

Affordable and Special Needs Housing and Housing Mix

Supplementary Planning Document

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1. Introduction

1.1 Everyone has the right to a home. Sefton Council is committed to delivering the right homes in the right places in order to provide for the current and future needs of all residents of our Borough.

1.2 The Council has adopted a Local Plan (April 2017) which, amongst other things, sets out areas where new housing development should be located and the policies that should be applied when considering planning applications for new development. It also requires developers to provide a variety of housing types, sizes and tenures, to provide a choice of market, affordable and special needs housing in mixed communities.

1.3 One of the key aims in the Local Plan is to meet identified affordable housing and special housing needs in the Borough and to ensure there is a sufficient mix of appropriate homes. The Council's approach to delivering affordable and special needs housing and housing mix is set out in Policies HC1 and HC2 of Sefton Local Plan. This Supplementary Planning Document (SPD) expands upon these policies and provides detail on how specific policies are to be implemented.

1.4 The aim of the Supplementary Planning Document is to provide clear guidance to applicants, developers and other stakeholders on how the Council will deal with planning applications for affordable or special needs housing or for market homes that trigger the need for affordable or special needs housing. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the Development Plan.

2. National Policy Context

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

- Paragraph 47 requires local planning authorities to use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for both market and affordable housing in the housing market area.
- Paragraph 50 states that where local authorities have identified that affordable housing is needed, they should set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities.
- Paragraph 54 advises that local planning authorities should plan housing development to reflect local needs, particularly for affordable housing, including through rural exception sites where appropriate, and should consider whether allowing some market housing would facilitate the provision of significant affordable housing to meet local needs.

2.2 An update to the NPPF is anticipated in July 2018. Any relevant changes may result in a partial update of this SPD.

2.3 In March 2014, the Government introduced National Planning Practice Guidance (NPPG), a web-based planning policy resource. NPPG provides extra detail and guidance to back up the national planning policies set out in the NPPF. NPPG is updated periodically, but should always remain consistent with NPPF policy.

2.4 In November 2014, the Government announced changes to NPPG including the introduction of 'vacant building credit'. This provision applies to the redevelopment of brownfield sites, and requires local planning authorities to take account of the floorspace of any existing buildings on site when calculating affordable housing requirements for the proposed new development.

3. Local Policy Context

3.1 The Sefton Local Plan was adopted in April 2017. The Local Plan includes policy HC1 'Affordable and Special Needs Housing'. This policy sets out how the Council will secure affordable homes as part of market housing developments, including the proportion of affordable housing, tenure split and layout considerations. The policy also sets out the limited instances when affordable homes can be reduced or offset by a financial contribution or special needs homes.

3.2 Policy HC2 sets out requirements for a mix of market housing (in relation to the number of bedrooms) to be provided on schemes of 25 homes or more. The policy also acknowledges that Sefton has an ageing population and therefore requires at least of 20% of new market homes (on schemes of 50 homes or more) to be designed to meet part M4(2) of the Building Regulations.

3.3 The specific requirements of policies HC1 and HC2 are provided at each relevant section in this SPD for context.

3.4 In addition to the Local Plan, there a number of Neighbourhood Plans which are in the process of being published in Sefton. An applicant should check the status of the neighbourhood plans within Sefton (see www.sefton.gov.uk/neighbourhoodplanning) to confirm if there are any additional requirements/policies in relation to affordable housing.

4. Definitions of Affordable Housing

4.1 The Council uses the Government's own definitions of affordable housing as stated in the Annex 2: Glossary of the National Planning Policy Framework (NPPF).

Affordable housing is defined in NPPF (March 2012) as:

Affordable housing includes 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 house prices. Affordable housing should include provisions to remain at an affordable housing price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

Affordable housing should:

- Meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices.
- Include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision.

Social rented housing is:

- Rented housing owned and managed by local authorities and registered providers, for which guideline target rents are determined through the national rent regime. The proposals

set out in the Three Year Review of Rent Restructuring (July 2004) were implemented as policy in April 2006. It may also include rented housing owned or managed 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 as a condition of grant.

Affordable rented housing is:

- Rented housing let by registered providers 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 a rent of no more than 80 per cent of the local market rent.

This is capped by the Local Housing Allowance rate.

Intermediate affordable housing is:

- Housing at prices and rents above those of social rent, but below market price or rents, and which meet the criteria set out above. These can include shared equity products (e.g. HomeBuy), other low cost homes for sale and intermediate rent but does not include affordable rented housing.

4.2 In Sefton, to ensure that local people are able to afford social rented housing, affordable rents must be set below Local Allowance caps.

4.3 The Council considers that the sale price of intermediate housing should be set at no more than 80% of the sale value of a similar house in the same area. This is to ensure that homes are not offered with a nominal reduction and will actually meet an affordable housing need. If the product enables the occupier to purchase a greater share of the equity in their property (usually known as ‘stair-casing’) after a certain period of time (usually 5 years) the Council will require this to be recycled for alternative affordable housing provision in the local area.

4.4 There are a number of affordable housing products available, either for rent and/or sale. These may include rent-to-buy, help-to-buy or shared ownership. The Council will consider any of these or other products as meeting its affordable housing requirement only if they meet the definition of affordable homes as set out in NPPF or any subsequent revisions to NPPF.

5. The need for Affordable and Special Needs Housing in Sefton

5.1 The Council published its most recent Strategic Housing Market Assessment (SHMA) in 2014. This identified the housing needs, including the need for affordable and special needs housing in the Borough. Sefton has a total net affordable housing requirement of approximately 7,815 homes over the period 2012-2030 which is equivalent to about 434 affordable homes a year. The need for affordable homes varies across the different parts of Sefton. The table below sets out the estimated annual net need for new affordable housing in each of Sefton’s key settlements.

Affordable Housing Need in Sefton

	Net affordable annual housing need	Net need per 1,000 households
Southport	203	5.06
Formby	64	6.31
Maghull/Aintree	118	7.58
Crosby	91	4.28

Bootle	-32	-1.98
Netherton	-9	-0.57
Total	434	3.65

5.2 There is a need for additional affordable housing in most areas of the Borough with Southport showing the highest numeric need (203 units per annum). The area with the highest need by proportion of existing households is Maghull/Aintree (7.58 per thousand households), followed by Formby (6.31 per thousand households) and Southport (5.06 per thousand households).

5.3 Both Bootle and Netherton show small surpluses of affordable housing, which is consistent with the relatively large stock of affordable housing along with some of the cheapest housing costs in the Borough. Nonetheless the 2014 SHMA suggests that a target for 15% affordable housing in Bootle and Netherton should be considered to (i) improve the mismatch between the size of social rented accommodation required (particularly 1 and 2 bedroomed dwellings) and anticipated supply and (ii) to provide opportunities for younger (lower income) households to access owner-occupied housing.

6. Sefton's Affordable Housing Requirement

6.1 Proposals for 15 (net) additional dwellings or more are required to contribute to affordable housing. The table below sets out the affordable housing requirement in Bootle and Netherton and the rest of Sefton.

	Development Size	Affordable housing Requirement
Bootle and Netherton	1-14 net additional dwellings	None
	15 or more net additional dwellings	15% Split by 50% affordable or social rent and 50% intermediate housing
All other areas	1-14 net additional dwellings	None
	15 or more net additional dwellings	30% Split by 80% affordable or social rent and 20% intermediate housing

6.2 The affordable housing requirement is measured by bedspaces rather than units or bedrooms (see section 7).

6.3 For the purposes of this Local Plan policy and SPD, Bootle and Netherton is defined as the electoral wards of Derby, Ford, Linacre, Litherland, Netherton & Orrell and St Oswald. This area is shown on the Local Plan policy map and at Appendix A.

6.4 The Council will not permit sites to be artificially sub-divided to avoid the affordable housing requirement. For example if a site is divided so that two separate applications of 10 homes are received we will still seek to ensure the full affordable housing requirement is secured on the full 20 homes. This will be secure on the application that takes the total number of homes above the policy trigger. In deciding whether a site is a single planning unit the Council will consider the following:

- Whether the site is, or has recently been, within single ownership

- Whether the site is a single Local Plan allocation or identified in the Strategic Housing Land Availability Assessment as a single site
- Whether the sub-division of the site is based upon robust boundaries, such as main roads, water features (rivers, canals, large brooks etc.), or different existing land uses
- The planning history of the site (i.e. has the site been recently subject to previous applications or pre-application advice)
- The time difference between the applications

7. Definition of Bedrooms and Bed Spaces

7.1 The Housing Mix policy (see section 8) requires a mix of different size homes, by the number of bedrooms, for schemes of 25 homes or more. Furthermore the Council uses bed spaces to calculate the percentage of affordable housing within a scheme rather than units. It is important therefore for applicants to provide sufficient information with applications to enable the Council to determine if the relevant policies are being met.

Bedrooms

7.2 The applicant should provide a schedule and/or plans that clearly show the number of bedrooms that each house type within a scheme has. The Council will verify this information (if possible) by looking at the same house type on other schemes the house builder has built utilising the same house types.

7.3 Furthermore the Council will count all rooms in a home as a bedroom if it is:

- Upstairs (in the case of homes of more than one storey), and
- can be accessed from a communal landing (i.e. is not accessed solely through another bedroom), and
- has an external window, and
- is large enough to accommodate a single bed (i.e. it is at least 2.15m wide) and other basic bedroom furniture

7.4 Whilst the Council accept such rooms may be used for other purposes, such as a study, for the purposes of calculating number of bedrooms it will count such rooms as bedrooms.

Bed spaces

7.5 The use of bedspaces to calculate the total affordable housing requirement is to prevent affordable housing within a scheme being provided entirely within one or two bedrooms homes and therefore proportionately providing less of the scheme as affordable. The bed space calculation method is anticipated to result in a wider range in sizes of affordable homes and an appropriate proportion of the scheme as affordable. If a developer provides the majority of the affordable homes as smaller units, then the bed spaces method of calculation will compensate by requiring more affordable homes within the scheme.

7.6 To enable the Council to calculate the percentage of bed spaces within a scheme, applicants will be required to include a schedule that shows the number of bedrooms and bed spaces within each house type. Bed spaces are often presented as number of persons, i.e. a 5 person house is the equivalent to a 5 bed space house. The schedule should indicate how many of each house type will be affordable.

7.7 Therefore the information required would be similar to that provided below.

House type	No. of Bedrooms	No. of Bed spaces / Persons	Total No. of Units for each house type	No. of units Affordable Homes
A	2	3	10	3
B	3	5	10	3
C	3	6	10	4
D	4	6	10	3
E	5	7	5	0

7.8 The Council will verify the information submitted (see paragraph 7.2 above). If the applicant does not provide this information, or if there is a dispute with the information submitted, the Council will apply the following bedspaces calculation for all homes within the scheme:

One bedroom home	2 bedspaces
Two bedroom home	3 bedspaces
Three bedroom home	5 bedspaces
Four bedroom home	6 bedspaces
Five bedroom home	7 bedspaces

7.9 This table assumes that all homes will have a double bedroom and those homes with three bedrooms or more will have two double bedrooms. The other bedrooms are to be considered single bedrooms.

7.10 In calculating the amount of units that are required to meet the affordable housing requirement the Council will apply the following approach:

- calculate the total number of bedspaces on the scheme
- calculate the correct amount of bedspaces that must be affordable based on Policy HC1
- Calculate the minimum number of units that are required to accommodate the affordable bedspaces. The bedspace requirement is a minimum so the number of units must be rounded up.

8. Housing Mix and Design Considerations

Part 1 of Policy HC2 states

In developments of 25 or more dwellings, the mix of new properties provided must be as follows unless precluded by site specific constraints, economic viability or prevailing neighbourhood characteristics:

A minimum of 25% of market dwellings must be 1 or 2 bedroom properties

A minimum of 40% of market dwellings must be 3 bedroom properties

These requirements do not apply to wholly apartment/flatted, extra care, and sheltered housing developments. Any new affordable dwellings are also exempt.

8.1 This policy will be implemented on all schemes of 25 dwellings or more (unless wholly apartment/flatted, extra care, and sheltered housing) even if the total number of market homes is below this figure.

8.2 The Council don't consider that the exemption for prevailing neighbourhood characteristics will apply in many instances, particularly on the housing allocations in the Sefton Local Plan (April 2017). If an area is characterised by larger homes this does not negate this policy requirement and in fact supports to need to diversify the housing mix.

8.3 If an applicant considers that meeting the housing mix requirement would compromise the viability of the scheme, or that it would require a relaxation of other policies, a viability assessment should be submitted. The Council's retained viability consultant will assess this, at a cost to the applicant, and determine if the viability concerns are justified. The Council will determine, on a case-by-case basis, which policies or planning obligations, if any, will be relaxed.

Part 8b of Policy HC1 states

Affordable and/or special needs dwellings shall be:

'pepper-potted' i.e. there shall be a reasonable dispersal of affordable housing or special needs units within residential developments (i.e. groupings of no more than six units) to promote mixed communities and minimise social exclusion.

The only exception to this will be where it can be demonstrated that the special needs housing has to be grouped together for functional or management purposes.

8.4 'Pepper-potting' is commonly considered as the dispersal of affordable housing units within residential developments to promote mixed communities and minimise social exclusion. The overriding purpose of pepper-potting is to ensure affordable housing is fully integrated within market housing, to ensure a reasonable distribution throughout the site and that no undue concentration of affordable housing is provided in particular parts of the site.

8.5 Developers are strongly advised to discuss at an early stage, preferably at a pre-application stage, appropriate layout and phasing of development with the Local Planning Authority to ensure that affordable housing is dispersed in an acceptable way throughout the development in order to minimise delays once a planning application is submitted.

8.6 To assist, Policy HC1 of Local Plan has set out that groupings of no more than six affordable homes should be provided. However, this is not the only consideration for pepper-potting to be acceptable. The following are issues that the Council will consider:

- Are the affordable homes clustered in one part of the development?
- Is there a greater proportion of the affordable homes located in the least desirable parts of the proposal, such as next to rail lines, busy roads, employment areas etc.?
- Are groups of affordable homes separated by a small number of market homes to artificially avoid groups of more than six affordable homes?

8.7 The examples below show what distribution of affordable housing would and would not be acceptable. The Council appreciates that each scheme is different, and these broad principles may not always be easily interpreted on site. The Council will assess each site on its merits but will always seek to ensure that the principle of pepper-potting is adhered to.

8.8 In the example below the affordable housing is all clustered in the bottom left and central areas. There are groupings of more than six affordable homes and large sections of the development do not have any affordable homes at all. **This distribution of affordable housing would not be acceptable.**



8.9 In the same example below the affordable homes are distributed across all areas of the proposal. There are no more than six affordable homes in a group. **This distribution of affordable would be acceptable.**



8.10 In addition to these broad principles, on very large schemes the Council will expect a reasonable distribution of affordable across each clearly defined zone or phase. A zone is an area that is clearly defined by a main road, area of open space, water feature etc.

8.11 The Council will also require affordable units to be pepper-potted within flatted schemes. There should be a reasonable dispersal of affordable housing across different blocks of flats and, in some cases, throughout individual blocks. In mixed tenure flats careful consideration must be given to how any communal amenity space and parking will managed and RPs should be involved to ensure that what is being proposed is acceptable to them. In some cases it may not be feasible to have mixed tenure flats and these cases the Council may not accept a single block being affordable homes.

Part 8a of Policy HC1 states

Affordable and/or special needs dwellings shall be: 'tenure blind' i.e. there shall be no external visual difference between the affordable/special needs housing and market housing

8.12 The quality of the affordable and market homes should be of the same high standard. Whilst the Council accepts there are likely to be some differences between the house types used for affordable and market homes, each should be of the same standard in terms of materials, build, space, external features, design quality and overall appearance. It should not be possible to walk through a completed scheme and know which are the affordable homes simply by appearance. The Council strongly recommends that a mixture of house types are used for the affordable housing and that the same house types are used for both the affordable and market housing where possible.

9. Permitting off-site affordable housing provision and financial contributions in lieu of on-site provision

Part 10 of Policy HC1 states

Off - site provision of affordable housing, or a financial contribution of broadly equivalent value, will be considered where it can be robustly justified, and where the agreed approach contributes to the objective of creating mixed and balanced communities.

9.1 The overwhelming priority for the Council is to secure the provision of affordable housing on-site as part of larger housing schemes. However, in a limited number of exceptional circumstances the Council may accept either the affordable homes to be provided off-site or accept a financial contribution in lieu of on-site affordable housing. The applicant will have to clearly demonstrate why the provision of on-site affordable homes is not practicable or desirable.

9.2 The exceptional circumstances that may justify an alternative to on-site affordable could include:

- The site may not be suitable for affordable homes as it is not readily accessible to services and public transport (the Council does not envisage there are any locations in Sefton where this will apply)
- Where there is a demonstrable lack of interest from a Registered Provider (Housing Association) purchasing the affordable housing properties
- The Council considers that the affordable homes would be better provided elsewhere

9.3 In order to demonstrate that there is a demonstrable lack of interest from a Registered [Social Housing] Providers (RPs) the applicant must set out in an affordable housing statement (or similar) the measures that they have undertaken to engage with a wide range of locally active Registered [Social Housing] Providers (RPs) in a timely, rigorous and effective manner. The applicant will have to provide letters from at least three locally active RPs that clearly show that they have legitimate reasons why they would not be willing or able to manage on-site affordable housing. The Council will confirm with each of the RPs their reasons for not be able to manage affordable housing on site.

9.4 Regardless of the argument put forward to justify off-site provision of affordable homes, it is at the discretion of the Council whether it will accept an alternative. Financial contributions in lieu of on-site affordable homes will be subject to same test of viability as on-site affordable housing.

10. Calculating off-site financial contributions in lieu of on-site affordable housing

10.1 In calculating a commuted sum the following approach will be used:

Step A

The applicant must provide details of the different types and sizes of homes within the proposed scheme. The Council, in liaison with the developer, will determine what proportion of each of these house types would be required to be affordable if the Council's affordable housing policy were to be met.

The key consideration should be meeting the overall provision of affordable bedspaces [15% in Bootle and Netherton, 30% elsewhere] and the ratio between social and intermediate bedspaces [50:50 in Bootle and Netherton, 80:20 elsewhere].

Step B

The applicant must provide details of the open market value [OMV] of the identified affordable homes. This should be based on local evidence of similar schemes and be supported by a valuation prepared by an RICS Registered Valuer.

Step C

The applicant must submit evidence to demonstrate how much an appropriate Registered Provider [RP] would purchase the affordable housing units for on the basis that the dwellings remain affordable units.

This can be provided as either a) as a cash price for each affordable unit or b) as a % of the OMV for affordable home types (i.e. social and intermediate) the RP would normally pay [i.e. the RP transfer rate].

The applicant should calculate the 'cost to developer' if the affordable units were to be provided on site. The cost will be equivalent to the difference between the OMV and the price that the Registered Provider would be prepared to pay

e.g. If a house is worth £200,000 on the open market and a registered provider would purchase the property for £120,000 then the 'cost to developer' would be £80,000.

Similarly if the RP would pay 60% of the OMV for a house the developer would bear the remaining 40% of the value, i.e. the 'cost to developer' would be £80,000.

The evidence we will accept is a letter from three Registered Providers that are active in Merseyside, preferably Sefton. The Council will use the average RP transfer rate to calculate the cost to developer.

In the absence of submitted evidence that has been endorsed by the Registered Providers the Council will use its own evidence to determine the 'cost to developer'. The evidence is likely to be based on recent transactions across Sefton and neighbouring areas.

Step D

Once the total 'cost to developer' is calculated for the scheme the Council will include uplift (see below) to the financial contribution to reflect the fact if the affordable homes are provided off-site, the number of market homes on site increases.

In calculating this uplift the Council will apply the following assumptions:

Total Scheme [TS] = Market Homes [MH] + Affordable Homes [AH]

For sites within Bootle and Netherton

Market Homes [MH] = 0.85 x Total Scheme [TS]

Affordable Homes [AH] = 0.15 x Total Scheme [TS]

For sites outside Bootle and Netherton

Market Homes [MH] = 0.7 x Total Scheme [TS]
 Affordable Homes [AH] = 0.3 x Total Scheme [TS]

In a scheme where the affordable housing is provided on-site then the Total Scheme [TS] is the known factor.

For example in a scheme (outside Bootle and Netherton) with a total of 400 bedspaces the following split between Market Homes [MH] and Affordable Homes [AH] will be required to be policy compliant.

Total Bedspaces	400 (known value)
No. of bedspaces in Market Homes	280 (0.7 of total scheme)
No. of bedspaces in Affordable Homes	120 (0.3 of total scheme)

However, if the Affordable Homes [AH] are to be provided off-site and the application site is to be wholly Market Homes [MH] then the Total Scheme [TS] increases. In this scenario the number of Market Homes [MH] becomes the known factor.

The formula

Market Homes [MS] = 0.7 x Total Scheme [TS], can be rewritten as
 Total Scheme [TS] = Market Homes [MH]/0.7

Therefore in the same scheme as above the total scheme will increase as follows:

No. of Bedspaces in Market Homes	400 (known value)
Total Bedspaces	571 (i.e. Market Homes/0.7)

As we know:

Total Scheme [TS] = Market Homes [MH] + Affordable Homes [AH]

The number of Affordable Homes [AH] will therefore comprise of 171 bedspaces (i.e. 30% of the total scheme). The financial contribution for off-site affordable housing will have to reflect this.

If the applicant determines that the final financial contribution would make the scheme unviable they must demonstrate this through a viability statement. This would have to be appraised by our retained economic viability consultants and the fee for this is borne by the applicant.

11. Spending off-site financial contributions in lieu of on-site affordable housing

11.1 The Council will use the financial contributions to fund projects and initiatives that will increase the provision and availability of affordable housing across Sefton. This will prioritise the provision of affordable homes in the local area if possible with the fundamental aim being the creation of mixed and balanced communities that accords with Policy HC1 of the Local Plan and paragraph 50 of the NPPF.

11.2 The order of preference for prioritising the spending of section 106 contributions for affordable homes as:

- **First Preference**
The ward in which it was secured
- **Second Preference**
The settlement in which it was secured
- **Third preference**
A settlement adjacent to that in which it was secured
- **Fourth preference**
Elsewhere in Sefton

11.3 This is to ensure that the affordable housing is provided close to where the need arises and continues to provide mixed communities. It provides flexibility to prevent monies being secured without the ability to spend it.

What it will be spent on?

11.4 The Council will look at the best approach at spending commuted sums in each area to achieve maximum benefits. This may include using any contributions:

- On other sites that the applicant has control over to increase the delivery of affordable homes
- To bridge a funding gap on other development sites where the full policy compliant affordable housing can't be met
- To go into a Local Affordable Housing Delivery Fund (or similar) managed by the Council that Registered Providers can bid for, subject to criteria, to deliver affordable homes
- To help bring back vacant homes back into use if they will be subsequently secured for affordable homes

11.5 The Council will identify, on an ongoing basis, subject to separate local consultation, what is the best approach in each local area to maximise the delivery on local affordable housing need. The Council intend to publish these identified local priorities so that local members and residents, developers and social housing providers will know what any financial contributions will be used for.

When it will be spent?

11.6 The aim is to identify projects and spend any section 106 contributions for affordable housing as quickly as possible after receipt. However, it will often be difficult to do this due to (a) a lack of sufficient sites that are ready to be developed with short notice; and (b) in some instances the section 106 contribution may not be large enough to fund any provision on its own. It will often be required to pool¹ a number of financial contributions to provide a large enough fund to provide a meaningful amount.

11.7 The financial contribution will be identified for spend within 5 years of receipt of the full amount (i.e. when all phased payments have been received). Within this it would be expected that a minimum of three years will be allowed in order to identify projects within the

¹ Subject to the section 106 contributions pooling restrictions set out on in regulation 123 of the Community Infrastructure Levy Regulations 2010

first two preferences areas (as identified at paragraph 11.2 above). After this period projects within the third and fourth preference areas will be considered.

When will the payment be required?

11.8 The Council recognises that a financial contribution secured through a section 106 can impact on the viability of a development if it all has to be paid up front. The Council will therefore allow payments to be staged when the total cost is above £100,000. The Council will implement the following stage payments to be made in relation to section 106 contributions²:

<£100,000	All within 60 days of commencement
£100,000 to <£250,000	50% within 60 days of commencement 50% 12 months after commencement
£250,000 to <£500,000	33.3% within 60 days of commencement 33.3% 12 months after commencement 33.4% 24 months after commencement
Over £500,000	25% within 60 days of commencement 25% 12 months after commencement 25% 24 months after commencement 25% 36 months after commencement

How it will be monitored?

11.9 The Council will publish a record of how much it has received in financial contributions for affordable housing (and other contributions) through section 106 agreements. This will be included within the Authority Monitoring Report (AMR). The AMR will also set out how the contributions have been spent, including how many affordable homes have been secured.

12. Demonstrating a Lack of Economic Viability

Part 9 of Policy HC1 states

Affordable and/or special needs housing will be provided in accordance with this policy unless a robust assessment of a scheme’s economic viability confirms that this cannot be achieved.

12.1 Where an applicant seeks to depart from the policy position based upon economic viability, the Council will require a full financial assessment to be submitted by the applicant. It is the responsibility of the applicant to submit sufficient information to clearly and unequivocally demonstrate how the provision of the full affordable housing requirement would impact on the deliverability of the site. In this situation the applicant should clearly

² This payment schedule refers to the total amount of section 106 contributions, including other infrastructure improvements, e.g. education, open space.

indicate either that a proportion of the policy compliant affordable housing can be provided (and what proportion by percentage and dwelling numbers), or if no provision can be made.

12.2 The submitted information will be robustly and independently appraised by the Council's retained economic viability consultants. The applicant will be required to meet the full cost of this work, including any meetings that are required. Once the relevant information has been submitted to the Council a quote for the appraisal will be provided. The Council will only instruct its economic viability consultants to undertake this work once payment has been received.

12.3 If the Council accepts that a lesser amount of affordable housing is necessary to make the development viable and deliverable, the remaining amount of affordable housing should still meet the tenure split as set out in Policy HC1 between affordable/social and intermediate housing.

12.4 Where the Council accepts that a lesser amount of affordable homes due to viability issues, then it will consider granting permission for a two year period, rather than three years. It will do this on a case-by-case based on the specific circumstances of each proposal.

12.5 In some instances where the Council accept a reduced amount of affordable homes, due to viability, the Council will also consider including an overage clause within a section 106 agreement. This will only be considered for large housing developments (i.e. 100 homes or more), or those to be delivered in a phased manner, which would be expected to take a number of years to complete. The overage clause would seek to ensure that if market conditions have improved sufficiently at a specified future point (such as at completion), the affordable housing policy position would be met. This would be secured through a financial contribution and will be subject to an updated viability appraisal. The decision to include an overage clause within a section 106 agreement will be made on a case by case basis taking into account issues such as:

- The reduction in the amount of affordable homes
- Whether the proposal has other significant community or regeneration benefits
- The level of affordable housing need in the local area
- Whether there are any other planning obligations secured

12.6 Whilst the delivery of affordable homes has been identified in the Local Plan as a key requirement, there may be other infrastructure requirements that will have to be provided through development. These could be highways, education, health, recreation or environmental improvements. If a lack of viability requires a choice to be made between affordable homes and other infrastructure improvements, the Council will make that decision on a case by case basis. The decision will be based on the specific needs of the site and the local area.

13. Vacant Building Credit

Part 5 of the policy States:

Proposals that involve the re-use of a vacant building or where it is demolished and replaced by a new building, will receive a financial credit equivalent to the existing

gross floorspace (of relevant vacant buildings) when calculating any affordable housing contributions.

13.1 Vacant Building Credit (VBC) was introduced by the Government with the aim of stimulating the development of vacant buildings on brownfield sites. Vacant Building Credit offers developers a financial credit based on the existing gross internal floor area of any vacant building on the development site. However, this will not apply to a building that has been deemed abandoned.

13.2 In order to qualify as a vacant building, the entire building must be demonstrated to be vacant. Where a building is partly occupied it will be deemed ineligible for the vacant building credit. It is a vacant building credit, not a vacant floorspace credit. The credit is only applicable to relevant vacant buildings; the Council will not accept for example sheds and non-permanent buildings as being relevant for the purposes of calculating a vacant building credit.

13.3 If VBC is being sought a Vacant Building Credit Statement must be submitted alongside the relevant planning application in which a reduced affordable housing contribution is being sought.

13.4 Within this statement the developer will need to submit the following information:

- Evidence that any referenced building is a 'Vacant Building'. A building will not be considered as 'vacant' if the building has been in continuous use for any six months during the last three years up to the date of the planning application is determined. The building must also be vacant at the time of the time the application is determined.
- Evidence a building on site is not an 'Abandoned Building' or vacated solely for the purpose of redevelopment. The onus will be on the applicant to demonstrate this. The four factors the Council will take into account are:
 - The physical condition of the building;
 - The length of time that the building had not been used;
 - Whether it had been used for any other purposes; and
 - The owner's intentions.
- Information on the existing Gross Internal Floor Area (GIFA) against the proposed GIFA. GIFA is the area of a building measured to the internal face of the perimeter walls at each floor level. We will use the Royal Institution of Chartered Surveyors' (RICS) definition of GIFA for assessing VBC.

13.5 If we deem Vacant Building Credit applies to the proposed site, the information on floor space will inform the reduction in the level of affordable homes.

13.6 The Council will determine on a case by case basis whether a building is vacant or abandoned. As is commonly the case with outline planning applications it may not be clear what the actual number of dwellings, or the size of those dwellings, may be. Therefore it will be difficult to quantify what vacant building credit will be applicable. Where the local planning authority agrees that the VBC may be applicable, the applicant will be expected to enter into a section 106 Agreement at the outline stage to enable the matter to be deferred to a later stage when the relevant details of the scheme have been finalized. If the VBC is applicable to the proposed site, the information on floor space will inform the level of affordable housing contributions.

13.7 The Council will apply the following formula for calculating the reduction in affordable homes due to the vacant building credit:

*Proposed gross internal floorspace **minus** Existing gross internal floorspace (= increase in gross internal floorspace) **divided by** the proposed gross internal floorspace **multiplied by** the full affordable housing requirement = new affordable housing contribution*

Worked example of Vacant Building Credit Calculation

Example 1

A development is proposed on the site of a vacant building for a total of 40 homes (which includes a total of 200 bedspaces). Policy HC1 requires 30% affordable housing (measured by bedspaces) which equates to 60 bedspaces in affordable homes.

Proposed gross internal area of 40 homes = 4,000m²

Existing gross internal area of vacant building = 1,000m²

Increase in internal area = 3,000m²

Proposed gross internal floorspace [4000] – existing gross internal floorspace [1000] = Increase in internal area [3000] / Proposed internal area [4000] x affordable home requirement [60] = new affordable housing contribution

3,000/4,000 x 60 = 45 Bedspaces in Affordable Homes

Therefore the Vacant Building Credit will reduce the affordable housing requirement by bedspaces on this proposal from 60 to 45.

Example 2

A development is proposed on the site of a vacant building for a total of 70 homes (which includes a total of 420 bedspaces). Policy HC1 requires 30% affordable housing (measured by bedspaces) which equates to 126 bedspaces in affordable homes.

Proposed internal area of 70 homes = 8,400m²

Existing internal area of vacant building = 9,000m²

Increase in internal area = NIL (a reduction of 600m²)

Proposed gross internal floorspace [8400] – existing gross internal floorspace [9000] = Increase in internal area [0] / Proposed internal area [8400] x affordable home requirement [126] = new affordable housing contribution

0/8,400 x 126 = 0 Bedspaces in Affordable Homes

Therefore the Vacant Building Credit will reduce the affordable housing requirement by bedspaces on this proposal from 126 to nil.

Example 3

A development is proposed on the site of a vacant building for a total of 300 homes (which includes 1500 bedspaces). Policy HC1 requires 30% affordable housing (measured by bedspaces) which equates to 450 bedspaces in affordable homes.

Proposed internal area of 300 homes = 30,000m²

Existing internal area of vacant building = 3,000m²

Increase in internal area = 27,000m²

Proposed gross internal floorspace [30000] – existing gross internal floorspace [3000] = Increase in internal area [27000] / Proposed internal area [30000] x affordable home requirement [450] = new affordable housing contribution

27,000/30,000 x 450 = 405 bedspaces in Affordable Homes

Therefore the vacant building credit will reduce the affordable housing requirement by bedspaces on this proposal from 450 to 405.

13.8 It is important to note that the reduction of the total affordable housing requirement through the implementation of the vacant building will not affect the tenure split the Council will expect within the affordable homes. In Bootle and Netherton this is 50:50 between social/affordable rent and intermediate and elsewhere 80:20 between social/affordable rent and intermediate.

13.9 Prior to the calculation and application of any VBC the Council and the applicant must agree the level of affordable housing that should be provided, including any reduction due to viability. The VBC (if applicable) will then be applied.

14. Content of section 106 agreements

14.1 A Section 106 agreement is a legal agreement between the developer / landowner and the local planning authority, made under Section 106 of the Town and Country Planning Act 1990 (as amended). It is the means by which the local planning authority secures, amongst other things, and controls the affordable function of the housing provided on development.

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

- A description of the affordable/specialist units and the property type and tenure mix if appropriate;
- The location (i.e. which units) of the affordable housing and special needs housing provision within the site;
- The phasing of on-site affordable housing provision within the overall scheme to ensure that affordable housing units are developed at an agreed rate in relation to the market housing;
- A property marketing mechanism in respect of the affordable units;
- Arrangements for the involvement of Registered Providers or any other appropriate agency;
- 'Mortgagee clauses' to define the conditions attached to the affordable housing, should the mortgagee exercise their power of sale;

- Occupancy controls;
- Local connection requirements;
- Any Council nomination rights in respect of rented units / units for sale;
- If appropriate the mechanism to secure and spend a financial contribution towards off-site affordable homes
- A mechanism to assess or change the scope of the S106 Agreement.
- Recycling arrangements where staircasing up to full ownership takes place.
- Contingency arrangements in case of unforeseen issues with securing and retaining a Registered (Social Housing) Provider

14.3 The section 106 agreement may also cover other issues not related to affordable or special needs housing.

14.4 The Council will publish a Section 106 template which sets out the key information that the Council would expect within the section 106 Agreement.

14.5 Applicants are advised to provide a Heads of Terms with their planning applications, based on the Section 106 template available on the Council's website, to ensure that their application can be dealt with as speedily as possible. The Heads of terms should identify areas that the applicant wishes to amend/clarify. Any significant changes to the Council's template will delay determination of the application and may not necessarily be agreed.

15. Schemes containing 100% affordable housing

15.1 Policy HC1 of the Local Plan is primarily concerned with the delivery of affordable housing as part of a larger market housing scheme. However, occasionally there are proposals for 100% affordable housing. These are usually proposals put forward by a Registered (social housing) Provider. Within such schemes the Council will still expect the tenure split, as set out in parts 2 and 4 of Policy HC1, to be met.

15.2 For example, in a scheme of 30 homes in Formby (of equal size) we would normally require 9 homes to be affordable housing (i.e. 30%). Seven of these should be affordable or social rented and two should be intermediate housing (i.e. an 80:20 split). If the site is proposed for 100% affordable housing, the Council still expects a minimum of 7 homes to be made available as social or affordable rented homes. The remaining 23 can be intermediate housing.

15.3 There may be circumstances when the Council would be prepared to deviate from this approach, such as:

- There is clear local evidence of a significant demand for intermediate housing
- Meeting the tenure split would result in the loss of funding
- The applicant has a recently approved application (i.e. in the past 12 months) in the local area (the same settlement) which delivered a greater proportion of social or affordable rented properties (i.e. the subsequent proposal is 'rebalancing the mix')

15.4 On previous schemes for 100% affordable housing the Council has secured the affordable homes through condition attached to the planning permission. However, due to the need to clarify issues relating to definitions, tenure split, nomination rights, and delivery etc. the Council will require future schemes for 100% affordable homes to be secured through section 106 agreements. This is supported by paragraph 8.23 of the Local Plan which states that 'all affordable or special needs housing will be secured through legal agreement'.

15.5 Notwithstanding the above the Council accepts that the delay in issuing a decision notice may undermine the ability of the RP to secure funding. The Council will consider as a special circumstance, on schemes of 100% affordable homes by Registered Providers only, to use a pre-commencement condition to secure the signing of a section 106 agreement. It is the responsibility of the RP as the applicant to clearly demonstrate this is necessary. It may also be beneficial for an RP to submit draft 'heads of terms' to support an application to clearly set out what they consider a section agreement should contain. This is likely to make the process of issuing a section 106 quicker.

16. Special Needs Housing

Parts 6 and 7 of Policy HC1 states:

Special needs housing can be substituted for up to 50% of the site affordable housing contribution on a bedspace for bedspace basis.

Where extra care or sheltered housing is proposed to be substituted for affordable housing, this must meet the tenure requirements set out in parts 2 and 4 of this policy.

16.1 Special needs housing is intended for people with a physical disability, frail elderly people, young vulnerable people, people with a learning disability, a mental health problem or severe sensory disability. It does not include the provision of care homes or housing for elderly people.

16.2 Special needs housing may be substituted for up to 50% of the site affordable housing requirement. The remainder of the affordable housing on the site must meet the tenure split as set out in Policy HC1 (parts 2 and 4).

16.3 If the Council accepts the substitution of up to 50% of the required affordable housing as special needs housing, this will be secured through the Section 106 Agreement. This will ensure that the special needs housing is retained as such in perpetuity or if not it is made available as affordable housing.

16.4 If an applicant wishes to substitute special needs housing for up to 50% of the required affordable housing the application must be supported by a statement that identifies the type of special needs housing that is intended to be provided. If the special needs housing is to be an affordable product, and an RP is expected to take on the management of this, then the applicant must engage with RPs at an early stage to ensure the accommodation, including communal facilities, is acceptable.

Housing for Older People

16.5 Care homes and housing for older people (generally over 55s) is not classed as special needs housing (unless the residents are also classed as having special needs). Therefore they cannot be substituted for affordable housing.

16.6 Care homes and housing for the elderly are often classed under use class C3 (dwellinghouses) and are subject to the policy to provide affordable housing. The Council expects the same policy approach, in terms of the level of affordable homes, tenure split and mix, to apply to such schemes.

16.7 In some instances the format and management of a care home proposal may result in it being considered as within Class C2 (Residential Institution) and therefore not subject to the

provisions of Policy HC1. For the Council to consider such proposals as Class C2 a number of conditions must be met. These are:

- The accommodation must be restricted to households where at least one member is in need of care and aged 55 years or over;
- Each resident in need of care must commit to a minimum care package that provides the equivalent of at least 2 hours of weekly personal care;
- The proposal should include a number of communal facilities that demonstrate that the development, when taken as a whole, is clearly intended to provide residential accommodation to people in need of care. This may include, but not be restricted to:
 - Communal lounge
 - Kitchen/dining room
 - IT room/library
 - Community room
 - Staff areas and office
 - Treatment rooms
 - Hairdressing salon

16.8 The individual units within the proposal can be self-contained (i.e. have a kitchen, bathroom, separate entrance, lockable front door etc.) as the scheme as a whole will be considered to determine what Use Class it is, taking into account the points above.

Accessible and Adaptable Housing

Part 2 Policy HC2 states:

In developments of 50 or more dwellings, at least 20% of new market properties must be designed to meet Building Regulation Requirement M4(2) 'accessible and adaptable dwellings'.

16.9 The aim of this policy is to ensure that there is a supply of new dwellings that are able to meet the long-term needs of people who currently have, or may develop during the course of their lifetime, mobility issues. It is preferential to enable people to remain in their own home, subject to adaptations, rather than having to move into specialist accommodation.

16.10 Government guidance³ sets out that

'optional requirement M4(2) will be met where a new dwelling makes reasonable provision for most people to access the dwelling and incorporates features that make it potentially suitable for a wide range of occupants, including older people, those with reduced mobility and some wheelchair users. Reasonable provision is made if the dwelling complies with all of the following:

- a. Within the curtilage of the dwelling, or of the building containing the dwelling, it is possible to approach and gain step-free access to the dwelling and to any associated parking space and communal facilities intended for the occupants to use.*
- b. There is step-free access to the WC and other accommodation within the entrance storey, and to any associated private outdoor space directly connected to the entrance storey.*
- c. A wide range of people, including older and disabled people and some wheelchair users, are able to use the accommodation and its sanitary facilities.*
- d. Features are provided to enable common adaptations to be carried out in future to increase the accessibility and functionality of the dwelling.*
- e. Wall-mounted switches, socket outlets and other controls are reasonably accessible to people who have reduced reach.'*

³ The Building Regulations 2010, Access to and use of buildings, Approved Document M – Volume 1 dwellings (HM Government, 2015 incorporating 2016 amendments).

16.11 The guidance sets out detailed technical requirements for how the above points can be met.

16.12 If a proposal requires 20% of the market homes to meet the 'accessible and adaptable dwellings' requirement, the applicant should identify, in a design and access statement or similar, which units will meet this requirement. Applicants are advised to submit this information with their application to avoid delays. It is expected that an assessment of a home against these standards will require an appraisal at the planning application stage and post construction.

Appendix A
Bootle and Netherton Area for the purposes of Policy HC1 parts 3 and 4

