yet salubrious location alongside one of the main routes into the city. Research may identify the original and subsequent owners and occupiers, and whether they were people of particular importance and significance.

Has a strong architectural and aesthetic interest, notwithstanding the later side extensions and the tarmac car park in front of it. Both are reversible, in that both could be removed or replaced at some point in the future.

May have internal evidence of original room function and appearance, though in places this is likely to be hidden or removed by more recent alterations and finishes. In this respect it retains some potential archaeological interest.

Relevant selection criteria***Local plan***

- A – as a (early to mid) 19th century neo classical villa probably built by a prominent member of the local community it has clear architectural and historic interest.
- B – although set back from the road (originally with gardens in front and a drive up to the front entrance) it is both prominent and a local landmark, and a very distinctive element of the local scene and townscape.

- C – research is required to identify whether the building is associated with locally significant or distinctive activities/industries and/or personages.
- D – it is a locally rare exemplar of a villa built in a very bold and distinctive neo-classical style.

English Heritage amended

1. Qualifies, as an early to mid 19th century villa predating the major periods of suburban growth.
2. Is a prominent and locally rare example of a very bold neo classical villa.
3. Its bold, prominent, neo classical style gives it a strong architectural and aesthetic value and interest. Although currently compromised to some extent by the poor setting (tarmac car park and modern side extensions), these are all reversible (without detracting from the main building) and capable of improvement.
4. Likely to have evidential value in form of associated historical documentation about the building and its function and occupants, and in the form of physical evidence for the development of the building and for how it functioned.
5. May have historical value in terms of potential association with significant personages and/or activities, but would require research to demonstrate this.
6. Would have had a designed landscape approach/setting at the front, but this has been destroyed.
7. Has strong visual prominence and high aesthetic value, and is a landmark within the local scene, albeit set back from the road and compromised by the present poor immediate setting. Is nevertheless a strong element of the identity of the locality.
8. Will need to be assessed as part of a future public consultation, but likely to have at least some communal value and role due to its present function.



Front Elevation 08/08/2005



Scale 1:1250
100025458 2006

Crown copyright Exeter City Council

EXETER CITY COUNCIL

**TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT)
ORDER 1995 AS AMENDED**

DIRECTION MADE UNDER ARTICLE 4(1) TO WHICH ARTICLE 6 APPLIES

WHEREAS: Exeter City Council (“the Authority”) being the appropriate local planning authority within the meaning of article 4 (4) of the Town and Country Planning (General Permitted Development) Order 1995 as amended (“the 1995 Order”), is satisfied that it is expedient that development of the description set out in the First Schedule below should not be carried out on the land described in the Second Schedule below, unless planning permission is granted on an application made under Part III of the Town and Country Planning Act 1990 as amended,

NOW THEREFORE the Authority in pursuance of the power conferred on it by Article 4 (1) of the 1995 Order HEREBY DIRECTS that the permission granted by Article 3 of the 1995 Order shall not apply to development of the description set out in the First Schedule below, on the land described in the Second Schedule below.

THIS DIRECTION is made under Article 4(1) of the 1995 Order and, in accordance with Article 6(7), shall remain in force until..... (being six months from the date of this Direction) and shall then expire unless it has been confirmed by the appropriate local planning authority in accordance with paragraphs (9) and (10) of Article 5 before the end of the six month period.

FIRST SCHEDULE

1. Any building operation consisting of the demolition of a building, or the demolition of the whole or any part of any gate, fence, wall or other means of enclosure, being development comprised within Class A and Class B of Part 31 of Schedule 2 to the 1995 Order and not being development comprised within any other Class.

SECOND SCHEDULE

The land situated at and known as The Crawford Hotel, Alphington Road, Exeter, EX2 8JD, comprising the building and its curtilage, shown edged red on the attached plan.

Made under the Common Seal of Exeter City Council this day
of September 2012

THE COMMON SEAL of)
EXETER CITY COUNCIL)
was affixed hereto in the)
presence of:-)

Corporate Manager Legal Services/Chief Legal Officer

Confirmed under the Common Seal of Exeter City Council this day of
September 2012

THE COMMON SEAL of)
EXETER CITY COUNCIL)
was affixed hereto in the)
presence of:-)

_____ Corporate Manager Legal Services/Chief Legal Officer



Scale 1:1250



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23/08/2012

Proposed Article 4 Direction Area

City Development, Exeter City Council, Civic Centre, Paris Street, Exeter, EX1 1NN

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Exeter City Council

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EXETER CITY COUNCIL

EXECUTIVE

18 SEPTEMBER 2012

APPOINTMENT OF REPRESENTATIVES TO SERVE ON OUTSIDE BODIES

Vacancies are **emboldened**.

<u>BODY AND TERM OF OFFICE</u>	<u>CURRENT REPRESENTATIVES AND EXPIRY OF APPOINTMENTS</u>	<u>NUMBER OF MEETINGS PER ANNUM</u>	<u>TERMS OF REFERENCE</u>
Exeter Citizens Advice Bureau From 18.09.2012	Cllr Edwards	4	Committee of Management managing the Bureau. CAB provides advice and guidance to the public.
Exeter Board 1	Cllr Ruffle to replace Cllr Mitchell 18.06.2013	4	Joint Board with Devon County Council.
Exeter Business Centre Board 1	Portfolio Holder for Economy and Tourism (Cllr Denham) Cllr Mrs Brock Cllr Winterbottom Former Cllr Mrs Morrish 18.06.2013	4	The Board oversees the affairs of the Business Centre.

<p>Exeter Municipal Charities (Church List)</p> <p>4</p>	<p>The Lord Mayor (ex officio) Ald JF Landers - 13.12.2013 Ald N.W.F. Long - 13.12.2013 Mr JF Marshall – 13.12.2013 (retired) Cllr Shiel -13.12.2013</p>	<p>12</p>	<p>To provide accommodation for people who feel unable to remain in their own homes by reason of failing health or reduced circumstances.</p>
<p>St Sidwell's Parish Lands and Other Charities</p> <p>4</p>	<p>P. J. Shepherd (retired) 18.10.2013</p>	<p>2</p>	<p>Provide and maintain the St Sidwell's Almshouses and provide funds to assist in the education of children in the parishes of St. Sidwell's, St. Matthew's and St. James.</p>
<p>Police and Crime Panel</p>	<p>Deputy Leader</p>	<p>12</p>	<p>To ensure that the decisions of the Police and Crime Commissioner receive proper scrutiny.</p>

**CORPORATE MANAGER DEMOCRATIC AND CIVIC SUPPORT
7 SEPTEMBER 2012**

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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