



**Shropshire Local Development Framework  
Interim Planning Guidance on Affordable Housing**

**Cabinet 15 July 09**

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# 1. Introduction

## Aims

- 1.1 The Interim Planning Guidance on Affordable Housing aims are to:
- Increase potential sources of supply of new affordable housing across Shropshire, in response to established and anticipated needs;
  - Create a more positive approach to affordable housing designed to meet local needs where they arise, particularly in rural areas;
  - Provide some degree of consistency across Shropshire in certain elements of policy and practice regarding affordable housing.

## Status of the Guidance

- 1.2 The Interim Planning Guidance (IPG) is a material planning consideration when determining relevant planning applications, in addition to existing policies in the various adopted Local Plans within Shropshire. It applies throughout Shropshire.
- 1.3 Although the adopted Local Plan policies continue to have full force, the Council will take an enabling approach towards affordable housing by applying this Interim Planning Guidance unless a development causes sufficient harm to require the application of the more restrictive Local Plan policies.
- 1.4 The IPG accords with PPS3<sup>1</sup> (November 2006) and the Government's response to the Matthew Taylor Review of the Rural Economy and Affordable Housing (March 2009). It also reflects an up-to-date evidence base (June 2008), the impact of the credit crunch (2008/9) and the Shropshire Housing Strategy (April 2009). As up-to-date guidance, it is afforded significant weight.
- 1.5 Whilst not a statutory component of the emerging Shropshire Local Development Framework, the IPG was prepared in accordance with the adopted Interim Community Involvement Statement for Shropshire. The organisations consulted, and their responses, are detailed in the consultation statement on the IPG (May 2009), which is available on the Council's website.

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<sup>1</sup> PPS3 (Planning Policy Statement 3: Housing) contains national planning policy on housing.

- 1.6 The consultation draft IPG was subject to a sustainability appraisal (March 2009), the results of which are reflected in this final adopted version.

## Overview

- 1.7 The chronic shortage of affordable housing in Shropshire has led the Council to take a proactive approach to encourage as much affordable housing as possible. The Shropshire Housing Strategy (April 2009) committed the Council to a proactive rural affordable housing planning policy and a rural enabling approach to delivery of affordable housing.
- 1.8 The enabling approach encourages those with resources (both land and finance) to invest them in the stock of affordable housing. It recognises that a combination of all types of affordable housing are needed to address the acute shortage of suitable, affordable housing for local needs. Consequently the Interim Planning Guidance seeks to maximize the opportunities for the following to deliver affordable housing:
- Private individuals and families, to build their own affordable home on land that would not normally obtain planning permission (part 2)
  - Philanthropic organizations, such as housing associations, community land trusts and others, to provide affordable housing for sale, part-sale and rent on rural exception sites (part 3)
  - Developers, as part of mixed developments, at a level that does not inhibit development in the current difficult economic situation (part 5)
- 1.9 Parts 2 and 3 of the Interim Planning Guidance relate to “exception” sites. These sites will normally be in locations outside the established development limits of settlements, where planning permission for “open-market” housing development would not be allowed. Permission for housing development may be granted on such sites, provided it is 100% affordable housing, to meet local needs.
- 1.10 In so doing, it is envisaged that the guidance will increase rural affordable housing provision, thus facilitating sustainable rural communities. The increase in affordable housing should be reflective of the size of the community and its local economy, enabling local people live in close proximity to their work and/or family support network. The guidance is balanced so that protection of the landscape and environment is not compromised, and sites must be acceptable against a range of planning criteria.
- 1.11 Although the interim guidance allows affordable housing to be treated differently from other development with regard to settlement strategy, affordable housing exceptions sites will still be expected to meet normal

planning policies with regard to general design, including highway safety, flood risk, adequate drainage, neighbour amenity and so on.

- 1.12 Part 5 of the Guidance provides a consistent approach and common guidance on design and procedural issues in relation to affordable housing development within open market housing developments, bringing together adopted Local Plan policies and other more recent supplementary planning guidance from the five former Shropshire districts. The Guidance does not seek to carry out a wholesale review of existing Local Plan policies, as this is a matter for the Shropshire Local Development Framework.
- 1.13 Part 5 also addresses the need for flexibility in the application of existing policies in view of the effects of the 'credit crunch'. Falling house prices and the lack of available finance within the economy are having a detrimental impact on the development of housing generally, and thereby on the provision of affordable housing within open market developments. There is a need for realism in the application of existing planning policies in order to enable development. The Guidance therefore introduces an 'open book accounting' approach to negotiating the proportion of affordable housing that will be sought on market developments to reflect the current economic viability of sites.

## **The Need for Affordable housing**

- 1.14 Each of the former district councils in Shropshire have carried out district-wide housing needs assessments in recent years. Across the board, these have revealed substantial need for affordable housing.
- 1.15 This local information has more recently been supplemented by other research. The West Housing Market Area Strategic Housing Market Assessment (SHMA), completed during 2008, reveals a shortfall of affordable housing across Shropshire, with 939 newly forming households in Shropshire unlikely to be able to afford entry level market housing every year. In addition, nearly 600 existing households are estimated to fall into housing need (ie. cannot meet their needs in the housing market) every year. In total, the need for housing that cannot be met by the market is 1,585 affordable homes required per annum for Shropshire (Appendix A).
- 1.16 Land Registry figures reveal that the average house price in Shropshire in April 2008 was £179,453, while the median wage in 2008 was £21,335 per annum. This equates to a ratio of median house prices to median earnings of over 8 to 1. The ratio of lower quartile house prices to lower quartile earnings is even higher, at slightly below 9 to 1. In some areas (South Shropshire and Bridgnorth Districts), the ratio has been more than 11 to 1 in recent years.
- 1.17 In view of this evidence, and following the priorities of the Shropshire Sustainable Community Strategy, the provision of affordable housing is a

high priority for Shropshire Council. This is reflected in both the new Housing Strategy and the emerging Shropshire Local Development Framework.

## **Impact of the Lack of Affordable Housing on Rural Areas**

- 1.18 In its 2007 report, the National Housing and Planning Advice Unit highlighted that housing affordability constraints can have a series of negative economic and social consequences, including inhibiting labour market mobility and hindering the creation of mixed income communities. Fewer social rented tenants can move on to home ownership, creating bottlenecks in the availability of social housing. In turn, there will be an ever-widening gap between those who can afford to buy and those who cannot. This is a countywide problem in Shropshire affecting both urban and rural areas, but as a predominantly rural area, there are additional concerns.
- 1.19 More specifically, the 2008 Matthew Taylor Review of Rural Economy and Affordable Housing found that the high cost of homes, coupled with low wages in rural areas, are creating affordability pressures that threaten the future of rural communities. For many villages and hamlets, the choice is between becoming ever more exclusive enclaves of the wealthy and retired, or building the affordable homes to enable local people to continue to live (and work) in them. It is necessary to acknowledge the social imbalance and lack of suitable housing for the rural workforce caused by a lack of affordable housing, which are affecting the future vitality of our rural areas.

## **The Policy Response**

- 1.20 There can be no question therefore that there is a substantial need for the full range of affordable housing across the whole of Shropshire, and that without action, housing affordability issues pose a particularly serious threat to the wider social and economic sustainability of rural communities. At the same time, the credit crunch and market conditions are resulting in new challenges. Planning policy responses are therefore required to address these issues.
- 1.21 In its response to the draft Regional Spatial Strategy Phase 2 Revision, the Government Office for the West Midlands has recommended a strengthening of policy in relation to rural housing, and a more positive approach to the provision of housing in rural areas. It is also suggesting greater clarity for local planning authorities on the minimum levels of affordable housing they should be seeking. Crucially for this Interim Planning Guidance, it also advocates active promotion of rural exception sites to meet the need and demand for housing. This approach is wholly consistent with the Housing Strategy 2009-2011 recently agreed for Shropshire Council.

- 1.22 More local planning policy responses will come from the emerging Core Strategy of the Shropshire Local Development Framework (LDF), which, by March 2011, will have set targets for affordable housing provision in Shropshire and introduced policies to bring forward more affordable homes within open market housing developments. Later (by 2012) an LDF Site Allocations and Development Management Development Plan Document will have considered the scope to identify sites specifically for the development of 100% affordable housing.
- 1.23 In the shorter-term, however, the Council must be positive in finding ways in which more affordable homes can be brought forward. This is one of the main functions of this guidance.



## **2. Build your own affordable home: Single plot exception sites**

- 2.1 In view of the critical need for affordable housing across Shropshire, the Council wishes to increase the supply of rural affordable homes. The single plot exceptions scheme is a self-help solution that enables families to use their own resources to provide affordable housing that meets their needs within their community. The construction of affordable housing is funded from householders' own resources, which can include the sale of existing property as well as through a commercial mortgage. By utilising the resources of those families who are able to provide new affordable housing to meet their own needs, the local community benefits over the long term from an increased stock of local affordable homes.
- 2.2 Therefore, as an exception to normal policies controlling new housing development in rural areas, the Council will allow the development of single affordable dwellings within and adjoining settlements in the rural areas including outside the development boundaries of settlements as identified in adopted Local plans, provided all of the following criteria are met:
- The site is in a location considered suitable for the development of a single affordable dwelling. Such dwellings need to be within or adjoining an existing recognisable settlement and not constitute isolated or sporadic development.
  - The design and layout of the proposal are appropriate to the character and appearance of the surrounding area.
  - The household is in housing need, has strong local connections (confirmed and supported by the Parish or Town Council) and is unable to afford a suitable home currently available in the area.
  - The dwelling is affordable to the applicant, and will remain affordable to subsequent occupiers in perpetuity. This will be achieved through a section 106 legal agreement.
- 2.3 Applicants must be the prospective occupiers of the proposed affordable dwelling. Speculative development is not permitted.
- 2.4 The future re-sale value of the affordable home is fixed below market value (typically 60% market value) to ensure that it remains affordable for subsequent occupiers.

## Suitability of location

2.5 Whilst wishing to address affordable housing needs in the rural areas, the Council must balance this with the need to promote sustainable patterns of development and to protect the open countryside from widespread development. In this respect, the Council considers that there will be cases where these wider environmental sustainability interests will take precedence over the economic and social sustainability issues surrounding affordable housing.

2.6 The Council will therefore not permit the development of single plots for affordable housing on sites which: -

- Would undermine policies relating to the Green Belt;
- Detract from the visual amenities of the Shropshire Hills Area of Outstanding Natural Beauty or the Areas of Special Landscape Character;
- Are in completely open countryside, isolated from any recognisable named settlement by open land;
- Are situated within or adjoining a recognisable named settlement, but in an elevated, exposed or other prominent position which adversely affects the appearance of the countryside and/or the visual amenity and rural character of the settlement;
- Harm the character or appearance of a Conservation Area;
- Harm the setting of a Listed Building;
- Harm species or sites of nature conservation interest;
- Are at risk from potential flooding, as identified in the Shropshire Strategic Flood Risk Assessment.

2.8 To satisfy these criteria, a site for a single plot exception affordable dwelling needs to be in a location that demonstrably forms part of a “recognisable named settlement”. Such settlements will have a name on the Ordnance Survey map, and meet at least one of the following criteria:

- has some local service(s) or facility(ies), or
- is within safe walking distance, a short walk of a bus stop that has at least a daily bus service, or within a short car journey of a larger settlement benefiting from some local services or facilities, or
- is accessible (within 3 km) of a rural enterprise employing at least 3 people provided that the initial occupier of an affordable dwelling has a contract of employment there.

## Design and layout

- 2.9 Proposals for single plot exception sites will need to comply with current District Council adopted Local Plan policies and relevant supplementary guidance on design, but also the detailed design criteria set out in this guidance. They will also need to take into account any relevant Village Design Statements adopted by the respective Councils.
- 2.10 As these potential sites will usually be outside the areas normally considered suitable for residential development, it is especially important to achieve an appropriate design. In this respect, full applications will be required for single plot exception sites. An early dialogue with Planning Officers is therefore essential.
- 2.11 Development of the site will need to successfully blend in with the pattern of surrounding development. This will require attention to the plot size, the layout of the plot, the design of the dwelling, and its materials of construction.
- 2.12 Where the applicant owns land which could provide a number of possible sites, the Council will seek to utilise the most environmentally sustainable and appropriate site as advised by the case Planning Officer. Applicants are therefore strongly advised to discuss the alternatives at an early stage, and follow the advice given by the case Planning Officer.
- 2.13 The dwelling size should not exceed 100sq.m. gross internal floor space (i.e. a simple measurement of floor space between internal walls) and overall plot size must be appropriate in terms of the general pattern of development in the surrounding area, but not normally exceeding 0.1 Ha. Sites which form part of the curtilage of an existing property must provide an appropriately sized plot for the new dwelling. In this respect, it will be important to achieve a ratio of dwelling size to overall plot size which is in keeping with surrounding properties. Such sites must also respect the existing character and setting of the original property, so as not to adversely alter that character or create a cramped form of development.
- 2.14 In addition to adopted policies within existing Local Plans, the following requirements in terms of design of the proposed dwelling and the appearance of the curtilage around it must be met: -
- Standardised, “off the peg” designs of the type found on large estates will not be accepted. Design elements – chimneys, eaves, dormers, doors and windows for example – will be expected to reflect the site’s unique context.
  - Garages will count against the 100sqm. Garages should reflect the local rural vernacular in both style and materials.

- Materials of construction should be sympathetic to those in use locally.
  - Important features such as trees, hedgerows and boundary walls which contribute to the character of the site or the area in general, must not be lost or substantially altered as a result of the development.
  - Any new boundaries created must utilise locally native species of hedgerow. Landscaping proposals which involve the introduction of any clearly non-native (eg leylandii) planting that is designed to “hide” the development will not be acceptable. This can quickly become unsightly and alien in its own right.
  - The Council will be looking to avoid the introduction of alien features such as brick walls defining visibility splays and entrances, and the use of suburban style close-boarded fencing to define boundaries.
  - Driveways will need to be constructed in a permeable material appropriate to the area. Natural finishes will always be preferred to brick paviors and plain or coloured tarmacadam.
- 2.15 A Design and Access Statement must clearly justify the proposed design, and may include plans and photographs of the area and surrounding properties, which illustrate how the design has evolved. The approach to the elements discussed above will need to be fully explained within by the Design and Access Statement submitted with the planning application. Crucially, the design will need to have been the subject of extensive discussion and agreement with Planning Officers prior to submission.

## **Housing need and strong local connection**

- 2.16 Applicants will need to demonstrate that they are unable to afford a suitable home currently available in the locality.
- 2.17 Housing need is demonstrated if the household unit has no home of its own, or is renting from a housing association but would like to become an owner-occupier, or is in unsuitable accommodation. For example, the current housing may be too large or too small for the household; be in a poor state of repair; be too costly for the household to maintain or sustain. It may be in a location that is a long way from existing employment, schools or support networks and that the cost or availability of transport is prohibitive to the particular household.
- 2.18 Strong local connections with the settlement in question will need to be demonstrated by the household (appendix B). These include working

- locally, residing locally, or having family members who need support in the local area.
- 2.19 Assessments of whether a household is in housing need, has strong local connections and is unable to afford a suitable home in the locality will be made by the Council's Housing Enabling and Development Officers, following completion of a standard form and submission of supporting documentation. Applicants will be expected to be proactive in obtaining confirmation of their 'local connection' from the local Parish or Town Council.
- 2.20 Purchasers of the property in the future must also meet the local needs criteria in Appendix B. As a requirement of the section 106 legal agreement, the property cannot change hands without the written consent of Shropshire Council. This will only be forthcoming if the Council is satisfied that the new purchaser has a strong local connection as defined in the section 106 legal agreement.

### **Affordable in perpetuity**

- 2.21 Exception sites are permitted in order to benefit the long term sustainability of the community, and as such it is important that the property remains affordable for successive occupiers, preferably for the lifetime of the building. To achieve this, the model section 106 legal agreement in Appendix C puts a Restriction on the Title of the property, to the effect that the property cannot change hands without the written consent of Shropshire Council. The Land Registry will effectively enforce this provision, as it will not be possible for a solicitor to register a new ownership with the Land Registry without the appropriate letter from Shropshire Council.
- 2.22 A draft section 106 legal agreement should be submitted with the planning application, with agreed heads of terms in accordance with those attached at Appendix C. The section 106 Agreement must be ready for all parties to sign by the time the application is ready for decision by the Council
- 2.23 The "formula price" of the affordable property will be determined by the cost of construction as set out in appendix H plus a nominal plot value of £10,000, expressed as a percentage of open market value. Extraordinary construction costs will only be taken into account at the discretion of the local planning authority, where such costs can be robustly justified as unavoidable.
- 2.24 The future sale of the property will be subject to the fixed percentage of open market value as detailed in the section 106 agreement. There is no scope for it to enter into the open housing market without recycling of proceeds.

- 2.25 In order to ensure that dwellings approved under this Interim Planning Guidance are, and will remain, affordable, a dwelling size restriction will be imposed. The size of dwellings will normally be restricted to no more than 100sqm gross internal floor space with a curtilage normally not exceeding 0.1ha.
- 2.26 Furthermore, permitted development rights to extend properties in the future will be removed by planning condition, in order to ensure that the Council retains control over the future affordability of the property. Future values will in any event be based on original floor space and exclude later additions.

### **3. Affordable homes for local people: exception sites**

- 3.1 Current Local Plan policies, to differing degrees, indicate the settlements where exception sites will be permitted, but policy varies across Shropshire as to the type of settlement that can be considered. Generally speaking, it is only villages with some form of facilities that have hitherto been considered suitable for larger exception site developments. This document proposes a slightly different approach which acknowledges the high level of need for affordable housing in rural areas, and the recent research on rural economic and social sustainability.
- 3.2 It is considered that potential exists for larger exception site affordable housing schemes in a range of villages throughout Shropshire which need to be assessed on a case by case basis. A pilot scheme has been agreed for the Housing Enabling and Implementation Team of Shropshire Council to bring forward potential sites around Oswestry for development. Coupled with this proactive approach, local communities and affordable housing providers will be encouraged to identify suitable sites and to bring forward development proposals to meet local needs.
- 3.3 In addition to encouraging the important role played by the various housing associations, innovative methods of delivering affordable housing will be supported by Shropshire Council. These include the development of Community Land Trust (CLT) housing projects. CLT schemes have the potential to engage communities, incentivise the release of land at an affordable price and provide a mechanism for individuals and other bodies to make an investment in the future viability of the place where their young people will want to live and work.
- 3.4 The Council will take account of any existing Parish Plan or local design statement as well as information in the local housing market assessment in considering the nature of the need in the local area.

#### **Size and design**

- 3.5 Exception sites are relatively small sites of up to around 20 dwellings. A number of factors (such as settlement size and history) will determine what is the most appropriate size to meet community needs. The development must be in harmony with the character of the area, of a suitable design and appropriate to its location. Normal planning criteria relating to highway safety, neighbour amenity, open space, etc will apply.

## **Tenure types**

- 3.6 There will be a flexible approach to tenure split within exception site developments with the % Social Rented and % Intermediate (including shared and full ownership affordable housing to purchase) to be informed by local housing information regarding identified community needs.

## **Prioritising local people**

- 3.7 Notwithstanding the Shropshire Affordable Housing Allocation Policy, affordable dwellings on larger exception sites will be for people with strong local connections. Local connection criteria are defined in appendix B.
- 3.8 A cascade approach will be employed to progressively widen eligibility for the properties. Initially qualifying persons will have a strong local connection within a 10km radius of the site, excluding any large settlements over 3,000 population from this geographic area. If no suitable persons come forward within three months, secondary qualifying persons with a local connection with Shropshire will be considered. The cascade approach contained in the model section 106 agreement is summarised in appendix B.
- 3.9 The local connection requirement is applied through a standard condition in the case of Registered Provider exception sites, and through the model s106 agreement in appendix B for single plot and non-Registered Provider exception sites.

## **Maintaining affordability in perpetuity**

- 3.10 In accordance with PPS3, all exception sites will be subject to measures to ensure that they remain affordable for the benefit of successive occupiers, with the intention that this is for the lifetime of the building. These include limitations on the right to buy / right to acquire for shared ownership and social rented housing, through either a condition or a section 106 legal agreement as appropriate.
- 3.11 Any affordable housing for outright sale will be valued at the cost of construction plus a nominal plot value, and fixed as a percentage of market value. A section 106 legal agreement, similar to that used on single plot exception sites, will be used to ensure that subsequent sales remain at this percentage of market value (see Appendices C and H).

## **Rural exception sites adjacent smaller settlements**

- 3.12 Exception sites within or adjoining settlements of less than 3,000 population<sup>2</sup> should reflect the character and scale of the settlement.

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<sup>2</sup> Settlements in Shropshire with over 3,000 population are listed in Appendix G



3.13 Registered Providers and others looking to promote larger affordable housing exception sites should note that particular emphasis will be placed on settlements which:

- Have services and facilities themselves - perhaps not main services like shops and schools, but offer other important facilities such as a regular bus service, a public house, a village hall and/or church, other services such as village nursery or playgroup, or some significant form of rural employment;

**Or**

- Are reasonably accessible, defined as within 15 minutes safe walking, or within a short walk of a bus stop that has at least a daily bus service, or short car journey of a larger settlement benefiting from services or facilities.

### **Urban exception sites adjacent larger settlements**

3.14 100% affordable housing may be permitted on exceptions sites surrounding Shrewsbury and Shropshire's larger market towns, and settlements of greater than 3,000 population<sup>3</sup>, provided that they do not prejudice the Shropshire LDF's role in identifying new directions for growth for these settlements.

3.15 Such sites will need to be:

- Limited in scale – i.e. generally no more than 20 units, and
- Relatively self-contained – i.e. not opening up significant new areas for development, and
- Acceptable in landscape terms, based on evidence from the Landscape Capacity and Sensitivity Analyses carried out originally at the district level or through an up-to-date Landscape and Visual Appraisal submitted as part of a planning application, and
- Sustainable - such as being relatively accessible, near to services and facilities, with no adverse impact on species and sites of natural conservation interest, not at risk of flooding and well screened

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<sup>3</sup> Settlements in Shropshire with over 3,000 population are listed in Appendix G

## 4. Standard conditions for “exception sites”

- 4.1 In order to provide a consistent and manageable approach to exception sites, Shropshire Council proposes to use standard conditions on all exception sites that ensure:
- Sustainable construction, energy and water efficiency aspects equivalent to level 3 of the Code for Sustainable Homes will apply to *all* schemes
  - Meeting the Lifetime Homes standard will apply to *all* schemes
  - Adequate open space/children’s play areas and amenity open space is provided as per Local Plan policy

### Standard conditions for single plot exception sites

- 4.2 In addition, standard conditions for *single plot* exception sites will include:

- Restrictions on the size of the property (to not exceed 100 sqm)
- Removal of permitted development rights so that express permission has to be sought for any future extensions, including garage and carport extensions

- 4.3 In the majority of cases, 100 sqm is adequate for a family of five persons. Larger properties are, by definition, more expensive and run counter to the primary aims of ensuring affordability.

- 4.4 Permitted development rights of the affordable dwellings will normally be removed to ensure that properties are not extended or altered in any way as to increase values beyond an affordable level. Exceptions will only be made where clearly justified, for example where properties are deliberately designed for later extension and this is an explicit part of the original design concept. The removal of permitted development rights will not prevent consideration of adaptations or extensions in certain circumstances, for instance, where required by an occupant with disabilities or to accommodate appropriate extensions for family growth.

- 4.5 While households that can afford market properties are expected to meet their needs in the market, by moving house, the Council recognises there are genuine difficulties faced by households in affordable housing due to its chronic shortage in Shropshire. Consequently it may be acceptable to enlarge an existing affordable house in order to accommodate the needs of the existing household, but applicants should be aware that value will remain restricted.

- 4.6 The Council recognises that some households will need more space, for example to cater for very large families. Where an application is received to amend or remove a standard condition, the applicant will be expected to demonstrate that the household's needs are genuine. The national definition of overcrowding (Appendix E) will be a factor in assessing what size of property is justified. The needs of disabled residents for physical space (for wheelchairs, etc) will also be taken into account.

### **Standard conditions for exception sites promoted by Registered Providers**

- 4.7 Local occupancy and maintaining affordability in perpetuity is usually controlled through a section 106 agreement. However, where a Registered Provider is the applicant/developer these aspects can normally be controlled by a standard planning condition which sets out the criteria that applies to those who occupy or let the property (Appendix D). The local occupancy condition will apply the cascade approach, giving persons with local connections priority, as set out in Appendix B.
- 4.8 A section 106 legal agreement may be necessary on sites adjacent to a town exceeding 3,000 population to remove the ability to staircase (ie. the ability to purchase homes outright from the Registered Provider) or to control other affordable houses available for purchase as part of a mixed development.

## **5. Affordable housing within open market housing developments**

- 5.1 There are already specific policies in place in each of the Districts that set out detailed requirements (Appendix F). These policies have been saved and cannot be altered outside of the formal LDF process. Nevertheless Shropshire Council is aware that, with the downturn in the economy and in particular the housing market, there is a question mark about adhering rigidly to policies that cannot be delivered in the current economic downturn. At the same time, sufficient affordable housing needs to be provided and must continue to form part of open market housing schemes to ensure mixed communities. Consequently the Council will take a flexible approach in applying adopted planning policies, basing constructive negotiations for an appropriate level of affordable housing on a financial appraisal of the proposed development.

### **Open book accounting/negotiation with regard to economic viability**

- 5.2 A recent report<sup>4</sup> commissioned by the Council into the viability of various types of affordable housing schemes has highlighted the need to be realistic and to avoid requirements that will undermine the viability of potential schemes. It reinforces the need for realism in what is deliverable and a shift to open book accounting by developers in negotiation with the Council.
- 5.3 In order to have a transparent and open system of financing affordable housing, which will be reflected in land values, it will be necessary for the applicants/developers to submit a financial appraisal. Applicants should approach the Housing Enabling & Implementation team, who will provide guidance on what is required.
- 5.4 During the market downturn it is expected that the level of affordable housing as set out in the saved Local Plan policies will be shown to be over optimistic and a fair and realistic financial appraisal will be a material consideration to be taken into account in determining a planning application for housing that will carry much weight.
- 5.5 The appraisal and the mix of housing on the site will be subject to negotiation in order to bring together development viability and community housing needs. This approach is for a clearly defined time frame, namely until replaced by policies in the Local Development Framework in 2011/2012.

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<sup>4</sup> "Affordable Housing Viability Study" Fordham Research 2009

## **Pre-application discussions**

- 5.6 Before designing a housing layout for pre-application discussions, or submitting a plan for outline or full planning permission, it is usual for the architect or agent, in conjunction with their client (the landowner or developer), to discuss the proposal in outline. Shropshire Council will expect prospective applicants to seek clarification on the affordable housing implications in the course of pre-application discussions with the Development Management case officer, in consultation with the Council's Housing Enabling and Development Officer. This will enable the architect or agent to ensure that the eventual application meets the affordable housing requirements.
- 5.7 Although the Council cannot insist on it, there would be obvious advantages in the potential applicant involving a Registered Provider from the Council's preferred partner list in working up a scheme and in seeking to agree terms with them.
- 5.8 The starting point for negotiations will be the developer's financial appraisal. Where such an appraisal is not available, negotiations will be based on the proportion of affordable housing set out in the Local Plan policies (set out in Appendix F).
- 5.9 Where it is proposed that some or all of the affordable dwellings are to be provided off site this will need to be reasonably justified and negotiated separately.

## **Scheme mixes**

- 5.10 The tenure split and house type mix, for both allocated and windfall sites, will be determined by reference to the most recent information on housing needs at the local level. The Council's Housing Enabling and Development Officer will agree, for each proposed development, a schedule showing the property sizes and types that the Council is seeking for rented and shared ownership (or equivalent alternative) affordable housing.
- 5.11 Planning briefs may be available for large sites, including both the schedule of affordable housing referred to above and guidance on its distribution and integration within the overall design.
- 5.12 Within the affordable housing component, a 30/70 split between affordable housing for outright sale (30%) and Registered Provider housing (70%) will be the starting point for negotiations. Site values should be calculated on this basis. Maintaining affordability in perpetuity will be achieved for both types of affordable housing through a section 106 agreement, utilising the approach detailed in paragraph 5.14.

## **Scheme design**

- 5.13 In addition to the considerations above, the size and type of dwellings should be informed by site characteristics and context.
- 5.14 It is important that flexibility and versatility is built into new housing stock by virtue of a balance and diversity of dwelling types and sizes, having regard to the overall scale of development proposed and the physical characteristics of the site. Generally, the greater the scale of development, the more opportunity exists for a wider range of house types and sizes.
- 5.15 It is important to ensure the physical and social integration of affordable and open market housing. As a general principle, affordable homes should be distributed throughout a site. For ease of management, small groups of affordable homes, for example blocks of two, three or four properties, will be acceptable, provided such 'management clusters' are distributed across the site. Affordable homes should be indistinguishable from market properties.

## **Standard definitions of affordability**

- 5.16 In responding to local housing need, Shropshire Council proposes a number of affordable housing options designed to provide local people in housing need access in perpetuity to quality, modern, environmentally friendly housing at affordable prices, regardless of size and tenure. In addition to more traditional social rented and shared ownership housing, this Guidance identifies intermediate affordable homes for purchase and sub market rental as further options (for more details see Appendix H).
- 5.17 Affordable homes for purchase fall into two categories - those within mixed developments provided by developers, and those on exception sites. In line with PPS3, the affordability of those homes within developer schemes will be derived from local income levels whereas those on exception sites will be based on a cost price formula plus a nominal land value. Subsequent changes in value in both cases are fixed as a simple percentage of open market value given in the relevant Section 106 Agreement. Resale values are therefore linked in perpetuity to price changes in the local housing market.

## **Section 106 agreement**

- 5.18 The section 106 Agreement will, as appropriate, cover the following Heads of Terms:

- The identified affordable housing will be transferred to an agreed Affordable Housing Provider after the completion of the first 50% of the first phase of open market housing component of the development (or other appropriate percentage depending on phasing and infrastructure costs).
- Allocation of the affordable dwellings will employ a cascade approach, whereby households with a strong local connection or local workplace are considered first, cascading in a progressively wider geographical scope.
- The agreed Affordable Housing Provider shall, so far as legally permissible, exclude any right to buy/acquire.
- In relation to affordable housing for rent – the rent to be no greater than Tenant Services Authority rent level.
- In relation to affordable housing for shared ownership – no greater than 80% to be transferred to the buyer with the management company retaining the balance.
- Non-Registered Providers are acceptable subject to equivalent provision/safeguards as Registered Providers as set out by Homes and Communities Agency & Tenant Services Authority guidelines and restrictions on cost, tenant/owner allocation, and subsequent occupation.
- For non-Registered Provider rented/shared ownership properties, a Deed of Covenant in favour of Shropshire Council and appropriate restrictions on the Title Register are made, similar to clause 9 of the model section 106 agreement in Appendix C.
- In relation to affordable housing to purchase outright - restriction on the Title in favour of Shropshire Council, similar to clause 9 of the model section 106 agreement in Appendix C. Deed of Covenant with first owner/occupier and with subsequent owners/occupiers, and restriction on price and occupier / owner in accordance with this guidance.
- In relation to affordable housing to purchase outright – on mixed development sites price is linked to local incomes, whereas on exception sites price is based on a nominal land value and the cost of construction figure. All resale prices will be determined and expressed as a fixed percentage of open market value.

## Appendix A: Evidence of need for affordable housing

The table below is an extract from the West Housing Market Area (Shropshire & Herefordshire) Strategic Housing Market Assessment (SHMA), June 2008. It shows that between 66.8% and 79.5% of households cannot afford an entry level market property, based on their household income.

### Proportion unable to afford entry-level dwelling

Local authority	Lower quartile house price (Land Registry, 2006)	Income required (assumes mortgage equals x 3.5 income)	% households with incomes below required income*
Bridgnorth	£153,000	£43,714	79.5%
North Shropshire	£125,750	£35,928	69.9%
Oswestry	£119,425	£34,121	66.8%
Shrewsbury & Atcham	£130,000	£37,142	71.3%
South Shropshire	£145,000	£41,428	77.0%

Source: pages 133 and 134 of the SHMA

\* applies the distribution of household income for the whole West Midlands based on CACI 2006 modelled income data.

Households that depend entirely on income to provide for their housing needs include newly forming households and households with no equity in their existing home. (Many established households have equity in their current property, derived from rises in house prices and capital repayments over time, and therefore are not entirely dependent on income when purchasing.) The number of newly forming households in Shropshire is 1,300 per annum, based on ONS sub regional household projections (2004) for the period to 2029. Of these, 939 newly forming households are unlikely to be able to afford entry level market housing.

This picture is worsened by the limited access to mortgages in the current credit crunch. Some lenders require 25% deposits, and many others simply will not lend to lower income households. The above percentages of households who cannot afford entry-level market housing must therefore only be taken as an estimate that may be on the low side.

### Number of newly forming households unable to afford housing

Local authority	Projected no. new households per annum to 2029	% households with incomes below required income	No. new households unable to afford market housing
Bridgnorth	150	79.5%	119
North Shropshire	300	69.9%	210
Oswestry	250	66.8%	167
Shrewsbury & Atcham	350	71.3%	250
South Shropshire	250	77.0%	193
<b>Shropshire total</b>	<b>1,300</b>		<b>939</b>

Source: pages 139 and 140 of the SHMA

In addition, some existing households will fall into housing need every year. The SHMA uses the number of households accepted in 2005/06 as unintentionally



homeless and in priority need as an estimate. This gives a figure of 591 existing households falling into housing need every year.

There are also households in need due to their existing properties not meeting their requirements (overcrowding, unfit homes, etc) but unable to have those needs met by the market. The SHMA estimated that the backlog of unmet housing need in Shropshire was 6,471 households. Some of this need is met by re-lets and transfers within the existing affordable housing stock, but a backlog nevertheless exists. When added to the newly arising need, the SHMA estimated that the total need in Shropshire (from existing and newly arising households) is 1,585 affordable homes per annum.

The ratio of median house prices to median *household* income is given below. The ration of median house prices to median *individual wages* is higher, at 8 to 1. Although house prices dropped over 2008/9, research by the National Housing and Planning Advice Unit (NHPAU) suggests that the recession provides only a temporary easing of a situation that is likely to continue to worsen over the medium and long term.

#### Household income to house price ratio, 2007

District	Median house price	Median household income	General affordability ratio
Bridgnorth	195,000	29,376	6.87
North Shropshire	179,995	27,628	6.38
Owestry	160,000	26,767	6.12
Shrewsbury and Atcham	170,000	29,592	6.12
South Shropshire	215,000	26,170	7.90

Source: [http://www.ruralcommunities.gov.uk/files/Housing\\_Affordability\\_2007.xls](http://www.ruralcommunities.gov.uk/files/Housing_Affordability_2007.xls)

## **Appendix B: Local connection criteria & cascade approach**

Exception sites are granted planning permission as an exception to normal planning policies in order to meet a local need for affordable housing. To ensure that occupiers have a genuine local need, it is necessary for them to demonstrate strong local connections with the settlement in question. This will require them to meet at least two of the following circumstances for at least one of the members of the household:

- Their parents were permanently resident in the local area at the time of the applicant's birth;
- The applicant was a permanent resident of the local area for five years as a child, and attended a local school;
- They currently live in the local area;
- They have lived in the local area for 15 continuous years as an adult;
- They are currently employed close to the settlement;
- They have a confirmed offer of permanent full-time work in or close to the settlement (within 3km);
- Their parents currently live in the local area;
- If over 55, they have a son or daughter or step son/daughter or son/daughter-in-law living in the local area.

The above criteria are contained in the model section 106 agreement sub-clauses 1.16.1 to 1.16.6 inclusive (Appendix C).

The local area is defined as the area within a 10km radius of the site, or the parish (if larger).

For small settlements that are close to a larger settlement (over 3,000 population), the extent of the large settlement is excluded from the 10km radius of the 'local area'.

Persons with a strong local connection with a large settlement (over 3,000 population) should expect their local need to be accommodated in or adjoining that settlement, unless they also have a genuine local connection to a smaller settlement.

### **'Cascade' approach**

The initial occupiers of exception sites must meet the local connection requirements set out in the Interim Planning Guidance. Upon re-let or re-sale, persons with a local connection are preferred. If no suitable households come forward, the geographical

area is progressively widened over time. The model section 106 legal agreement specifies the following cascade approach:

1. Persons with a strong local connection with the local area, where “local” is defined as the parish or place within a 10km radius of the site but excludes within that radius settlements exceeding 3,000 persons;
2. After a period of three months, persons with a need of affordable housing within the Shropshire Council area (“secondary qualifying persons” as per clause 2.2 of the model s106 agreement);
3. After a further period of two months, the owner may offer to sell the dwelling to the Council or to a body nominated by the Council at the affordable price (clause 2.3 of the model s106 agreement);
4. After a further period of one month, if neither the Council nor the body nominated by the Council has indicated in writing an agreement to purchase the dwelling, no local connections restriction remains. The property must still be sold at the affordable price.

In the highly unlikely event of the property failing to sell after six months, the owner may apply to the Council for the affordable price to be removed. If the council agrees to sale on the open market, then 50% of the value of the difference between the affordable and market prices will be recycled into the provision of affordable dwellings elsewhere (clause 2.9 of the model s106 agreement).

## **Appendix C: Model section 106 agreement for single plot exception sites**

DATED

200

BETWEEN:-

(1)

- and -

(2)SHROPSHIRE COUNCIL

---

### **AGREEMENT**

**Pursuant to Section 106 Town & Country Planning Act 1990**

Relating to

---

***TEMPLATE EXAMPLE ONLY***



**Land is situated and by whom the obligations in this Agreement are enforceable**

- (3) On or about \_\_\_\_\_ the Owner applied to the Council for planning permission under reference \_\_\_\_\_ for a new dwelling in accordance with the specification and plans lodged with that application (the “Development”) on the Land
- (4) The Council is prepared to grant conditional planning permission in the form of the draft annexed hereto and marked “A” (the “Planning Permission”) following the execution of this Agreement as a deed without which the Planning Permission would not be granted
- (5) The definitions provided in the Schedule apply throughout the Agreement

**NOW THIS DEED WITNESSES as follows:-**

1. This Agreement is made in pursuance of Section 106 of the Act and Sections 111 and 120 Local Government Act 1972 and all other enabling legislation and contains planning obligations for the purposes of the Act
2. The Owner covenants with the Council:-
  - 2.1 to observe the covenants restrictions and obligations specified in this Agreement and in the Schedule hereto and acknowledges that the Land shall be bound by the covenants restrictions and obligations herein contained;
  - 2.2 that the Development shall comply in every respect with the plans and specifications lodged with the Council and with the conditions of the Planning Permission; and
  - 2.3 that the Dwelling is intended to and will be occupied by the Owner as his sole and/or principal residence

3. In consideration of the covenants by the Owner herein the Council has resolved to grant the Planning Permission
4. If the Planning Permission expires within the meanings of Sections 91 92 and 93 of the Act or is revoked or modified in accordance with Sections 97 to 100 inclusive of the Act without the consent of the Owner this Agreement shall cease to have effect (save for payment of legal costs) (but without prejudice to the rights of either party against the other in respect of any antecedent breach)
5. The obligations in this Agreement (save for the provisions of clause 7. and 9.) shall not come into effect until the Planning Permission is implemented by the carrying out of a material operation as defined in Section 56(4) of the Act
6. Neither the Owner nor any successor in title shall be liable for any breach of the covenants restrictions or obligations contained in this Agreement occurring after he has parted with his interest in the Land or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest
7. The Owner shall pay the Council's legal costs in connection with the preparation and execution of this Agreement and in connection with any of the procedures that the Council has to undertake pursuant to the terms of this Agreement
8. This Agreement is a local land charge and shall be registered as such by the Council
9. The Owner shall:-
  - 9.1 within seven days of completion of this Agreement apply to register this Agreement in the Charges Register of the Title and to register the following Restriction in the Proprietorship Register of the Title:-

“No disposition of the registered estate by the proprietor of the registered estate shall be registered without the written consent signed

by the Shropshire Council of of Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND” (the “Restriction”); and

9.2 provide to the Council as soon as is reasonably possible a copy of the Title following completion of the registration referred to in this clause

10. **IT IS HEREBY AGREED AND DECLARED**

In default of resolution of any dispute claim or question within three months of the same arising any dispute claim or question arising out of or relating to this Agreement shall be referred for determination in accordance with the following provisions:

- (a) where such dispute relates to the construction of this Agreement it shall be referred to a Solicitor or Barrister agreed upon by the parties or in default of agreement appointed on the application of either party by or at the direction of the President for the time being of the Law Society whose decision shall be final; and
- (b) where such dispute relates to engineering construction or highway works it shall be referred to a Chartered Civil Engineer agreed upon by the parties or in default thereof appointed on the application of either party by or at the direction of the President for the time being of the Institution of Civil Engineers whose decision shall be final; and
- (c) where such dispute relates to the valuation of land or property it shall be referred to a Chartered Surveyor agreed upon by the parties or in default thereof appointed on the application of either party by or at the direction of the President for the time being of the Royal Institution of Chartered Surveyors whose decision shall be final

11. In this Agreement where the context so requires:

- (a) the expression the “Council” and the “Owner” shall include their respective successors in title and assigns and where there are two or more persons included in the expression the Owner covenants expressed to be made by the Owner shall be deemed to be made by such persons jointly and severally
- (b) references to clauses and Schedules are references to clauses and Schedules in this Agreement except where otherwise specified



- (c) title headings to the clauses and Schedules are for convenience only and shall not affect the interpretation of this Agreement
- (d) references to any statute or statutory instrument shall except where otherwise specifically provided include references to any statutory modifications or re-enactment thereof for the time being in force
- (e) all notices requests demands or other written communications to or upon the parties pursuant to this Agreement shall be deemed to have been properly given or made if dispatched by first class recorded signed for letter or facsimile transmission to the party to which such notice request demand or other written communication is to be given or made and shall be deemed to have been served as follows:
  - (i) if posted recorded signed for at the expiration of 48 hours after the envelope containing the same was delivered into the custody of the postal authority within the United Kingdom; or
  - (ii) if sent by facsimile transmission at the time of the successful transmission

**PROVIDED** that if the means of service shall be outside normal working hours such service shall be deemed to have taken place upon the next working day and in proving such service it shall be sufficient to prove that the envelope containing such notice request demand or other written communication was properly addressed and stamped and delivered into the custody of the postal authority in a pre-paid recorded signed for envelope and has not been returned undelivered or that the facsimile was successfully transmitted as the case may be

12. It is not intended that any third party should have the right to exercise or enforce or take benefit from any of the provisions of this Agreement for the purposes of the Contracts (Right of Third Parties) Act 1999 save as may be expressly mentioned herein

Schedule

## 1. Definitions

The following definitions apply to the interpretation of this Agreement:-

- 1.1 **“Council area”** means the administrative area for the Shropshire Council including any later variation to such area by any alteration of the administrative boundaries of the Council
- 1.2 **“Dwelling”** means the dwelling to be constructed on the Land and any garage or other structure which may be attached to it
- 1.3 **“Family Member”** means a member of the family of a Qualifying Person who him/herself meets the criteria of being a Qualifying Person and who is entitled by virtue of the terms of this Agreement to occupy the Dwelling and is either:-
- (i) the spouse or partner of the Qualifying Person or that person and the Qualifying Person live together as partners; or
  - (ii) the Qualifying Person’s parent grandparent child or step-child son/daughter-in-law grandchild brother sister uncle aunt nephew or niece
- 1.4 **“Formula Price”** means the sum which is per cent ( %) of the Open Market Value with the amount of the Formula Price as at the date of this Agreement being deemed to be pounds (£ )
- 1.5 **“Initial Qualifying Person”** means a person who is considered in the reasonable opinion of the Council to be in Local Housing Need or in the reasonable opinion of the Council complies with the Other Considerations criteria
- 1.6 **“Local Area”** or **“Area”** means a place either:-
- (i) in the administrative area of the Parish of (the “Parish”) within which Parish the Land is situated including any later variation to such area by an alteration of the administrative boundaries of the Parish; or
  - (ii) within a ten (10) km radius of the Land (excluding from settlements within that radius exceeding a population of 3,000)
- 1.7 **“Local”** or **“Locally”** means having a connection with the Area
- 1.8 **“Local Housing Need”** exists when a person can demonstrate to the Council a need to be housed Locally in accordance with the following criteria:-

- 1.8.1 lacks his/her own housing or lives in housing which is agreed by the Council in its absolute discretion to be inadequate or unsuitable to meet his/her existing or future requirements whether because of its tenure size type design location condition security or costs; or
- 1.8.2 is unlikely to be able to meet his/her housing needs in the existing Local housing market without some assistance; and
- 1.8.3 (i) he/she must constitute part of a separately identifiable household; and  
(ii) the members of the household must together have insufficient income to purchase a house on the open market in the Area

**PROVIDED THAT** the criteria in this sub-clause 1.8.3 will have been met if no accommodation of the right size and price in the Area has become available within the last two years; and

- 1.8.4 at least one member of the household must have Strong Local Connections

1.9 **“Mortgagee in Possession”** means a person or body which has entered into a mortgage in respect of the Dwelling and has taken action following a default by the borrower in respect of the repayments due under that mortgage and shall include any receiver appointed by any such mortgagee

1.10 **“Open Market Value”** means the price which the Dwelling would fetch on the open market by a willing vendor to a willing purchaser unfettered by the terms of this Agreement with that value being the average of no less than two written valuations obtained by the Owner from two Valuers

1.11 **“Other Considerations”** exist where a person seeking to reside in the Dwelling is presently living in accommodation which appears to be both adequate and affordable the Council will in deciding whether or not to permit such residency (which decision it shall make at its sole discretion) consider the following factors:

- 1.11.1 Whether or not the person needs to be in the Area for employment reasons; or
- 1.11.2 Whether or not the person needs to live in the Area:
  - 1.11.2.1 to provide a substantial degree of care and support for a close relative; or
  - 1.11.2.2 in the case of a retired person or a person whose care needs are met by a close relative to receive such support

**PROVIDED THAT** in this sub-clause 1.11.2 a close relative shall include someone to whom the person is in a relationship described in sub-clause 1.3 of this Schedule; and

1.11.3 Whether there is other property available to rent or buy in the Area which would accommodate those needs

1.12 **“Qualifying Person”** means an Initial Qualifying Person or a Secondary Qualifying Person

1.13 **“Registered Provider”** means a housing association or registered social landlord or other body recognised by the Tenant Services Authority (which shall include any successor in title) (“TSA”) as a registered provider

1.14 **“Secondary Qualifying Person”** means a person who is considered in the reasonable opinion of the Council to be in Local Housing Need outside of the Local Area but within the Council area

1.15 **“Shropshire Housing Partnership”** means:-

- Abbeyfield and Bishops Castle District Society
- Bishops Castle Community Land Trust
- Bridgnorth General Municipal Charity
- Bromford Housing Association
- Housing 21 Housing Association
- Marches Housing Association Limited
- Meres and Mosses Housing Association
- Sanctuary Housing Association
- Severnside Housing
- Shropshire Association for Sheltered Housing
- Shropshire Rural Housing Association
- South Shropshire Housing Association
- Stonham Housing Association
- The Wrekin Housing Trust
- Wyre Forest Community Housing
- And other Housing Associations working with Shropshire Council

1.16 **“Strong Local Connections”** exist where a person satisfies at least two of the descriptions set out in sub-clause 1.16.1 to 1.16.6 inclusive:-

1.16.1 his/her parents were permanent residents in the Area at the time of his/ her birth;

1.16.2 he/she was in permanent residence in the Area for any period of five years as a child attending a Local school or who for special reasons attended a school

outside the Area but would have been expected to attend a Local school but for those special reasons;

- 1.16.3 he/she is currently resident in the Area (for a period which the Parish/ Town Council considers (acting reasonably) to mean that the person is Local) or previously resided in the Area for a continuous period of fifteen years as an adult;
- 1.16.4 he/she is currently employed in the Area or has an open-ended offer of employment in the Area which he/she cannot accept unless he/she is resident in the Area;
- 1.16.5 he/she has a parent currently living in the Area;
- 1.16.6 in the case of a person over the age of 55 he/she has a son or daughter or step-son or step-daughter or son/daughter-in-law currently living in the Area
- 1.17 **“Valuer”** means an independent qualified valuer accredited by the Royal Institution of Chartered Surveyors

## 2. **Sale or letting by the Owner**

- 2.1 The Owner shall not sell or (without the prior written consent of the Council) let (whether by way of a tenancy or lease or otherwise) or offer so to do the Dwelling other than:-
  - (a) to a Qualifying Person at no more than the Formula Price or at an Affordable rent (with the level of the rent being equal to or less than the TSA regulated rent for a property equivalent to the Dwelling); and
  - (b) in accordance with a sales marketing plan (defining the marketing price selling agent and nature and minimum extent of advertising at the property and on the internet and in newspapers circulating in the Council area and otherwise) approved by the Council in writing (such approval not to be unreasonably withheld)
- 2.2 If after a period of three months of the Dwelling having been made available for sale or letting no Initial Qualifying Person has agreed terms in accordance with

- sub-clause 2.1(a) of this Schedule with the Owner to purchase (or take a tenancy or lease of) the Dwelling the Owner may sell (whether by way of lease or otherwise) the Dwelling at no more than the Formula Price to a Secondary Qualifying Person
- 2.3 If after a further period of two months the Dwelling has not been sold (or let) or subject to an offer so to do in accordance with sub-clause 2.1(a) of this Schedule to a Qualifying Person the Owner may offer to sell the Dwelling to the Council or to a body nominated by the Council at the Formula Price
- 2.4 Save as provided in clause 3. of this Schedule the Dwelling shall not be sold leased or let other than to a Qualifying Person in accordance with sub-clause 2.1(a) of this Schedule unless and until it has been offered in writing to the Council or to a body nominated by the Council at the Formula Price and not accepted as provided in sub-clause 2.5 of this Schedule
- 2.5 If neither the Council or the body nominated by the Council has agreed in writing to purchase the Dwelling at the Formula Price within one calendar month of any offer made in accordance with sub-clause 2.3 of this Schedule then for that particular transaction only the Owner shall be free to sell the Dwelling at no more than the Formula Price on the open market without restriction as to qualification of the purchaser in relation to being in Local Housing Need
- 2.6 In the event that the Dwelling is purchased by the Council or by a body nominated by the Council the purchaser may at its discretion sell the Dwelling in accordance with the provisions of clause 2. of this Schedule or procure that it is let or occupied under an assured or assured shorthold tenancy in accordance with the letting policy of such types of tenancy under the ownership of a Registered Provider which is a party to the Shropshire Housing Partnership
- 2.7 If the Dwelling is sold leased or let in accordance with sub-clause 2.5 of this Schedule the preceding sub-clauses of this clause 2. shall remain in full force and effect
- 2.8 If the Owner shall after a period of six months after the Dwelling has first been offered for sale on the terms of sub-clause 2.1 of this Schedule have been unable to enter into a contract for sale he/she may apply in writing to the Council for the Formula Price to be removed

- 2.9 Upon the Council granting the application for the Formula Price to be removed and in the event that the sale price exceeds the Formula Price the Owner shall on completion of the sale pay to the Council fifty percent (50%) of the difference between the sale price and the Formula Price which sum the Council will use towards the provision of affordable dwelling(s) elsewhere in the Council area and the Council shall remove the provisions of this Agreement from the local land charges register in connection with the Land and as soon as possible (following receipt of payment) will consent to the removal of the Restriction
- 2.10 Any acceptance by the Council or by a body nominated by the Council of an offer made under sub-clauses 2.3 and 2.4 of this Schedule shall be on the following terms:-
- (a) the amount payable for the Dwelling shall be the Formula Price;
  - (b) the Dwelling will be sold with vacant possession;
  - (c) the formal exchange of contracts shall be within six weeks of the date of the offer with a completion date no less than four weeks thereafter (or such other date to be agreed between the parties); and
  - (d) the contract will be subject to the edition of the Standard Conditions of Sale current at the date of the offer

### **3. Sale or letting by Mortgagee in Possession**

- 3.1 No Mortgagee in Possession of the Dwelling shall sell or let (whether by way of lease or otherwise) the Dwelling otherwise than in accordance with the provisions of sub-clauses 3.2 and 3.3 of this clause
- 3.2 The Mortgagee in Possession shall not sell or let (by way of lease or otherwise) or offer so to do the Dwelling other than either to a Qualifying Person or the Council or to a body nominated by the Council at no more than the Formula Price or at the sum necessary to recoup the first mortgage debt and costs (whichever shall be the higher)

3.3 If after a period of two months (with notice in writing having been sent by recorded signed for post to the Council by the Mortgagee in Possession on the commencement of that period or as soon as possible thereafter) the Dwelling has not been sold or leased or let and is not subject to an offer to do so as stated in sub-clause 3.2 of this Schedule the Mortgagee in Possession shall be entitled to sell the Dwelling at Open Market Value and to any purchaser free from qualifying restrictions but subject to payment (after recouping the first mortgage debt and costs) by the Mortgagee in Possession to the Council of all of the difference between the sale price and the Formula Price (subject to the sale price exceeding the Formula Price) which sum the Council will use towards the provision of affordable dwelling(s) elsewhere in the Council Area

3.4 Following completion of the sale by the Mortgagee in Possession in accordance with sub-clause 3.3 of this Schedule the Council shall remove the provisions of this Agreement from the local land charges register in connection with the Land and if required to do so consent to removal of the Restriction

#### 4. **Disposal by Inheritance**

Any disposal of the Dwelling by way of a Will (and/or any other form of testamentary disposition) or by intestacy to either a Family Member and/or any Qualifying Person shall not be prohibited by the terms of this Agreement (subject to satisfactory evidence in writing to the Council of the same)

#### 5. **Consent**

5.1 The consent of the Council for the purpose of the Restriction to any proposed sale or lease shall not be granted if the Council is not satisfied either that the proposed sale or lease is to a Qualifying Person or that other provisions of this Agreement have been complied with in relation to the Dwelling

5.2 The consent of the Council for the purpose of the Restriction shall be issued as soon as possible following:-



- (i) completion (subject to evidence of the same in writing to the Council) of a sale of the Dwelling in accordance with sub-clause 2.1 or 2.2 or 2.3 or 2.5 of this Schedule; or
- (ii) the assent or transfer of the Dwelling in accordance with clause 4. of this Schedule (subject to evidence in writing of the same to the Council); or
- (iii) completion of a mortgage obtained by the Owner to enable the Owner to either purchase or obtain finance to build the Dwelling (subject to evidence in writing of the same to the Council)

**IN WITNESS** whereof the Council has affixed its Common Seal and the Owner has signed this Agreement as a deed

**SIGNED** as a **Deed** by )  
 )  
in the presence of:- )

Witness' signature .....  
Witness' name (block letters): .....  
Address:.....  
.....  
Occupation: .....

**EXECUTED** as a **Deed** by affixing the )  
**COMMON SEAL** of **SHROPSHIRE** )  
**COUNCIL** in the presence of:- )

Authorised Signatory

## Appendix D: Standard conditions for exceptions sites

### Standard condition regarding design requirements

This will apply to all schemes involving affordable housing requiring that energy and water elements be provided at an equivalent to a level 3 rating until this is exceeded by changes in the Building Regulations. The recommended condition is:-

1. The new (affordable) dwelling(s) hereby permitted shall be constructed to an equivalent to the Code for Sustainable Homes, level 3 star rating, for energy and water efficiency and meet the Lifetime Homes standard. REASON: To ensure the dwelling is constructed with a view to reducing its carbon footprint and to ensuring social sustainability.

### Standard conditions for single plot exception sites

The following standard conditions will be applied to single plot affordable housing schemes:-

2. The dwelling hereby permitted, shall not exceed 100sqm gross internal floor area, including any future extensions. REASON: To ensure that the dwelling is of a size appropriate to the local affordable housing market.

3. Notwithstanding the provisions of Schedule 2 part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order modifying, revoking or re-enacting that Order), no garage, carport, extension or other building shall be erected within the curtilage of the dwelling hereby permitted without the prior consent in writing of the Local Planning Authority. REASON: To enable the Local Planning Authority to retain control of the siting and external appearance of any buildings to be erected in the interest of visual amenity and maintain affordability of the dwelling.

### Standard conditions for exception sites promoted by Registered Providers

All exception sites and other 100% affordable housing schemes involving registered providers as the applicant/developer can be controlled by a standard planning condition, rather than a S.106 agreement.

The Standard Condition to ensure affordability in perpetuity is as follows: -

4. The dwellings shall not be let or occupied other than either:-
  - a under an assured tenancy in accordance with the normal letting policy of a Registered Provider;

- b. or by way of shared ownership, lease or equity share whereby the occupier cannot progress to or achieve a share greater than 90% of the whole;
- c. and/or by way of discounted sale price.

The dwellings shall not be allocated other than to persons in Local Housing Need who are unable to afford to buy or rent housing at market values or market rates, or otherwise to persons nominated by the Council as local housing authority from its list of priority cases. Local Housing Need has the meaning given in Shropshire Interim Planning Guidance on Affordable Housing 2009 or any policy or guidance that may from time to time replace that Guidance. This condition shall not apply to a mortgagee of any Registered Provider in possession of any dwelling or any person deriving title from such a mortgagee.

REASON: To ensure compliance with the Local Plan affordable housing policies.

The standard condition to prioritise local people by controlling occupancy of the property is:-

5. Notwithstanding the Shropshire Affordable Housing Allocation Policy, all lettings by Registered Providers shall meet the local connection requirement of the Interim Planning Guidance and its successor planning policies (namely the Shropshire Local Development Framework and any subsequent planning documents).

REASON: To ensure compliance with the Local Plan affordable housing policies and the requirements of the Interim Planning Guidance on Affordable Housing.

## Appendix E: Legal definition of overcrowding

*Nb. The Government has committed to making changes to the legal definition during 2009. For up-to-date information check [www.shelter.org.uk](http://www.shelter.org.uk) or contact the Council's housing options team or the Council's Communities and Housing policy team.*

Please note that temporary overcrowding (for example if someone comes to live in your home for a short time) does not qualify.

The existing statutory standards for overcrowding have remained unchanged since their introduction in 1935. These standards count living rooms as bedrooms. Only small rooms under 50 square feet are ignored, as are bathrooms and toilets. Children under one year old are ignored and children between age one and age ten count as a half.

If two people of the opposite sex have to sleep in the same room the accommodation will be overcrowded unless the two people are:

- a married or cohabiting couple, or
- at least one occupant is under ten years old.

The number of people of the same sex (unless they are a same-sex couple) who can sleep in one room is restricted by the size of the room, as follows:

- floor area 110 sq feet (10.2 sq metres approx) = 2 people
- floor area 90 - 109 sq ft (8.4 - 10.2 sq m approx) = 1.5 people
- floor area 70 - 89 sq ft (6.5 - 8.4 sq m approx) = 1 person
- floor area 50 - 69 sq ft (4.6 - 6.5 sq m approx) = 0.5 people.

As a general rule:

- 1 room = 2 people
- 2 rooms = 3 people
- 3 rooms = 5 people
- 4 rooms = 7.5 people
- 5 or more rooms = 2 people per room (ie. 6 rooms = 12 people, etc)

## Appendix F: Local Plan policies

**Affordable Housing within open market developments – current policy requirements in adopted Local Plans, adopted Supplementary Planning Documents and adopted Interim Affordable Housing Policies.**

District Council Local Plan areas	RURAL SETTLEMENTS (in those where open market development is allowed)		URBAN AREAS	
	Site Size Threshold	% affordable housing required	Site Size Threshold	% affordable housing required
<b>Bridgnorth</b>	<b>5+</b> (in 4 named settlements)	<b>50%</b>	<b>5+</b> (in Bridgnorth & Shifnal)	<b>50%</b>
<b>Oswestry</b>	Sliding scale <b>4 to 19+ units</b> (In 23 named settlements)	Sliding scale <b>25% to 40%</b>	Sliding scale <b>4 to 19+ units</b> (In Oswestry Town)	Sliding scale <b>25% to 40%</b>
<b>Shrewsbury &amp; Atcham</b>	<b>3+</b> (in 12 HS3 & 11 HS4 Settlements)	<b>35%</b>	<b>0.5ha or 15+ units</b> (In Shrewsbury)	<b>35%</b>
<b>North Shropshire</b>	<b>3+</b> (in main/local service villages)	<b>40%</b>	<b>15+</b> (in 4 towns)	<b>40%</b>
<b>South Shropshire</b>	<b>All sites</b> (in 9 named settlements)	<b>50%</b>	<b>15+</b> (in Church Stretton & Ludlow )	<b>50%</b>

## **Appendix G: Settlements over 3,000 population**

### Settlements in Shropshire over 3,000 population

(*estimates* only, based on 2001 census and mid 2007 population estimates)

Shrewsbury	66,394
Oswestry	18,254
Bridgnorth	11,409
Market Drayton	11,127
Ludlow	9,878
Whitchurch	8,734
Shifnal	5,600
Wem	5,376
Albrighton (1)	5,141
Bayston Hill	4,814
Broseley	4,541
Ellesmere	3,693
Church Stretton	3,692
Highley/Netherton	3,397

Please note these are only estimates. Population will change over time (generally increase) and therefore settlements close to 3,000 population are listed below.

### Settlements 2,000 - 3,000 population

(*estimates* only, at mid 2007)

Gobowen/Rhewl	2,885
St Martins/Ifton	2,656
Heath	
Cleobury Mortimer	2,387
Craven Arms	2,341
Much Wenlock	2,218

### Smaller settlements

All other settlements in Shropshire have an estimated population (at mid 2007) of under 2,000.

## Appendix H: Types of affordable dwellings

For the purposes of this guidance the definition of affordable housing follows that set out in Planning Policy Statement 3 (PPS3), published by Government in November 2006. The working definition of “affordable” housing seeks to provide housing based on local incomes. It recognises that other affordable housing solutions may be available in limited circumstances to other local people unable to access housing on the open market – such as intermediate affordable housing.

Affordable dwellings should not normally exceed 100 sqm gross internal habitable floor space (including any attached or integral garaging).

Types of affordable properties are set out below.

It should be noted that there are also financial mechanisms that can apply to any property, such as Housing Benefit, shared equity mortgages and the Government’s NewBuild Homebuy or Open Market HomeBuy mortgage schemes. These attach to the household rather than the property, and therefore are not included below.

### Social Rented Housing

Owned and rented by a Registered Provider (previously known as Registered Social Landlords), with the level of rent set by the Registered Provider being affordable to those in greatest need. Registered Providers are regulated by the Homes and Communities Agency and have a primary objective of delivering social housing. Therefore the Council does not consider it necessary to impose legal restrictions on cost, tenant allocation and future occupation except the restriction of eligibility (localness). The affordable housing units which were secured without public subsidy shall be excluded, through the use of section 106 planning obligations, from any right to buy introduced in favour of the occupiers of the affordable housing units and/or from any other mechanisms that could result in any of the affordable housing units becoming available for sale on the open housing market. ***Social rented accommodation will be deemed to be affordable where it is let at a rent level equal to or less than the Tenant Services Authority regulated rent for that type of property.*** Sub market rental housing may be similarly permitted as part of a wider rental package to extend the options available on a particular site.

## Private Affordable Rented Housing

The Council will approve schemes for private rented housing where these are subject to the same provisions and safeguards as Social Rented schemes and will impose, through the use of Section 106 Planning Agreements, restrictions on cost, tenant allocation and future occupation. ***Private rented accommodation will be deemed to be affordable where it is let at a rent level equal to or less than the Tenant Services Authority regulated rent for that type of property and will be underpinned by a covenant within a section 106 agreement.***

## Intermediate rent (IMR)

Intermediate Market Rent is a product available for Registered Housing Providers to offer in those cases where they can demonstrate there is a need for intermediate rented housing. It caters for households who do not qualify for social rent homes, but who nonetheless cannot afford to rent or buy a home in the open market. Intermediate Market Rent must not exceed 80% of the current local market rent for a similar home in a similar area. Annual rent increases above RPI plus 0.5% are not prohibited, as there is an expectation that any increases in excess of this amount would need to be both affordable and fair to the intended client group. In any event ***rents must remain at less than 80% of market rent.***

## Social Shared Ownership Housing

This allows the buyer to purchase between 25-80% of the full value of the property and pay rent on the remaining part of the equity to a Registered Provider. By assisting those who cannot afford to buy outright, more affordable rented housing will be available for those in greater need who cannot afford to buy. This option is available in a limited range of circumstances only as part of a comprehensive affordable housing scheme for a site subject to it constituting no greater than 33% of the “affordable” housing on a site. The local occupancy requirement will be applied to such schemes, the affordable housing units which were secured without public subsidy shall, by the use of Section 106 agreements, be excluded from any right to buy introduced in favour of the occupiers of the affordable housing units and/or from any other mechanisms that could result in any of the affordable housing units becoming available for sale at 100% of the freehold on the open market. ***Shared ownership housing will be deemed to be acceptable where the property is managed by an Registered Provider and they retain part of the equity of the property.***

## Private Shared Ownership Housing

The Council will view favourably schemes for private shared ownership housing where these are subject to the same provisions and safeguards as an Registered Provider but will impose restrictions on cost, tenant allocation and future occupation. This option is available in a limited range of circumstances only as part of a comprehensive affordable housing solution for a site subject to it constituting no greater than 33% of the “affordable” housing on a site. The local occupancy requirement will be applied to such schemes, the affordable housing units which were secured without public subsidy



shall, by the use of section 106 Planning agreement, be excluded from any right to buy introduced in favour of the occupiers of the affordable housing units and/or from any other mechanisms that could result in any of the affordable housing units becoming available for sale at 100% of the freehold on the open market. **Private Shared Ownership Housing will be deemed to be acceptable where the property is managed in a way that subjects it to the same provisions and safeguards as a Registered Provider and the managing company retains part of the equity of the property and will be underpinned by a Covenant within the Section 106 Agreement. Other private intermediate schemes will be negotiated on a case by case basis under the general terms of this guidance.**

### **Affordable Housing for Sale on mixed sites**

This option is available for local households wishing to purchase their own property at a fixed price below market value based on local income data. Through a S106 Planning Agreement the initial purchase price will be set and a re-sale covenant will be imposed to ensure that the “discount” applies to initial and all subsequent re-sales and the dwelling remains affordable in perpetuity. The local occupancy requirement will be applied to such schemes. The Council will also require a covenant as part of the section 106 agreement to be signed in respect of these properties to further ensure ongoing affordability and to establish a buy back option for the Council or its nominee in limited circumstances, thus recycling any subsequent proceeds. **Affordable Housing for sale on mixed sites defined by a range between a) and e) is deemed to be affordable:**

- a. Home ownership at a price for a property (not less than 45 sqm up to 60 sqm), equivalent to 2.5 times median gross household income in Shropshire**
- b. Home ownership at a price for a property (of between 60 sqm to 70 sqm) equivalent to 2.75 times median gross household income in Shropshire**
- c. Home ownership at a price for a property (of between 70 sqm to 80 sqm) equivalent to 3 times median gross household income in Shropshire**
- d. Home ownership at a price for a property (of between 80 sqm to 90 sqm) equivalent to 3.5 times median gross household income in Shropshire**
- e. Home ownership at a price for a property (of between 90 sqm to 100 sqm) equivalent to 4 times median gross household income in Shropshire**

The value of the property for purposes of the initial sale will be expressed as a % of open market value in the Section 106 Agreement and will determine future resale values.

### **Affordable Housing for sale on exception sites**

This option is available in a limited range of circumstances usually as single plots on exception sites **where the affordable dwelling is to be occupied initially by the applicant and is not for resale or rent.** Through a S106 Planning Agreement, a re-sale covenant will be imposed to ensure that the “discount” applies to initial and all subsequent re-sales and therefore the dwelling remains affordable. The initial value of the property for the purposes of obtaining a mortgage will be based on the notional land value and the Cost of Construction and this will be expressed as a % of open market value in the section 106 Agreement determining subsequent resale values. The

local occupancy requirement will be applied to such schemes. As set out above the Council will also require a covenant to be taken out in respect of these properties to further ensure ongoing affordability and to establish a buy back option for the council or its nominee in limited circumstances. A nominal plot value (currently) £10,000 is also redeemable on subsequent property sales to recoup the initial gift of land to the initial occupier.

### **Cost of Construction**

Various calculations within this guidance rely on what has been termed the nominal cost of construction, for instance in establishing the price for the transfer of properties to Registered Providers in mixed developments and for working out the formula price in relation to the Section 106 Agreement provisions for Affordable housing for sale on exception sites. The nominal cost of construction is initially set at £1,300 per sqm for the dwelling and being based on a range of construction costs will be reviewed from time to time to reflect those costs, it is not in itself an indicator of actual construction costs which may be achievable on a scheme by scheme basis