

EXETER CITY COUNCIL

**PLANNING MEMBER WORKING GROUP
10 SEPTEMBER 2013**

**EXECUTIVE
17 SEPTEMBER 2013**

**COUNCIL
15 OCTOBER 2013**

**COMMUNITY INFRASTRUCTURE LEVY ADOPTION AND AFFORDABLE HOUSING
SUPPLEMENTARY PLANNING DOCUMENT REVISION**

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to seek Planning Member Working Group, Executive and Council support for the adoption of the Exeter Community Infrastructure Levy and for revision of the Affordable Housing Supplementary Planning Document that was adopted in February 2013.

2 BACKGROUND

- 2.1 The Council has been working towards adoption of a Community Infrastructure Levy since Autumn 2011.
- 2.2 The Community Infrastructure Levy (CIL) is a new form of charge that allows local authorities to raise funds from developers undertaking new building projects in their area. CIL is applied at a fixed rate per square metre to net additional new development of one or more dwellings, or with a floor area of more than 100 square metres. Exemptions are available for buildings occupied by charities and social housing. The money collected can be used to fund a wide range of infrastructure that is needed as a result of development including transport facilities, flood defences, schools, sports facilities and other green infrastructure.
- 2.3 CIL is the Government's preferred vehicle for the collection of contributions towards infrastructure from new development but, whilst it is a new form of charge, it does not necessarily represent an additional cost to new development. Rules on securing contributions through section 106 agreements have been tightened and are set to become even more restrictive from April next year such that it will not be possible to pool more than five section 106 developer contributions towards one item of infrastructure. This means that Councils' only real prospect of securing contributions towards strategic infrastructure from new development is through CIL, with section 106 agreements generally used only for affordable housing provision and site specific matters.
- 2.4 Members will recall that in March 2012 Executive approved a Draft CIL Charging Schedule for public consultation and delegated the decision on whether to submit the Draft Charging Schedule for independent examination to the Council Leader and Lead Councillor for Sustainable Development and Transport.
- 2.5 The Draft Charging Schedule had been prepared on an evidential basis. This focussed on (i) an assessment of the considerable infrastructure costs associated with delivering the Council's Development Plan; and (ii) an assessment of how much

(on an area wide basis) it would be financially viable for different forms of development to contribute towards these costs.

- 2.6 Examination commenced in December 2012 and the Examiner's Report was received in August 2013. The report recommends that the Draft Charging Schedule (as submitted with modifications) be approved. This is good news for Exeter and the City Council, which has become one of the first 20 authorities in the country to reach this position. The full Examiner's report is available on the Council's website at www.exeter.gov.uk/cil and a copy can be made available for Members on request.

3 CHARGING RATES

- 3.1 The proposed Community Infrastructure Charging Schedule is at Appendix 1. The CIL Examiner has approved the following charging rates per square metre:

Residential - £80

Purpose built student housing - £40

Out of city centre retail - £125

All other development - £Zero

- 3.2 Following consultation on the Draft Charging Schedule, and with Leader and Portfolio Holder approval, a Statement of Modifications was issued that provided for a reduction to retail rates. Whereas a charge of £240 per square metre had been proposed for Supermarkets, Superstores, Retail Warehouses and Warehouse Clubs outside of the city centre; a flat rate for all out of city centre retail (including eating and drinking establishments) of £125 was put forward. This was to address consultation comments that the retail proposals would be unworkable for example when trying to draw a distinction between (chargeable) supermarkets and (zero rated) local convenience stores. The Examiner accepts these changes stating that they will "overcome concerns about distortion in the retail market".

4 INCOME

- 4.1 With CIL at £80 per square metre, an average dwelling size of 90 square metres, and assuming that more than 4,800 new dwellings are granted planning permission and charges become payable before the end of the plan period in 2026; CIL from new housing can be expected to raise around £23 million. Taking into account all other forms of chargeable development, income could be expected to total around £29 million.
- 4.2 CIL will only apply to new planning permissions, albeit including resubmissions. The Council has granted planning permission for more than 3,500 dwellings over the past two years, the majority of which have not yet been built. Some have section 106 agreements pending that are expected to be signed before CIL is introduced. With that supply of consented sites, it may be some time before significant new housing permissions are granted. CIL liability only arises on the commencement of development, it could be even longer before much income comes forward. But when it does commencement of every 100 newly consented dwellings will (remembering that social housing relief is available) raise more than £500,000.
- 4.3 Even though the immediate income forecast is not particularly optimistic, development projects that are not proposed through the Development Plan have come forward in recent times. If approved, the recently announced proposal for an IKEA store at Newcourt could raise £3.5 million on its own.

5. AFFORDABLE HOUSING

- 5.1 The Exeter Core Strategy sets a target for 35% of the total housing provision on sites of 3 or more additional dwellings to be made available as affordable housing. Members will recall however, that an Affordable Housing SPD was adopted by the Council in February 2013 which accepts the principle of providing 25% affordable housing on sites of 15 or more (rather than the Core Strategy target of 35% on 3 or more) for a temporary period. The Council's justification for this temporary relaxation came from the Core Strategy's statement that the 35% target is subject to considerations of viability and feasibility.
- 5.2 During Examination though, the CIL Examiner made it clear that CIL rates for housing should be set on the basis of the affordable housing policy target (i.e. 35%). The Town and Country Planning (Local Planning) (England) Regulations 2012 require that policies in SPD must not conflict with adopted development plan policy. At the same time though, the Examiner also indicated that she considered it feasible for many sites in Exeter to pay some CIL and provide 35% affordable housing on the basis that a reduction in land value is an inherent part of CIL.
- 5.3 Officers therefore presented further evidence to the Examiner that compared the price being paid for land with an assessment of the 'benchmark land value' that a willing land owner would require in order to make a sale. This concluded that landowners had been in receipt of supernormal returns in recent times and that there was sufficient value in development to accommodate the residential CIL charge proposed and the 35% affordable housing target without seriously threatening the supply of development land. The Examiner agreed this position.
- 5.4 The CIL Examiner has therefore found that the City Council should seek 35% affordable housing as well as charging the proposed residential CIL rate of £80 per square metre
- 5.5 If the Council accepts this position, a decision is needed on which projects to apply the 35% affordable housing requirement to. Options include:
- consents granted after the date of CIL introduction (i.e. those where an s106 agreement is outstanding);
 - projects where there has not been a resolution to grant planning permission on the date of CIL introduction;
 - planning applications submitted after the date of publication of the charging schedule; or
 - new demand (including pre application discussions) that arises after the date of publication of the charging schedule.
- 5.6 It is recommended that the 35% on sites of 3 dwellings or more requirement apply to all development projects where a resolution to grant planning permission has not yet been made. Where a resolution has been made, it should apply to all projects where a section 106 agreement has not been signed and therefore a decision notice has not been issued before the date on which CIL comes in to force.
- 5.7 This recommendation is considered reasonable because the development industry has been aware (over the course of CIL Examination) that the City Council might well have to revert to its 35% target. The CIL Examiner was also advised by representatives of several of the major house builders that are active in the city that bank lending and development finance calculations were based on the 35% target, rather than the interim 25% position of the SPD. There is also an argument that it

may be possible for land purchase contracts and options to be renegotiated, particularly in Exeter where the majority of housing sites are not suitable for alternative uses. At the same time, where development proposals are at an advanced planning stage, and assuming legal agreements can be completed quickly, there is an incentive to carry forward the interim 25% requirement so as not to undermine the significant supply of housing sites (more than 2,000 dwellings) that are approved subject to s106 agreement.

6. AFFORDABLE HOUSING SUPPLEMENTARY PLANNING DOCUMENT

- 6.1 Whilst it is clear that the requirement for 35% affordable housing should be applied irrespective of the recently adopted Affordable Housing SPD's stated interim figure of 25%, it would be more transparent to remove reference to 25% from the SPD. However, partial revocation of an SPD is not feasible. Instead it is proposed that the whole of the SPD is revoked and replaced with an amended version (draft attached at Appendix 4).
- 6.2 The SPD provides valuable guidance, particularly in relation to the mix of sizes of affordable units required, the financial contribution that is payable towards the provision of affordable housing where on site delivery is not feasible and the Council's general approach to securing affordable housing. In order to introduce a replacement version, a 6 week consultation period (following the same procedural arrangements as applied to preparation of the current SPD) will first need to be undertaken, making the earliest possible adoption date 26 November 2013. A further report would be presented to Executive at that point.
- 6.3 It is proposed that the existing SPD should remain as adopted until it can be replaced. Whilst the revised SPD is being prepared, paragraphs 3.4 – 3.6 (which specifically refer to the interim 25% affordable housing on 15 or more dwellings approach) and other references to 25% affordable housing should not be applied.

7. LEVY PAYMENT SCHEDULE

- 7.1 The default regulatory position is that CIL liabilities become payable 60 days after the commencement of development. However, there is a strong developer argument that payment of liabilities at such an early stage in the development process can have a significant impact on cash flow.
- 7.2 In response to these concerns, a payment schedule has been prepared with the intention of reflecting average anticipated residential build rates (Appendix 2). It is proposed that this is adopted and applied with the CIL Charging Schedule.
- 7.3 Of course, the downside to staged payments (over a period of up to two years) is that there will be a delay in money becoming available to spend on infrastructure. But this is probably preferable to a situation where development is unable to come forward because the costs of financing up front CIL payments are too great. Generally, local planning authorities that introduce CIL apply a payment schedule like the one at Appendix 2.

8. LEVY FUNDED INFRASTRUCTURE

- 8.1 The regulations that govern operation of the Community Infrastructure Levy require Local Planning Authorities to explicitly identify what infrastructure will be funded through CIL and, by implication, what matters they expect to deal with by section 106 agreement. However, because the regulations also limit Planning Authorities to

pooling a maximum of five contributions towards the same item of infrastructure through section 106 agreement, authorities are effectively limited to CIL as the only mechanism for securing developer funding for strategic infrastructure.

- 8.2 The 'Regulation 123 List' at Appendix 3 sets out infrastructure that is proposed to be funded through CIL. CIL funds can only be spent on infrastructure that features on the list. It is essential that a list is adopted in time for the Levy's introduction otherwise no infrastructure (including site specific) can be secured by section 106 agreement. The appended list (a version of which was approved by the CIL Examiner) can, however, be changed and the Council is at liberty to revise it at any time subject to guidance that appropriate public consultation is undertaken.
- 8.3 It is proposed that any developer contribution towards school facilities will only be secured through CIL (i.e. not through s106). A more project-specific approach has been applied to transport infrastructure, with particular projects identified for possible CIL funding and others not included on the list because they are longer term, not well advanced or their funding is uncertain – it will be possible to add projects through later iterations of the list. Because they are not included on the proposed list, other site specific infrastructure like open space, play facilities, site serving junctions or on site bus stops will need to be secured at the planning permission stage.
- 8.4 At the head of the Regulation 123 List is 'mitigation of recreational impact on European designated habitats'. The CIL Examiner's report is clear that prioritisation of CIL funds for this purpose will be necessary to satisfy the Habitats Regulations. It is therefore proposed that the necessary mitigation contribution (currently £350 per dwelling) that relates to new housing is ring-fenced for recreational impact specific expenditure at the point of receipt.
- 8.5 It will take some time for the Council to accrue significant CIL income. When it does, up to 5% of administrative costs associated with introducing and implementing CIL can be retained by the Council. A future report to Executive will consider issues surrounding governance and spending priorities for the funds that are collected.

9. LEVY TIMETABLE

- 9.1 The Exeter Community Infrastructure Levy has been in prospect for almost two years and is widely expected. There is no requirement to delay implementation. However, as noted above, the Council has resolved to grant planning permission for a large number of dwellings subject to the completion of section 106 agreements.
- 9.2 In order to conclude these various section 106 legal agreements (many of which are at an advance stage of preparation) it is recommended that the Council introduce the Levy from 1 November 2013. All developments of residential, student accommodation or out of city centre retail and exceeding 100m² net additional floor space or at least one dwelling (whichever is less) would be liable for CIL where planning permission was granted on or after that date.

10. RECOMMENDATIONS

- 10.1 It is recommended that Executive:
- a) Recommends to full Council approval of the Community Infrastructure Levy Charging Schedule at Appendix 1 for adoption and implementation from 1 November 2013;

- b) Approve the Payment Schedule at Appendix 2 for implementation in conjunction with the Charging Schedule;
- c) Approve the Regulation 123 List at Appendix 3 as a list of infrastructure that the Council intends to provide funding support for through CIL;
- d) Approve that the requirement for 35% affordable housing on sites of 3 dwellings or more applies to all relevant approvals of planning permission, except where there has been a Planning Committee resolution to grant planning permission. Where there is such a resolution, that the requirement applies if planning permission has not been granted before the date on which the Community Infrastructure Levy is implemented.
- e) Continue to apply the February 2013 Affordable Housing SPD except paragraphs 3.4 - 3.6 and in other instances where 25% affordable housing and a threshold of 15 dwellings are mentioned.
- f) Approve the revised Affordable Housing Supplementary Planning Document at Appendix 4 for public consultation with the intention of replacing the current version.

RICHARD SHORT
ASSISTANT DIRECTOR CITY DEVELOPMENT

Local Government (Access to Information) Act 1985 (as amended)

Background papers used in compiling this report:

None



Exeter City Council

Community Infrastructure Levy
Charging Schedule

Approved on 17 September 2013

Levy Rates

The rates below will generally be levied against the gross internal floor area of all new dwellings (irrespective of size) and all other new development exceeding 100 square metres. There are exemptions for buildings into which people do not normally go and buildings used by charities. Relief is also available for social housing.

Development Use	Levy (per sq m)
Residential (excluding Use Class C2)	£80
Student housing whose occupation is limited by planning permission or planning obligation	£40
Retail (includes Use Classes A1–A5) outside city centre	£125
All other development	£Zero

Charging Zones

Charging Zones are set out in the map below. The Exeter Local Plan First Review City Centre Inset Map provides a more detailed version and is available from www.exeter.gov.uk/planning or the Civic Centre, Paris Street Exeter, EX11JN.

How the Chargeable Amount will be calculated

Where applicable the Council will issue a Liability Notice that states the chargeable amount as soon as possible after the grant of planning permission. The Council will calculate the amount of CIL chargeable to a qualifying development utilising the formulae set out in Parts 5 and 6 of the CIL Regulations. In summary the amount of CIL chargeable will be calculated as follows:

$$\frac{\text{CIL Rate} \times \text{Chargeable Floor Area} \times \text{BCIS Tender Price Index (P)}}{\text{BCIS Tender Price Index (S)}}$$

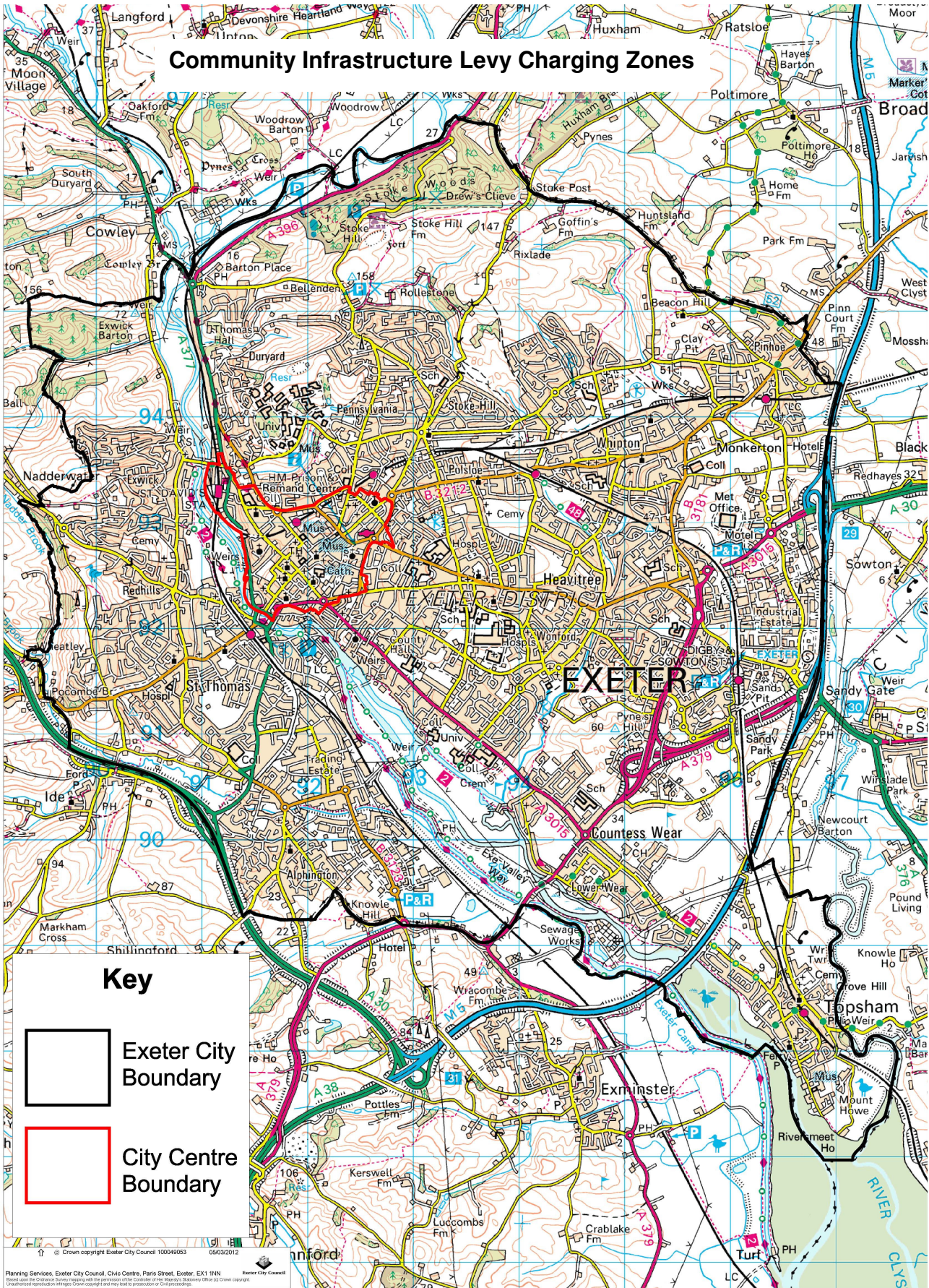
P = The BCIS Tender Price Index published on 1st November of the year preceding the grant of planning permission

S = The BCIS Tender Price Index published on 1st November of the year preceding Charging Schedule adoption



The Chargeable Floor Area makes allowance for previous development on the site. The net chargeable floor area amounts to the gross internal area of the chargeable development less the gross internal area of any existing buildings that qualify for exemption on the site.

This summary does not take account of every aspect of the CIL Regulations, which are available to view at the Council's website (www.exeter.gov.uk/planning) or at the Civic Centre, Monday to Friday: 08:30 – 17:00.

Community Infrastructure Levy Charging Zones



Key

-  Exeter City Boundary
-  City Centre Boundary



Exeter City Council

Community Infrastructure Levy
Charging Schedule

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EX1 1NN
Tel: 01392 265223
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www.exeter.gov.uk/planning

September 2013



Exeter City Council

September 2013

Exeter City Council has introduced a CIL Instalment Policy as follows. This applies in all cases where the total CIL liability is greater than £50,000.

Instalment no.	Amount due	Time due
1	£50,000	60 days after the date on which the development commences
2	£150,000 , or outstanding liability if less	One year after the date on which the development commences
3	£200,000 , or outstanding liability if less	18 months after the date on which the development commences
4	Outstanding liability	Two years after the date on which the development commences

Failure to comply with the instalment policy at any stage will result in the total unpaid balance becoming payable immediately.

CIL liabilities of less than £50,000 will be payable in full no later than 60 days after the development commencement date.



Exeter City Council

Community Infrastructure Levy Regulation 123 List

September 2013

The table below comprises Exeter City Council's Regulation 123 list. It consists of the infrastructure that the Council intends to apply CIL monies to.

Infrastructure considered likely to benefit from the application of CIL funding:

- Mitigation of recreational impact on European designated habitats
- Off site broadband infrastructure
- Sporting facilities excluding multi use games areas
- New City Centre Leisure Centre
- Public realm enhancements including signage and CCTV
- Community buildings
- Cultural facilities
- Strategic flood defences
- School facilities
- New highway link from Tithebarn Lane to Cumberland Way
- New railway station at Marsh Barton
- New railway station at Newcourt
- New park and ride facilities
- Strategic cycle link between Newcourt strategic allocation and City Centre
- Strategic cycle link between Monkerton strategic allocation and City Centre
- Bus priority on the key routes and City Centre bus infrastructure
- Bus real-time passenger information facilities not provided in direct relation to new development and smartcard technologies
- Improvements to junction capacity at Moor Lane roundabout
- Library facilities

Affordable Housing

Draft Supplementary Planning Document

September 2013

Exeter Local Development Framework



Exeter City Council

www.exeter.gov.uk

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 SPD provides more detailed guidance on how Policy CP7 will be implemented, in order to deliver affordable homes and to help promote mixed and sustainable communities. The SPD forms part of the Exeter Local Development Framework and is 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.
- 1.4 Applicants for planning permission are expected to consider the overall cost of development, including affordable housing provision, prior to negotiating the purchase of land or an option. 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.

The Policy Context

- 1.5 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.
- 1.6 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 small affordable dwellings. However, the Register also shows that larger households tend to have a more acute degree of affordable housing need.

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

3.1 The following section explains in more detail how Policy CP7 will be applied. Appendix 2 summarises the process as an ordered series of questions that the planning officer and applicant will need to address when considering/preparing a proposed scheme of development.

Applying the policy

3.2 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.

3.3 Proposals for, and limited to, purpose built student accommodation will not be subject to affordable housing requirements.

Amount of affordable housing

3.4 In some cases, the percentage of affordable housing required will not equate to a whole number of dwellings⁷. In order to make up the balance, the Council will require a financial contribution to provide 'part' of an affordable home, based on the formula provided in Appendix 3. A worked example is provided in the same Appendix ('Worked Example 1').

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

Tenure Mix

3.6 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 expect at least 70% of the the 35 % affordable housing requirement to be social rented housing. The remaining balance of the affordable housing should be provided as intermediate affordable housing.

3.7 If the applicant can demonstrate that this balance is not viable, the Council will require 35% affordable housing with an element of affordable rent as part of the mix. The affordable rented units should be let as near as possible to social rent levels.

Size Mix

3.8 The Council will require the following mix of new affordable housing on each development site, rounded to the nearest whole number of units. The mix is based on the findings of the *2010 SHMA* and the Housing Register:

⁷ For example, 35% of a 90 dwelling scheme equates to 31.5 affordable homes. In addition to 31 affordable homes, the Council would seek a financial contribution equivalent to half (0.5) of an affordable home.

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

- 3.9 'Worked Example 1' in Appendix 3 sets out how the mix would apply to a scheme with an affordable housing requirement of 6 dwellings.
- 3.10 To help meet the need for family affordable housing identified on the Housing Register, on any one development site, the Council will require at least half of the 2 bed affordable homes to be in the form of houses with gardens.

Supported and Wheelchair Accessible Housing

- 3.11 The supporting text to Policy CP7 states that the affordable housing mix should include specialist housing, where there is an evidenced need. Where an evidenced need exists, the Council may therefore seek an element of affordable specialist / supported housing in its negotiations. For example, the Council's Older Person's Housing Strategy identifies a need for affordable supported housing for older people in the City.
- 3.12 The Council's Housing Register demonstrates that there is also a clear need in the City for affordable housing that is wheelchair accessible. To help meet this need, on qualifying sites, 10% of the affordable housing should be wheelchair accessible.
- 3.13 The exact type and size of wheelchair accessible housing will be negotiated in more detail during pre-application discussions. Wheelchair accessible housing should be built in accordance with the Council's Wheelchair Accessible Housing Design Standards 2011⁸.

Distribution and Design

- 3.14 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.
- 3.15 Innovative design of affordable homes and their environment will be encouraged, within the context of overall planning policies. To promote inclusive communities, it should not be possible to ascertain the difference between market and affordable housing in any one scheme - the affordable housing must integrate seamlessly into the layout of the development. To help create more varied patterns of house types and ownership in the City, the affordable housing should be distributed amongst the market housing in clusters of no more than 10 units.

Timing of provision

- 3.16 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. On all development schemes, the affordable housing must be completed proportionately with the market housing.

⁸ Exeter Wheelchair Accessible Housing Design Standards 2011, (2011), Exeter City Council.
www.exeter.gov.uk/index.aspx?articleid=12340

Commuted provision

- 3.17 Where affordable housing is required under Policy CP7, the Council will expect it to be provided on the development site.
- 3.18 Commuted provision will only be agreed in exceptional circumstances and at the Council's discretion, in the following order of priority:

Off-site provision

- 3.19 The first priority will be to seek provision on an alternative site in Exeter. The 35% affordable housing target will be applied across both sites to ensure a pro-rata contribution. 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.
- 3.20 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. The two planning permissions will be tied together by means of a Section 106 Agreement, to ensure delivery of the affordable housing.

Off-site purchase

- 3.21 If the applicant is unable to provide the affordable housing off-site, as a second priority they may buy dwellings of an equivalent number and size on the open market for use as affordable housing. The dwellings should be 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 or one of the Council preferred RPs for £1.

Financial contribution

- 3.22 Finally, the Council may agree to the provision of affordable housing by way of a financial contribution, calculated using the formula set out in Appendix 3 of this SPD. The 35% financial contribution will be calculated on the basis that the proposed dwellings on the application site represent 65% of the total number of dwellings to be provided. A worked example of the calculation is provided in Appendix 3 ('Worked Example 2'). The contribution will be spent on the provision of affordable housing in the City.

Section 106 Agreement

- 3.23 On qualifying sites, the Council will require a draft Section 106 Agreement to secure the affordable housing to be included as part of the planning application. The application will be refused if the Section 106 Agreement is not signed within a certain period of time (usually within 3 to 6 months of the application being considered by Planning Committee).
- 3.24 The Planning Solicitor (see Appendix 4 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 5.

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 a 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 Guide⁹. 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 website¹⁰.
- 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

⁹ E.g. *Affordable Housing capital funding guide 2012-13 (2012)*, Homes and Communities Agency.

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

¹⁰ *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 funding¹¹.

¹¹ *Affordable Housing Capital Funding Guide 2012-13 (2012)*, Homes and Communities Agency.
http://www.homesandcommunities.co.uk/cfg?page_id=&page=1

APPENDIX 1

(Para refs. 1.5, 3.9-3.10, 4.6-4.9)

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

Affordable Housing Policy made simple: 10 Questions to ask.

1. Is the policy applicable to this proposal? (paras 3,2-3.3)
2. How much affordable housing is required? (para 1.6)
 - a. What happens when the affordable housing requirement does not equate to a whole unit? (para 3.4, Appendix 3)
3. What is the required tenure? (para 3.6-3.7)
4. What mix of affordable housing is required? (paras 3.8-3.10)
5. Is there a requirement for any specialist affordable housing (paras 3.11-3.13)
6. What are the design requirements for affordable housing? (paras 3.14 – 3.15)
7. When is the affordable housing required to be developed? (para 3.16)
8. Is there an exceptional reason to justify commuted provision of the affordable housing? (para. 3.18). If the answer to this question is yes then:
 - a. Firstly, can the affordable housing be provided on an alternative site? (paras 3.19– 3.20);
 - b. Secondly, can the affordable housing be provided via off-site purchase? (para 3.21)
 - c. Finally, can the affordable housing be provided via a financial contribution? (para 3.22, Appendix 3)
9. Who will manage the affordable housing? (para 4.1–4.4, Appendix 5)
10. Will the affordable homes 'be affordable'? (paras 4.5-4.10)
 - a. Will services charges be affordable? (para 4.10)

In addition to the above questions which the Planning Officer will need to clarify, the developer may want to know the answer to the following questions.

11. What is affordable housing? (Appendix 1)
12. What is the Council's policy basis for requiring affordable housing? (para 1.5-1.6)
13. What is a wheelchair accessible unit? (para 3.13 and ref. 8)
14. What is the legal mechanism for securing the affordable housing? (para 3.23-3.24, Appendix 5)
15. Who will occupy the affordable housing? (para 4.3 – 4.4)
16. What rent can I charge? (paras 4.5-4.10)
17. Do I need to provide the affordable housing in perpetuity? (paras 4.11-4.12)

APPENDIX 3

(Para refs 3.7, 3.11-3.12, 3.25)

CALCULATING FINANCIAL CONTRIBUTIONS

Financial contributions sought by the Council in lieu of the provision of affordable housing will be calculated based on a per dwelling sum of £121,509.67. The table below shows how the sum has been calculated.

	A	B	C	D		E	F	G
	Average Size m2	Typical Build Costs m2	Average Plot Value	Sub Total ((AxB)+C)		Mix (para 3.10)	Sub Total (DxE)	Financial Contribution per dwelling (Sum of F)
1 Bed Flat	55	£1,247	£22,217	£90,802		15%	£13,620.30	£121,509.67
2 Bed Flat	72	£1,247	£22,217	£112,001	£118,860	59%	£70,127.40	
2 Bed House	83	£1,247	£22,217	£125,718				
3 Bed House	91	£1,247	£22,217	£135,694	14%	£18,997.16		
4 Bed House	103	£1,247	£22,217	£150,658	7%	£10,546.06		
5 Bed House	114	£1,247	£22,217	£164,375	5%	£8,218.75		

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 – Based on the 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 of 26.5 dwellings per acre, based on the mid point of per acre densities listed in the Strategic Housing Land Availability Assessment Methodology (August 2011)¹². – 12 to 41 = mid point of 26.5. Detail in table below.

¹² ETHMA Authorities, *Methodology for SHLAAs: Exeter Housing Market Area (August 2011)*.

Build costs are index linked to BCIS online, which is updated quarterly. The Council will accordingly update the financial contribution set out above on a quarterly basis. Applicants are advised to ascertain the current sum from the Council during pre-application discussions.

WORKED EXAMPLES

1. A developer proposes to build 18 dwellings, resulting in an affordable housing requirement of 6.3 dwellings (18 x 35%).

The Council requires provision of 6 affordable homes, plus a financial contribution to provide 0.3 of a dwelling.

The size mix of the 6 affordable homes would be calculated as follows:

$$\begin{aligned} 6 \times 15\% &= 0.90 \text{ 1 bed dwelling, rounded up to 1 dwelling} \\ 6 \times 59\% &= 3.54 \text{ 2 bed dwellings, rounded up to 4 dwellings} \\ 6 \times 14\% &= 0.84 \text{ 3 bed dwellings, rounded up to 1 dwelling} \\ 6 \times 7\% &= 0.42 \text{ 4 bed dwellings, rounded down to 0 dwellings} \\ 6 \times 5\% &= 0.30 \text{ 5 dwellings, rounded down to 0 dwellings} \end{aligned}$$

The financial contribution would be calculated as follows: $0.3 \times \text{£}121,509.67 = \text{£}36,452.90$

2. A developer proposes to build 40 dwellings on an application site. There are exceptional reasons why the affordable housing requirement cannot be provided on site. Off-site provision and off-site purchase are not possible. Therefore, a financial contribution towards the provision of affordable housing elsewhere in the City is required.

The 35% financial contribution is calculated on the basis that 40 dwellings represent 65% of the total number of dwellings to be built.

- 40 dwellings = 65% of the total number of dwellings required
- $(40 \text{ dwellings} / 65) \times 35 = 21.5 \text{ dwellings}$
- $21.5 \times \text{£}121,509.67 = \text{£}2,612,457.90$

A financial contribution of $\text{£}2,612,457.90$ towards affordable housing provision is therefore required.

APPENDIX 4

(Para ref 3.27)

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EX1 1NN

APPENDIX 5

(Para ref 3.27)

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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APPENDIX 6

(Para ref 4.1)

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.

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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