



# CITY OF STOKE ON TRENT

## Local Development Framework Supplementary Planning Document



Affordable Housing  
(February 2008)  
Ref: SOT/SPD2

**To Rent  
and / or  
To Buy?**



Supplementary Planning Document

# Affordable Housing

February 2008  
(SOT/SPD2)

Stoke-on-Trent City Council



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## FOREWORD

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Government guidance indicates that the provision of affordable housing for those who cannot afford a home on the open market is a material planning consideration that may be properly taken into account in formulating development plan policies and considering development proposals.

Significant levels of housing need exist in Stoke-on-Trent. These are evidenced by the Joint Housing Register, Housing Needs Survey Update 2006 and Housing Market Assessment work being carried out by the City Council and neighbouring authorities. Furthermore, a significant proportion of the existing affordable housing within the City tends to be concentrated in particular locations or is inadequate to meet the range of needs. The City's affordable housing offer needs to be widened and improved. The affordability of market housing has been declining rapidly given local income levels. Our estimates indicate an annual deficit in excess of 250 affordable units city wide. This deficit arises through an increase in house prices above income levels, particularly for entry level properties, and a declining availability of social rented provision as numbers are reduced through Right to Buy and decreasing turnover in the social rented sector.

Housing need could be alleviated through the provision of affordable housing within new developments and the Local Development Framework (LDF) will provide policies to secure such provision by negotiation. The North Staffordshire Core Spatial Strategy (CSS), a joint Strategy with Newcastle-under-Lyme Borough Council, will identify the need for affordable housing provision and lay out the policy for how much should be provided through the planning process.

This Supplementary Planning Document (SPD) is intended to explain more fully how the relevant development plan policies are to be applied in dealing with planning applications for significant new development and to ensure that there is consistency in the Council's approach. The SPD has been prepared in accordance with the appropriate Government guidance on SPD development. The intention to prepare the document was subject to stakeholder consultation and the comments received were taken into account in preparation of this first draft. This draft was approved by the Council for public consultation on 26<sup>th</sup> April 2007 and following this was placed on the Council's website to allow maximum time for interested parties to view the document ahead of the formal consultation period. At the same time the City Council resolved that the SPD should be taken into account for development control purposes. The formal consultation period for the SPD was 5<sup>th</sup> October 2007 – 16<sup>th</sup> November 2007.

In order to support the development of this SPD, in putting in place a planning led approach to securing affordable housing for the first time, the Council commissioned a set of closely related studies. These were prepared by Consultants Adams Integra and included:

**Development Viability Overview** study to health-check the likely impact of the proposed affordable housing policy on residential development site viability at the time of policy proposals being considered. Whilst it was not possible to consider individual site viability as part of this overview, the study underpinned

the soundness of the policy positions as targets which the Council will expect to be met, but against which sites will be considered on their merits

**Additional Housing Needs Statement and Paper.** This considered the previously understood position of a 'low demand' area against clear trends of rapidly decreasing affordability (exacerbated by the price levels within the growing new build market), poor stock condition, relative lack of housing options and poor distribution of affordable housing stock.

**Local Area Needs Index.** To help guide appropriate affordable housing provision within new housing schemes, this translates to a practical level the type, mix and tenure of such housing that will be sought within different areas of the City on an indicative basis.

The City Council is proactively working with its partners to further understand the local housing market and the requirements for affordable housing. Supporting evidence documents are identified in Appendix 4 and can be found on the City Council's website.

In order to make this document as transparent as possible and to add clarity to the guidance, figures have been included, together with some worked examples based upon those. This approach means that the figures will inevitably become outdated. It will therefore be necessary to regularly review the figures and publish new data. It should be noted that the figures set out a starting point for discussion which will of course vary between sites and over time. The latest version of this document will always be found on the Council's website at [www.stoke.gov.uk/ldf](http://www.stoke.gov.uk/ldf)

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## **1. Introduction**

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- 1.1 This SPD provides guidance to supplement the Council's development plan policies, including in particular the Core Spatial Strategy. On adoption, this Local Development Framework SPD will be established as a material consideration in determining planning applications.
- 1.2 The City Plan 2001 at Policy HP2 sets out the requirement to provide a mix of housing types, size and tenure within schemes and indicates that this will include the provision of an appropriate amount of affordable housing. The Staffordshire and Stoke-on-Trent Structure Plan includes a requirement at Policy H8 that where there is a demonstrable need for affordable housing authorities should, amongst other things, negotiate with developers to secure the provision of affordable housing. Regional Spatial Strategy at policy CF5 sets out the means by which affordable housing are to be delivered in terms of both Local Development Frameworks and Supplementary Planning Guidance. These documents have been appropriately taken into account in the preparation of this SPD.
- 1.3 Note has also been taken of national policy including the preferred approach to planning and affordable housing contained in Planning Policy Statement 3: Housing (PPS3) and its companion guide, "Delivering Affordable Housing". The approach sets the context for securing affordable housing through the planning system and is aimed at ensuring that the provision integrated within new development is clearly related to housing need. National guidance is based around 3 key themes:
- providing high quality, varied tenure homes of a range of types in mixed sustainable communities;
  - widening the opportunities for affordable home ownership;
  - offering greater quality, flexibility and choice to those who rent.
- 1.4 The Council's Housing Strategy, Housing Register and Housing Needs Survey demonstrate the aims and objectives of the Council in optimising its efforts towards meeting housing need and the level of demand for affordable housing, respectively. The Council is currently working with the West Midlands Regional Assembly and its strategic partners in the (West Midlands) North Housing Market Area to deliver a strategic Housing Market Assessment in line with current Government guidance. The Council is committed to utilising the latest housing data to ensure its programme of affordable housing provision is properly planned and justified in negotiations with applicants. This process will be aided by reference to the Local Area Needs Index, and further supported by the Council's ongoing monitoring of the local housing market.
- 1.5 The Council is a housing stock retaining Authority.

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## **2. What is meant by the term “Affordable Housing”?**

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- 2.1 The term “Affordable Housing” is defined in the PPS3 issued in November 2006 as ‘Affordable housing includes social rented and intermediate housing, provided to specific eligible households whose needs are not met by the market. 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 provision.
- 2.2 Generally this will include a wide range of housing subsidised to varying degrees to keep prices below the market rate and at affordable levels. Registered Social Landlord (RSL) owned property has provided the main source of such new housing to help meet the needs of households whose incomes are insufficient to allow them to access market housing. Now other affordable housing providers will supplement this source of provision. The Council’s preferred partners are listed in Appendix 3 to this guidance. In line with guidance in PPS3’s “Delivering Affordable Housing” companion document, the Council will not preclude other providers from delivering affordable housing. However, such organisations will need to demonstrate that appropriate standards can be delivered on matters such as development, management, local presence and cost; and the way in which management arrangements and public resources can be secured. In the rest of this document reference is made to “Affordable Housing Providers” and this includes both RSLs and other social housing providers.
- 2.3 The Council will negotiate for an input of subsidy from land owners and developers to provide housing for those who are unable to access market housing. The level of subsidy considered to be appropriate is explained more fully in Section 4 of this SPD.
- 2.4 The Council’s definition of affordable housing, therefore, includes homes provided for rent at affordable (Housing Corporation Target) rents, homes provided for sale through what used to be called shared ownership but is now defined by the Housing Corporation as new build homebuy (part rent/part buy), homes provided by a fixed equity discount (discounted from market value, such discount maintained in perpetuity) and homes provided at an intermediate rent below the Housing Benefit ceiling targeted to areas identified in the Council’s Local Needs Index.



### **Key Issue**

#### **Homes provided on development sites where affordable housing will be needed will include:**

- Homes provided for rent at affordable (Housing Corporation Target) rents.
- Homes provided for sale through new build homebuy (part rent/part buy, ie shared ownership).
- Homes provided by a fixed equity discount (discounted from market value, such discount maintained in perpetuity).
- Homes provided at an intermediate rent below the Housing Benefit ceiling targeted to areas identified in the Council's Local Needs Index.

The Council considers this to be a flexible approach since a variety of tenure and home ownership models will be needed and the appropriateness of these to particular sites and over time will need to be kept under review. They will need to be discussed with applicants and partners. There may be other tenure models appropriate to particular circumstances, which will need to be discussed with the partners in the context of investment resources and other considerations. There may also be other Government or Regeneration Agency led initiatives which will be relevant in the Stoke-on-Trent context. It should also be noted that the terms used to name and describe tenure models change. Again this will be an area for monitoring and review.

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### **3. Sites appropriate for the inclusion of Affordable Housing**

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- 3.1 Development Plan Policies HP2 and H5 indicate that a site's suitability for affordable housing provision should take into account its size and location in relation to services and, in addition, the evidence of housing need in the locality.
- 3.2 PPS3 establishes the "national indicative minimum site size threshold" at which it is appropriate to negotiate for affordable housing. This is sites of 15 or more dwellings. In the context of Stoke-on-Trent this is considered to be appropriate in terms of seeking to meet affordable housing needs, balanced with respecting the development market in the City and the need to ensure that all site types continue to come forward for development.
- 3.3 The site size threshold (number of new dwellings above which affordable housing policy requirements will be triggered) will be kept under review based on the monitoring of a range of factors and experiences including, for example, housing needs, site supply and delivery patterns, outcomes from current policy proposals and funding availability.

<b>Key Issue</b>
<p>The threshold at which affordable housing will be required is sites of 15 units or more. This will need to be kept under review in terms of future policy development.</p>

- 3.4 The threshold will be applied on sites considered to be suitable for housing development, i.e. sites allocated for housing in the Local Plan, the development plan documents and all other applications judged to be appropriate when considered against the principles of the affordable housing policy and approach.
- 3.5 Site areas will normally be measured to the natural perimeters of the site defined by physical characteristics. It will not be appropriate for developers to divide a site into smaller components, say to reflect ownership boundaries, taking the site capacity or area below the threshold and to expect not to consider the need for affordable housing. It may be necessary to consider the development of the whole site comprehensively to ensure appropriate development, including the proper provision of affordable housing, as well as other essential facilities. Similarly, where schemes are submitted under the threshold, account will be taken of the City's need to provide affordable housing and whether best use is being made of the site.
- 3.6 To be considered appropriate for the inclusion of affordable housing, sites should normally be conveniently located for local services, community facilities and public transport. Most sites on which planning permission for housing development is likely to be granted are anticipated to fulfil this requirement since they will need to have satisfied sustainability principles and the general approach of having reasonable access to shops, public transport facilities, schools and community buildings.. However, in a City such as Stoke-on-Trent where there are a considerable range of issues around the renewal of housing, an on-site element of affordable housing may not always be appropriate. Similarly there may be particular circumstances prioritising development, such as the retention of listed buildings or other buildings of local significance, where a balance will need to be struck between housing needs and the aims of sustainable development in its widest sense. Where schemes are proposed in areas of the City remote from the renewal areas the Council will work with the developer to judge whether provision on or off site, or a combination of these approaches, would be most appropriate. This SPD covers this aspect further. The first assumption, however, will always be for on-site affordable housing and this should be assumed by land owners and developers.
- 3.7 Landowners and Developers are positively encouraged to approach the Planning division prior to the submission of a planning application to consider these matters and to enable negotiations to be entered into at an early stage so that the financial implications of affordable housing provision can be clearly understood at the outset by all involved. A discussion regarding the contents

of the s106 agreement at an early stage should avoid confusion and delay as a planning application is considered through the statutory process.

- 3.8 In order to ensure that affordable housing remains affordable in the long term, there will be a requirement for an appropriate legal agreement. To speed the delivery of affordable housing and to assist applicants the Council has developed a Model s106 Agreement which is available on the Council's web site ([www.stoke.gov.uk/AffordableHousing](http://www.stoke.gov.uk/AffordableHousing)) and this will generally be the basis used. Whilst alternative models will be considered, the Council will need to be satisfied that an acceptable means of securing appropriate affordable housing is provided (alongside a potential range of wider planning obligations). The model agreement is intended to speed up and smooth the process. Consequently there may be delay and related additional cost in using alternatives.
- 3.9 To further encourage and strengthen this process the Model s106 contains provisions requiring applicants to obtain the Council's approval to the "Affordable Housing Scheme" before commencing development. The Affordable Housing Scheme is intended to establish principles vital to the appropriateness of the affordable housing to be provided, and will include such details as:

- The scheme's Location and Layout
- Phasing and phase completion forecast dates
- Housing type, mix and tenure
- The distribution and delivery of the affordable housing units

Subsequent variations to the Affordable Housing Scheme will also need to be approved by the Council.

<b>Key Issue</b>
The Council will use a Model s106 agreement. As a part of that process the Council will expect applicants to work with it in agreeing an Affordable Housing Scheme prior to implementing the planning permission.

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#### **4. The amount of Affordable Housing to be provided**

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- 4.1 The Council proposes to take a consistent approach in implementing the Local Development Framework Affordable Housing Policy and will seek a target of 25% of a site's capacity for affordable homes within the City overall. In some areas of the City, such as (for example only) Areas of Major Intervention (AMIs) where development will be accompanied by housing clearances, there may be a need for a higher level of affordable provision through either enhanced provision on site or possibly the use / part use of financial contributions. In such instances the Council will work with the developers, RSLs, renewal agencies and funding organisations to secure additional affordable housing where appropriate and deliverable.

- 4.2 In those instances where there is a need for a higher level of affordable provision the Council will seek to draw on a cocktail of funding sources. In this event developers may be asked to accommodate a higher percentage of affordable dwellings within their site but the Council will proactively consider with its partners how that additional affordable housing should be funded.
- 4.3 In some areas the specific need for affordable housing on a particular site may be for less than 25%. In this case a financial contribution to off-site affordable housing, or reduced on-site provision with a top up contribution, will be considered based on the 25% target. This is in the context of a City wide consideration of affordable housing need.
- 4.4 In calculating Affordable Housing numbers, the Council will round the provision to the nearest whole number.
- 4.5 The Council may also consider an approach of calculating the site specific provision to best meet needs based on the 25% target but with reference to the floor area or number habitable rooms to be contained within the development as a whole. This will not be the key approach since the Council needs to ensure a range of affordable homes types are provided, including family dwellings. Where family dwellings are to be provided on a site, the Council will expect to see an appropriate proportion of those provided as affordable homes. However, as elsewhere, there has been significant apartment led development in the City. On sites providing that form of residential development the Council may wish to discuss affordable homes being provided by way of commuting the relevant floor area (based on the 25% target) to affordable family homes and / or the use of financial contributions.
- 4.6 The Council will monitor and review the target of 25% based on the most recent housing needs evidence.

<b>Key Issue</b>
Land owners and developers should assume that new residential development will be required to contribute towards affordable housing at a rate equivalent to 25% of the overall number of dwellings to be provided.

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## **5. Guidance on the mix and type of Affordable Housing**

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### **The mix of affordable housing**

- 5.1 The nature of local housing needs will influence the type of affordable housing being sought. If particular groups in the community, for instance those with supported housing needs or single people, are shown to be in specific need then the mix and type of affordable housing provided should seek to reflect this. Similarly, if there are pronounced needs for specific types of tenure, such

as rented accommodation and/or new build homebuy then such provision will be sought within the scheme.

- 5.2 The housing needs of the area identified by Stoke-on-Trent Housing Services working with its partners will largely influence the type of affordable housing to be included in the development. The Local Needs Index and similar ongoing work will inform the mix needed across the City area. The major demand in Stoke-on-Trent is housing for rent as indicated by the Housing Register make up, and the Housing Needs Survey update 2006 . The Council aims to meet the most urgent housing needs of housing register applicants wherever possible. On that basis, dependant on funding and other considerations, it will aim to achieve at least 50% of all affordable housing on sites for rent; the remainder for a mix of other tenure such as new build homebuy, fixed equity discount or intermediate rent. Housing Services can advise of the most appropriate housing mix in respect of size and tenure utilising up to date information related to the Housing Register, Housing Needs Index and other sources. Early contact with Planning and Housing Officers is, therefore, strongly advised.

<b>Key Issue</b>
<p>Out of the affordable element of a development the Council will try to achieve at least 50% of the site for affordable rent; the remainder for intermediate rent, new build homebuy, a fixed equity discount (maintained in perpetuity) or other appropriate models. There will be cases where this mix will alter particularly in some areas where more rented homes are needed and where public subsidy allows.</p>

### **General Needs (Affordable) Rented Accommodation**

- 5.3 Due to the mismatch between incomes and average house prices in the City, the priority need illustrated by the Housing Needs Register is for rented affordable housing to be provided predominantly on site. An affordable rent is a rent consistent with the Government's rent restructuring formula and one that does not exceed the Housing Corporation's Target Rents. This regime will be familiar to affordable housing providers. Further details can be calculated and made available by them in working up appraisals for units of a specific size. As a guide, the Housing Corporation's target affordable rents provide a level of rent which the Council will aim to achieve.

### **New Build Homebuy (i.e. shared ownership)**

- 5.4 New build homebuy is a form of low cost home ownership that enables participants to buy a percentage of the property for sale. A mortgage is normally obtained for the share purchased by the applicant and rent is paid on the proportion not owned (i.e. retained by the affordable housing provider). There will be periodic changes to the terms and details of this general tenure model, but it is expected to continue to play a role.

- 5.5 As the value of the property sold to purchasers is based on an independent open market valuation, new build homebuy has not proved affordable to many residents in need in Stoke-on-Trent, particularly those on low to middle range incomes. On schemes where there is a significant amount of new build homebuy, the Council will encourage an adaptable approach to affordability, where offers can be made to residents based on a range of starting ownership percentages; it is recognised that at the outset more or less than 50% of the property value can be bought by the purchaser to reflect the individual's circumstances.
- 5.6 The Stoke-on-Trent Housing Needs Survey indicates that there is a demand for this type of housing provision. The Council would normally consider a maximum of 50% of the affordable housing as new build homebuy, subject to demand. The table below is an illustration of the likely relative monthly costs of New Build Homebuy based on 50% and 25% ownership respectively.

<b>50% Sale, 50% Rent</b>	<b>Mortgage per month</b>	<b>Rent per month</b>	<b>Total Repayments per month</b>
2 bed house at £152,000	£549	£174	£723
3 bed house at £172,000	£621	£197	£818
<b>25% Sale, 75% Rent</b>			
2 bed house at £152,000	£274	£261	£535
3 bed house at £172,000	£310	£296	£606

N.B. Based on the assumption of a first time buyer having no deposit and seeking a 100% loan on their purchased equity share; rent at maximum of 2.75% of unsold equity.

Source: Mortgage repayment on sale share of property is calculated using Council of Mortgage Lenders (CML) repayment tables. Interest rates for the rent element based on average interest rates Jan 2008.

- 5.7 The method for calculating the cost of providing affordable housing, and thus its impact on site appraisal, should be consistent for both affordable rented and new build homebuy accommodation, as explained more fully in section 8 of this SPD.

<b>Key Issue</b>
New build homebuy (shared ownership) housing must be affordable to the occupant in terms of their ability to pay for the mortgage and other costs of the accommodation. The same principle of overall affordability will apply to all tenure models.

**Other affordable home ownership models**

- 5.8 House price sales data provided by the Land Registry consistently places Stoke-on-Trent within one of the cheaper local authority areas in which to live in England. According to the Land Registry prices have however risen by 123% since 2000. Rapidly declining affordability is one of the key issues faced by the City.

<b>Typical New Build House Prices, Stoke-on-Trent</b>		
<b>Description</b>	<b>Size</b>	<b>Cost</b>
1 bed apartment	51 sq m	£102,000
2 bed apartment	66 sq m	£132,000
2 bed house	76 sq m	£152,000
3 bed house	86 sq m	£172,000
4 bed house	96 sq m	£192,000
Other sizes can be calculated at gross internal floor area x £2,000/sq m		

Source: AI Property price research, March 08

- 5.9 There is a demand for home ownership attainable at prices below market levels, which therefore has to be subsidised. In the Stoke-on-Trent context this is likely to take the form of new build homebuy (shared ownership) or a model which provides an equity discount fixed for the long term and so available to future occupiers.
- 5.10 PPS 3 specifically excludes “low cost market housing” from its consideration of affordable housing for planning obligations purposes. Therefore housing which is simply at the lower end of the market or provided on the basis of an initial discount will not meet the affordable housing requirements of planning policy.
- 5.11 Typical household incomes of those seeking housing in the City are as follows:

<b>INCOMES</b>	<b>Gross Average Income per month</b>	<b>Gross Average Income per annum</b>
<b>Lower Quartile Stoke-on-Trent Households</b>	£1,219	£14,636
<b>Average Stoke-on-Trent Residents</b>	£2,284	£27,416

Source: Stoke-on-Trent City Council Knowledge management Unit based on CACI 2007

- 5.12 As a guideline the Housing Needs Survey identified that 48% of new/concealed households (those the Council consider to be in genuine housing need) in the City could not afford a mortgage repayment of more than £600 per month. For illustration purposes, assuming a 25 year mortgage, it is calculated that to be affordable the maximum mortgage amount would need to be in the range of £63,000 - £83,000<sup>1</sup>.

<sup>1</sup> Mortgage affordability has been calculated by multiplying household income by 3. The mid point value between the average income and lower quartile income has been used to determine the lower end of mortgage affordability, and the average income to determine the upper end.

- 5.13 There has been a range of initiatives aimed at helping people into home ownership through grants and loans which enable an affordability gap to be narrowed or bridged. The role of such initiatives as may be in operation at the relevant time will be considered and embraced by the Council where relevant and possible, in the context of using the full range of tools available to secure appropriate housing opportunities. It is possible that to bridge the affordability gap, such initiatives would need to be used in conjunction with discounts secured from the open market price. The point here is that a range and combination of measures might be used to secure affordability.
- 5.14 It is likely that at present a discount of at least 30% from the new build open market value would be needed to make a long term fixed equity discount tenure model work.
- 5.15 The “sale” element of a s106 obligation could be either or both new build homebuy (shared ownership) or low cost home ownership by way of an equity share with approximately 70% sold and 30% discount maintained, subject only to the statutory right to acquire.
- 5.16 As a principle the Council will be seeking any discount to the market value of a property to be made available to subsequent purchasers in need of affordable housing and therefore would require the Affordable Housing Provider (or other) to provide a legal mechanism to secure the discount for future occupiers.

<b>Key Issue</b>
While there may be a range of home ownership models relevant, as an overall principle consistent with national guidance, the Council will require the Affordable Housing Provider to offer home ownership that is affordable to eligible households and to provide a legal mechanism to secure a discount to make the accommodation available to future eligible households.

### **Proposals for Sheltered Housing**

- 5.17 Sheltered housing for older people is normally within the same planning use class as ordinary dwellings and therefore the affordable housing contribution will be required in the same way in respect of such schemes. The Council will look sympathetically at ensuring an effective relationship between the market sheltered housing and the affordable housing.
- 5.18 Generally the Council will expect to see on site provision of affordable housing but will be mindful of issues such as impact on the viability of the sheltered scheme, the necessary critical mass to support services and juxtaposition of different forms of tenure and management regimes in a single block. There may be cases where the required contribution to meeting affordable housing needs is best secured by the provision of another site nearby or as a last resort by way of a financial contribution.



### **Special Needs and Supported Housing**

- 5.19 The Council has a five year Supporting People Strategy underpinned by a comprehensive needs mapping study. The Council's Supporting People Team plan to meet the requirements of those with supported housing and mobility needs. In meeting its statutory duties the Council will consider the potential of sites for a range of groups, subject to demand at a given time. Examples of people within such groups whom it may be possible to help include:
- ❑ Frail older people
  - ❑ People with a physical or sensory disability
  - ❑ People with learning difficulties
  - ❑ People fleeing domestic violence
  - ❑ Vulnerable young people
  - ❑ Teenage parents
  - ❑ People with drug and alcohol dependency problems
  - ❑ Homeless households with support needs
  - ❑ People with mental health difficulties
  - ❑ Mentally disordered offenders
  - ❑ Rough sleepers
- 5.20 Generally these vulnerable groups will live in ordinary accommodation and receive appropriate support in their own home. However, where there is an identified need, and the form and scale of development proposed will allow for effective integration of the supported housing into the scheme, the Council will aim to provide some form of supported accommodation on S106 sites.
- 5.21 Any proposal to develop supported housing in its own right should be discussed with Stoke-on-Trent City Council Housing Services as early as possible to ensure that demand exists and that revenue support funding can be made available.

### **Black and Minority Ethnic (BME) community Housing Needs**

- 5.22 The Council has a comprehensive BME Housing Strategy based on an analysis of need. The Local Needs Index and work identified in Appendix 4 provides more information on the geographical spread of BME communities within the City. The Council will aim to provide affordable housing to meet the specific requirements of BME communities on S106 sites where there is an identified need. Any proposal to develop affordable housing to meet these specific needs should be discussed with Stoke-on-Trent Housing Services as early as possible to ensure that the proposals are being best matched with the demand that exists.

### **Key Worker Housing**

- 5.23 The Council intends to research the needs of key workers in the City. That research may show that there is a need for some of the accommodation made

available through S106 negotiations to be nominated to key workers. This SPD will be regularly reviewed so as to reflect this issue as needs be. Key workers might include Health workers, Police or Teachers but others may be identified through the research to be undertaken. In light of the current lack of identified need for key worker housing, this will not currently be accepted as a contribution to affordable housing in terms of meeting the planning obligations.

<b>Key Issue</b>
There is currently no identified need for key worker housing, and this will not therefore be accepted as a contribution to affordable housing in terms of meeting planning policy requirements.

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## **6. Design Considerations**

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- 6.1 Where a developer is providing affordable housing on a development site the affordable homes to be developed will normally be required to be built to the relevant Design and Quality Standards - or their replacement - published by the Housing Corporation (to be known as the Homes and Communities Agency' (HCA). There is an increasing emphasis on sustainability requirements being met, and developers will be expected to work with the RSL or other affordable housing providers to ensure necessary standards are complied with. To this end the Code for Sustainable Homes is now also a key requirement, and over time schemes will be expected to achieve increasingly higher ratings under this scheme. Working closely with the Housing Corporation, the Council and affordable housing provider will be able to advise on the standards to be met.
- 6.2 Care should be taken to maintain the quality of the affordable housing. Material specifications should not be to a lower standard than private sale housing and levels of privacy, car parking, access and open space provision should not be compromised. It is expected that developers will integrate affordable housing and general market housing to complement one another and to give visual consistency as part of their marketing strategy. There should be no visual differentiation between the market and affordable housing and the affordable housing should be distributed through the development rather than clustered in one area. This is to ensure that sustainable development is created providing accommodation built to the highest possible standards. The table below provides guidance on the size of affordable homes the Council would aim to secure typically on s106 sites in order for the various requirements to be met. In practice the Housing Quality Indicators information linked to the Design and Quality Standards provides a range of property sizes depending on occupancy levels, so the following is intended to guide rather than be prescriptive. It should be noted that there may be a need for larger affordable property types – for example in the case of larger households in housing need.

Unit Type	Unit Size	Gross Internal Floor Area in square feet	Gross Internal Floor Area in square metres
Flat	1 bed	545	51
Flat	2 bed	710	66
House	2 bed	815	76
House	3 bed	925	86
House	4 bed	1030	96

#### Key Issue

Affordable dwellings should be integrated with the market housing, be built to the appropriate quality and space standards and not be visually distinguishable from the market housing.

It should be noted that there are increasing links between funding availability and meeting of development standards. By aiming to meet standards, the most flexibility and scope will be achieved in terms of the ability to secure grant funding. Site specifics, and how to optimise affordable housing provision in particular circumstances will need to be discussed and therefore land owners and developers are encouraged to discuss opportunities at the earliest possible opportunity.

## 7. Mechanisms for Securing Affordability

### Working with Affordable Housing Providers

- 7.1 Where affordable housing is provided, the Council expect long-term affordability can be best secured through the involvement an affordable housing provider from the Council's current or future list of providers in Appendix 3. The Council commissions the preferred affordable housing provider partners to develop in Stoke-on-Trent. Selected partners have demonstrated an ability to meet the highest standards across the range of housing services and have been formally approved by the Council. The Council fully understand that the 2004 Housing Act and the guidance contained within Planning Policy Statement: 3 Housing and the companion document Delivering Affordable Housing allows other Social Housing Providers to develop affordable housing; the Council is committed to work with those providers to seek the same levels of management and maintenance as secured through affordable housing providers at the moment.
- 7.2 Developers should be aware that where grant subsidy is sought to assist in the cost of development, the Housing Corporation would normally only provide Social Housing Grant funding to affordable housing providers who have reached an appropriate agreement with the Council (ie who have the Council's support of their proposals) and the Housing Corporation. Discussion is therefore always recommended at an early design stage in the development

process and is essential if grant subsidy is to be sought. Whether or not grant is involved, a suitable affordable housing scheme still needs to be provided in order to meet the planning obligations.

- 7.3 The development of some housing can involve high service charges, for example to provide for improved security or maintenance of communal areas. As all costs are to be taken into account when assessing the level of affordability, schemes should be designed with lifetime costs in mind to reduce the potential for high service charges relating to the affordable housing units. Affordable housing providers are restricted in what they can charge by the Housing Corporation. Service charges that breach guidelines would not attract public subsidy and would result in an additional cost falling to the developer. Again, early discussion should enable such issues to be carefully considered and resolved.

<b>Key Issue</b>
The Council have experience of working with partner affordable housing providers to secure affordable housing. It is anticipated affordable housing providers will discuss the end manager, plus management and service charge arrangements, with the Council prior to concluding contractual arrangements for the affordable housing procurement.

### **Section 106 Agreements**

- 7.4 To help speed up the negotiation process the Council has developed standard affordable housing clauses for inclusion within Section 106 agreements. These are embodied in a model s106 agreement, the current version of which can be found at Appendix 2. The clauses seek to ensure accommodation is provided at an acceptable cost, timescale and standard of design and have facilitated effective partnership working in past agreements between the Council, affordable housing providers and developers.
- 7.5 The affordable housing element of a scheme should be indistinguishable from the market housing and should, wherever possible, fully integrated and distributed around a site. If possible groups of no more than 10 affordable homes should be located together. Whilst each scheme will be different, a guide of 10 units maximum should aid developers and their architects in this regard. This again is not intended to be prescriptive and it is accepted that certain forms of housing will need an alternative approach. Extra care housing, where clusters will usually need to be of a larger size, may be an example of this.
- 7.6 On larger proposed schemes the Council will work with the developer to ensure that the affordable housing is provided as far as practicable at the same time as the market housing. Developers should be aware that there will generally be trigger and phasing clauses in the s106 agreement or conditions on the planning permission to ensure the phased delivery of affordable housing. Where it is proposed to deliver affordable housing out of phase with the market housing, it

will be for the developer to demonstrate why, having regard to material planning considerations, this is an appropriate strategy.

- 7.7 Working with key partners the Council has developed a set of model clauses which are attached to this guidance. Early discussion with the enabling team and or the Council's legal service is recommended so that speedy decisions are not impeded by the need for s106 agreements to be drafted.
- 7.8 Whilst the Council will of course consider other forms of wording for legal agreements, the applicant should be aware that the need to seek legal advice on other forms of agreement is likely to lead to delays in the issue of planning permission, with the inevitable resultant costs that this entails. Developers are therefore advised, wherever possible, to have full regard to the model clauses prepared by the Council.

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## **8. Resources available to subsidise affordable housing schemes**

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### **Costs of Provision**

- 8.1 The Housing Corporation has consistently stated that s106 sites should be procured with minimal, if any, social housing grant support. The key principle is that, where it is made available, social housing grant will be expected to demonstrably achieve improved affordable housing provision compared with a grant free or reduced grant scheme. This principle is referred to by the Housing Corporation as "additionality".
- 8.2 The Council's view is that, bearing in mind the market conditions evident in the City, in so far as they support development viability there will be an element of subsidy needed in tenure specific cases either to meet a particular need or to provide more homes of a particular tenure where the viability of a scheme would otherwise be jeopardised.
- 8.3 Local Authorities increasingly need to link local subsidy mechanisms to their approaches so as to secure a basis for this additionality approach – a sound starting point aimed at influencing affordable housing procurement costs and therefore increasing affordability to the occupiers. Grant is then more likely to be attracted.
- 8.4 Therefore when negotiating with land owners and developers the Council will expect a contribution towards the funding of the affordable housing element. This is expected to be in the form of a discounted price to remove or reduce the level of public subsidy (for example, social housing grant) provided by the Council and/or the Housing Corporation dependant on tenure and local specifics.
- 8.5 The provision of affordable housing will generally be in accordance with the following table. This table reflects the price an affordable housing provider could reasonably pay for a mixed scheme comprising 50% affordable rent and 50% affordable sale combined to represent a tenure neutral figure. This table

will be amended annually to reflect the cost of provision. The Council will then negotiate the form and tenure of the affordable housing to reflect need and the economics of provision. The following seeks to guide the negotiation process.

**Indicative Payment Table to indicate price affordable housing provider will pay for completed units**

Unit Type	Unit Size	Internal Floor Area (m2)	Price paid by AHP (RSL or other) for completed affordable unit
Flat	1 bed	51	51,000
Flat	2 bed	66	61,000
House	2 bed	76	70,000
House	3 bed	86	81,000
House	4 bed	96	95,000

Key Issue
In order to make the homes which are provided affordable, they should be passed on to the affordable housing provider, serviced and ready for occupation at the value indicated by the above payment table. Homes of varying sizes, including larger properties, would be passed over at a pro rata amount calculated with reference to the particular size.

**Available Funding**

- 8.6 Affordable housing providers (AHPs) are limited as to the rents they can charge in order to ensure those rents remain affordable to households on low incomes and are compliant with the rent level requirements stated at 5.3.
- 8.7 The Housing Corporation has abolished its Total Cost Indicator (TCI) regime as a measure of identifying value for money. Use of the indicative payment table, which is based on actual negotiations completed between AHPs and developers on a range of sites, obviates the need for any more complex methodology to guide provision and enable value for money to be considered.

Key Issue
The Viability overview study supporting the Council's policy development work shows that under normal circumstances affordable housing delivered on the basis of the payment table being adhered to, can be passed to an Affordable Housing Provider with no Social Housing Grant input on the basis of a 50/50 tenure mix.
In circumstances where it can be demonstrated that grant will be needed and will add the additionality required, the Council will support a bid to the Housing Corporation or other public body for grant support on a s106 site.
(See also the following Key Issue)

### **Economics of Development**

- 8.8 The Council understands that developers take considerable risks associated with the development of sites in the City. It is part of the Council's enabling role to encourage development to come forward in a planned way.
- 8.9 Details of abnormal site costs or perhaps collective planning obligations / infrastructure burdens on a site which produce viability issues, should be submitted to the Council at the earliest opportunity in advancing schemes. Standard measures necessary to make a housing scheme function effectively will not be considered to be abnormal costs. It is anticipated that where a site has changed hands the abnormal costs will have been taken into account and reflected in the purchase price.
- 8.10 Dependant on housing need and other local circumstances, it is with these considerations in mind that the Council may enter in to a dialogue with the Housing Corporation regional office, and / or other gap funding providers in respect of the availability of grant to support the affordable housing requirements. Clearly demonstrated benefits would need to flow from any such funding, for example, increased affordable housing numbers or size of units and / or tenure mix being enhanced (the "additionality" referred to above).

<b>Key Issue</b>
<p>The Council accepts that there may be certain circumstances where the full requirement for affordable housing would unduly impact on the economics of housing provision, the wider scheme or particular economic or regeneration benefits. In those circumstances the Council will work with the developer on an open book basis to establish what abnormal site costs, particular scheme characteristics or issues should be taken into account in the viability of the scheme, the delivery of wider planning objectives and to establish what impact Social Housing Grant subsidy would have on the deliverability of the scheme.</p>

- 8.11 Developers will be expected to demonstrate why any additional factors might justify a reduction in or alteration of the affordable housing requirement. This may include an evaluation of total scheme costs and a financial appraisal of scheme viability. Whilst commercially sensitive information will remain confidential, financial details may be subject to independent financial assessment.
- 8.12 The Housing Corporation, in conjunction with GVA Grimley and Bespoke Property Group, has produced an 'Economic Appraisal Tool' to assist with the process of considering site value, and therefore viability as impacted by the affordable housing content of a scheme. This uses very similar techniques to those used in the Adams Integra viability overview study used to help determine the Council's policy approach. The Council will expect the Corporation's model, or a similar tool, to be used in exploring these issues.

The tool is available at the Housing Corporation's website <http://www.housingcorp.gov.uk>

- 8.13 The Council recognises that requiring developers to develop or allow part of a site to be used for affordable housing will result in a cost to the land owner and / or developer when compared with no affordable housing requirement. In order to offset these costs developers will be expected to take the requirement for affordable housing into account in negotiating land values with site owners.

<b>Key Issue</b>
<p>The Council accepts that there will be an impact on the viability of a scheme when affordable homes are required. The Council expects that the subsidy will be reflected in the value of the land acquired for the development as a whole.</p>

- 8.14 Where abnormal development costs are being cited as a reason for reducing the level of affordable housing provision below the target, or for requiring subsidy, the estimated costs of the abnormal works will need to be set out in the form of a financial viability study, as above, to show how these would impinge unacceptably on the land value created by or profit margins anticipated from the development. It will be expected that, where land has already changed hands, an appropriate adjustment to the land price will have been made by the developer to cover such costs.
- 8.15 Where it is accepted that on the basis of a financial assessment it will not be possible to deliver the target level of affordable housing, the Council consider making appropriate provision within the legal agreement to ensure that any unexpected windfall arising above the financial appraisal can be used to address the shortfall in affordable provision.

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## **9. Off-site provision and Financial Contributions**

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### **Off-Site Provision**

- 9.1 In accordance with Government guidance, the Council will seek to ensure that affordable housing is provided on site in the first instance and only in very particular, agreed circumstances will either another site or payment in lieu of on site provision be considered as an acceptable alternative.
- 9.2 It may be mutually agreed that it would be possible in some areas not well located to existing services for there to be on-site provision of new build affordable home ownership housing with another site more closely located to services providing the rented element of a scheme. Or, perhaps with the same scenario, it may be possible if there is no alternative available, for a payment in lieu contribution to be made for a part or all of the provision. Similar scenarios could exist in the case of particular development types which



may be less well suited to on site provision; or in locations where a predominance of a particular tenure type already exists.

- 9.3 Any affordable housing contribution should be provided at the same time as the facilitating development and prior to its effective completion. The s106 agreement will require triggers to ensure that funds are made available for schemes in good time.

<b>Key Issue</b>
<p>Notwithstanding the overall priority for on-site affordable housing provision, because that directly secures new homes, the Council will consider the part or total provision of affordable housing by way of a financial contribution, where it is mutually agreed that this is the most appropriate means of provision. This will normally be as a last resort behind on site provision (first) and off site land (second). The contribution will be provided to assure the delivery of new affordable homes which could be by a variety of means. This may include the re-use of existing accommodation.</p>

### **Calculation of financial contributions**

- 9.4 In exceptional circumstances where it can be demonstrated that on site provision would not be possible, and that no suitable alternative site is available, a payment in lieu of provision will be considered. In such circumstances, the payment will be collected to help finance the development of the relevant proportion of affordable housing equivalent to that which would have been required on site (referred to as the notional affordable scheme below).
- 9.5 The costs for the notional affordable scheme will be calculated from current new build Open Market Values (OMV) for the City relating to different size dwellings, in comparison with the indicative price paid by the affordable housing provider from the table at 8.5 above). Using OMV in this way provides a transparent and accountable means of calculating financial contributions that will realistically lead to the provision of affordable housing off-site by the purchase of land or properties in the market place, or potentially provide suitable sums for re-investment in developments brought forward on Council or RSL owned land. There is a range of ways in which such monies could be used, but owing to common difficulties and delays in procurement, the clear preference will be to secure integrated affordable housing within the source sites.

Examples of the use of financial contributions, where strategic housing objectives may be better achieved through the full or part use of this route (to be kept under review), could be where:

- there is a pressing need for specialist accommodation, such as the provision of affordable extra care facilities

- the payment enables the number of affordable homes provided to be maximised
- additional affordable homes can be provided to complement those already planned in a pipeline scheme elsewhere
- bringing back in to use or improvements to meet decency standards of existing housing for affordable use can be facilitated.

- 9.6 The basis for calculating sums will be the difference between the OMV for the notional units if on site and the figure for those units in the payment table. The Council will discuss the OMV figures with the developer to agree on a fair and equitable value if there is disagreement in relation to the payment table.
- 9.7 The basis for this will be updated simply as a consequence of the Council updating the OMV and payment table guide figures as used elsewhere in this SPD. This will also ensure consistency between the on-site and financial contribution provision routes. The agreed payment-in-lieu contribution will be index linked with reference to the change in the relevant BCIS Index (RICS Building Cost Information Service) between the date of the planning resolution and the payment due date (in accordance with the model s106 agreement).
- 9.8 The level of financial (“payment in lieu”) contribution will be calculated so as to equate to the number of affordable housing units which would be required on site. This approach will be kept under review by the Council.

<b>Description</b>	<b>New build OMV Average across City</b>	<b>Payment Table Figure</b>	<b>Indicative 'payment in lieu' contribution</b>
1 bed apartment	£102,000	£51,000	£51,000
2 bed apartment	£132,000	£61,000	£71,000
2 bed house	£152,000	£70,000	£82,000
3 bed house	£172,000	£81,000	£91,000
4 bed house	£192,000	£95,000	£97,000

- 9.9 As the payment table figures (from 8.5) are derived from a tenure neutral assumption (50% affordable rent; 50% low cost home ownership), in discussing financial contribution levels relevant to particular scheme proposals the Council may need to adapt its position. For example, if the financial contribution is to be made in lieu of all or mostly one tenure type, then there may well need to be an adjustment to the assumed payment table figure which will be deducted from the open market value figure to arrive at the relevant sums. The Council would do this by disaggregating the payment table figure, on an open basis fully explained to the developer or land owner. Once again, earliest possible stages discussions will be the key to establish as much certainty as possible for all parties.
- 9.10 Once settled, the agreed payment-in-lieu contribution will be index linked over the period from when it is fixed in the s106 agreement to the date at which it is paid. This is because there can be a significant time lapse between these two

events. Indexing will be calculated by reference to the change in the relevant BCIS Index (RICS Building Cost Information Service) – for example the all tender costs index between the date of the planning resolution and the payment due date (in accordance with the model s106 agreement).

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## 10. The Affordable Housing Fund

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10.1 Financial contributions received from payment in lieu negotiations will be held in an Affordable Housing Fund and will be used for capital funding, in accordance with Government Circular 05/2005 and the following criteria:

- That the proposal fulfils the scope of the relevant Section 106 Agreement, the Affordable Housing Policy and any relevant case law and Government guidance.
- That the proposal fulfils the aims of the current Housing Strategy Statement and Renewal Strategy.

10.2 Revenue raised from the interest accruing from the Affordable Housing fund will be available to fund affordable housing and also, for example, surveys and research in connection with the provision of affordable housing and the Local Plan Affordable Housing Policy.

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## 11. Monitoring and Review

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11.1 This guidance will be reviewed annually to ensure that facts and figures represent the latest cost and housing demand information.

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## 12. Summary

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**Affordable housing definition:** Housing that is available to people who cannot afford to occupy accommodation generally available on the open market.

**Target percentage:** The percentage the Council will seek to achieve is 25% across the City. Dependant on local circumstances, funding availability and viability, there may be situations where enhanced provision is sought through partnership working. There may also be demonstrable circumstances where reduced provision is necessary.

**Tenure Guide:** The Council's aim is to achieve at least 50% of all affordable housing on sites for affordable rent and 50% for other tenure, such as (but not exclusively) new build homebuy, (shared ownership) intermediate rent and a fixed equity discounted sale, subject to the availability of funding support and always assuming long term provision for future occupiers.

**What the developer will receive for an affordable home:** In return for the provision of completed affordable homes serviced and ready for occupation, a sum in accordance with the payment table guidance and normally not requiring support from Social Housing Grant

**What will be provided:** Any affordable home procured on a development site will normally be developed to the Housing Corporation's Design and Quality Standards or their replacement, and to wider relevant environmental and other standards (including meeting the relevant Code for Sustainable Homes and Housing Quality Indicators criteria)

**Threshold:** PPS3 establishes the national indicative minimum site size threshold at which it is appropriate to negotiate for affordable housing. This is developments of 15 or more dwellings – as will be applied in Stoke on Trent.

**Viability:** The Council is aware that there is a range of costs to consider with any scheme. As with other planning policy and the way that influences the scope and therefore the value a site has, it expects the viability impacts from applying the affordable housing payment table figures to be reflected in the cost developers pay for residential land. However, the Council also recognises abnormal circumstances and will be reasonable in negotiations if given sufficient evidence that overall scheme viability is at risk. The potential role of wider planning and regeneration benefits, as well as the potential collective planning obligations burden are also acknowledged in this respect.

**Calculation of financial contributions in exceptional circumstances:** The sum would be arrived at by taking the OMV of the homes required then deducting the payment table figure (the sum that would have been received by the developer for on-site provision) for those. As there is often delay between agreement and payment, sums will be indexed to the point at which they are paid.

## **Stoke-on-Trent City Council**

### **Affordable Housing SPD appendices**

Last updated: February 2008

Appendix 1: Contacts

Appendix 2: Model S106 agreement (currently in the process of being updated)

Appendix 3: List of preferred providers

Appendix 4: List of supporting documents

## **Appendix 1: Contacts**

Initial contact should be through the Stoke-on-Trent City Council Development Control (DC) team. In due course a DC case officer will be assigned but in the first instance contact can be made with:

North of the City – Kevin Benfield (01782 236677)

South of the City – Nic Thomas (01782 232308)

DC officers may advise developers to discuss their affordable housing proposals with Housing Services (Housing Enabling Team). Key contacts are:

North of the City – Neil Macleod (01782 236349)

South of the City – Margaret Yates (01782 235520)

**Appendix 2: Model S106 agreement**  
(currently in the process of being updated)

Affordable Housing: model agreement under Section 106 of the Town & Country Planning Act 1990

**Dated**

**The Council of the City of Stoke on Trent**  
(the Council)

[ ]  
(the Owner)

[ ]  
(the Chargee)

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## Agreement

### Dated

### Between

- 1) **The Council of the City of Stoke on Trent** (the **Council**) of Civic Centre, Glebe Street, The Council ST4 1RG;
- 2) [ ] (the **Owner**) registered in England with number 2752638 whose registered office is at [ ];
- 3) [ ] (the **Chargee**) registered in England with number [ ] of [ ]

### Recitals

- A. The Council is a local planning authority as defined in the Act and a local planning authority for the purposes of planning obligations imposed pursuant to the provisions of Section 106 of the Act.
- B. The Owner is the owner of fee simple in possession of the Site with title absolute registered at H M Land Registry under title no. [ ].
- C. The Site is subject to a Legal Charge dated [ ] in favour of the Chargee [which charge is registered at HM Land Registry under title number [ ]].
- D. The Application has been submitted to the Council seeking planning permission for the Development and the Council has resolved to grant the Planning Permission subject to, inter alia, the completion of this Agreement.

### It is agreed:

#### 1. Definitions and interpretation

In this Agreement the following expressions shall where the context so requires or admits have the following meanings:

**Act** means the Town & Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004) or any re-enactment or modification for the time being in force.

**Affordable Housing** means housing that is affordable to local people who cannot afford to rent or buy accommodation generally available on the open

market on readily available terms [and who have need of housing by virtue of local housing and regeneration initiatives]<sup>2</sup>.

**Affordable Housing Scheme** a scheme submitted pursuant to Clause 5 of this Agreement and approved in writing by the Council (including any substitute scheme approved from time to time in writing by the Council) for the provision of Affordable Housing which secures the provision by a Registered Social Landlord of the Social Rented Housing and Shared Ownership Housing and by the Owner of the Discounted Market Housing of a number of units of Affordable Housing (rounded to the nearest whole number) equal to [ ] per cent of the Housing Development such scheme to identify:

- (a) The phasing and (by reference to a plan) the location and layout of the Affordable Housing;
- (b) the mix and anticipated tenure of each of the Affordable Housing units (rounded to the nearest whole number) providing:
  - (i) that a minimum of [ ] per cent of the Affordable Housing Units will be provided as Social Rented Housing;
  - (ii) that a maximum of [ ] per cent of the Affordable Housing Units (rounded to the nearest whole number) will be provided as Shared Ownership Housing;
  - (iii) that a maximum of [ ] per cent of the Affordable Housing Units (rounded to the nearest whole number) will be provided as Discounted Market Housing; and
  - (iv) the type of Affordable Housing Units having regard to local need and to the types of units to be provided as part of the Market Dwellings;
- (c) the forecast dates for commencement and completion of each phase.
- (d) the proposed arrangements for the management of the Affordable Housing Units if not by a Registered Social Landlord;
- (e) whether Social Housing Grant from the Housing Corporation or any other source of financial assistance is expected towards the cost of providing Affordable Housing as part of the Development;
- (f) the anticipated Market Value at the date of offer for sale of the Discounted Market Housing

**Affordable Housing Unit** means each unit of Affordable Housing to be constructed on the Application Site pursuant to the Planning Permission

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<sup>2</sup> Will not apply in all circumstances

**Application** means the application made by [ ] to the Council for planning permission to develop the Site [together with other land] under reference number [ ].

**Close Family Association** means a person has a spouse civil partner long-term common law partner parent brother sister child grandparent or grandchild who is resident in the relevant part of the Council's administrative district and has been resident there for a minimum of five continuous years.

**Date of Determination** means the date of determination by the Council or the Registered Social Landlord (as the case may be) of a person's eligibility for Affordable Housing.

**Development** means such development as may be authorised by the Planning Permission.

**Discounted Market Housing** means those dwellings which will be sold whether by transfer of freehold or lease at no more than [ %] of Market Value.

**Dispose** means in relation to the transfer of an interest in property the transfer of a freehold interest or of a leasehold interest of more than 99 years.

**Employment** means that a person is permanently employed or has accepted in writing a firm offer of permanent employment or is in full time self employment within the relevant part of the Council's administrative district

**Housing Development** means the total number of Market Dwellings and units of Affordable Housing constructed on the Application Site.

**Implementation** means the carrying out of any of the material operations listed in Section 56 of the Act pursuant to the Planning Permission provided that for the purposes of determining whether or not a material operation has been carried out there shall be disregarded site surveys and investigations and “**implement**” and “**implemented**” shall be construed accordingly.

**Index** means [ ]<sup>3</sup> on or most recently preceding the date when any payment falls due and shall include any future equivalent system which may replace the relevant index for government statistical purposes and in the event of more than one such index being published the index based on the broadest range of goods and services shall be applicable

**Market Dwelling(s)** means Residential Units excluding any Affordable Housing Units.

**Market Value** means the open market value of the dwellings upon the basis of the price at which the sale of such dwellings might reasonably expect to be sold within the locality of the Site on the open market to a willing purchaser with vacant possession and a good and marketable title and in the absence of the restrictions and obligations relating to marketing sale disposal and

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<sup>3</sup> Insert appropriate index according to purpose of contribution



enactment or modification thereof) through the involvement of a Registered Social Landlord.

**Target Wards** means the electoral wards of [ ] in the Council's administrative district.

**Working Day** means any day from Monday to Friday (inclusive) which is not Christmas Day Good Friday or a statutory bank holiday or any day between Boxing Day and New Year's Day and "Working Days" shall be construed accordingly.

## **2. Interpretation**

For the purposes of this Agreement:

- 2.1 The singular includes the plural and vice versa.
- 2.2 The masculine gender includes the feminine and neuter genders and vice versa.
- 2.3 Except for Clause 9 references to persons include firms companies corporations authorities or other bodies and vice versa.
- 2.4 References to Acts of Parliament statutory instruments or Government circulars or sections or paragraphs of such Acts statutory instruments or government circulars include any re-enactments amendments or replacements of them.
- 2.5 The references to the parties named in this Agreement unless the context otherwise requires include their successors in title and assigns and in the case of any local authority shall also include any successor in function.
- 2.6 The headings in this Agreement are for convenience only and shall not be taken into account in the construction and interpretation of this Agreement.
- 2.7 Where in this Agreement any approval or consent or a certificate is required to be given by the Council as appropriate then such approval or consent shall unless otherwise stated be given by such officer as the Council as appropriate shall from time to time notify in writing to the Owner.
- 2.8 Where the consent approval or agreement of any party hereto is required for any purpose under or in connection with the terms hereof it shall be made in writing and any such consent approval or agreement shall not be unreasonably withheld or delayed.
- 2.9 All payments in accordance with the terms of this Agreement shall be exclusive of any VAT payable in respect thereof.

## **3. Condition precedent**

- 3.1 This Agreement (with the exception of Clauses 1, 2, 3, 4, 5.1.1, 5.1.8, 6.1, 7, 8, 10, 11 and 12, which shall take effect on the date hereof) is conditional on and shall only have effect on the date on which the Owner shall begin the Development by Implementation of the Planning Permission.

- 3.2 If the Planning Permission expires prior to an Implementation or is quashed or revoked then this Deed shall absolutely determine and become null and void.

#### **4. Statutory Provisions and Covenants**

- 4.1 This Agreement is entered into pursuant to the provisions of sections 106 of the Act and section 111 of Local Government Act 1972 and the obligations in Clause 5 are planning obligations in respect of, and are intended to bind, the Owner's interests in the Site for the purposes of that section but without prejudice to all and any other means of enforcing them at law or in equity or by statute.
- 4.2 The restrictions and obligations created by Clause 5 of this Agreement are enforceable by the Council as local planning authority.
- 4.3 No person will be liable for any breach of this Agreement unless they hold an interest in that part of the Application Site in respect of which such breach occurs or hold such an interest at the date of the breach provided that the person shall remain liable for any antecedent breach.
- 4.4 No liability for any breach of this Agreement shall attach to a mortgagee prior to it going into possession of the Application Site or any part thereof.

#### **5 Obligations**

The Owner covenants as follows:

##### **5.1 Affordable Housing Provisions**

- 5.1.1 Not to implement (or allow to be implemented) the Planning Permission unless the Affordable Housing Scheme has been submitted to and approved in writing by the Council.
- 5.1.2 To provide the Council or its agents with such information concerning negotiations between the Owner and a Registered Social Landlord in respect of the Affordable Housing Units proposed to be transferred to a Registered Social Landlord as the Council or its agents may reasonably request.
- 5.1.3 Notwithstanding the grant of the Planning Permission, not to allow the use of each unit of Social Rented Housing and Shared Ownership Housing as a dwelling (other than as a show house or similar or as a sales office) except by a person and his household determined by the Registered Social Landlord as both being in need of affordable housing at the time of determination because of the financial circumstances of the person and their household and being a person who has (or a member of their household has):
- (a) resided in the Target Wards for at least 12 months immediately preceding the Date of Determination and whose last home is the subject of a resolution by the Council to use its powers of compulsory purchase; or in the absence of the Registered Social Landlord having found such a person it considers suitable to occupy the dwelling
  - (b) resided in the administrative area of the Council for at least 12 months immediately preceding the Date of Determination and whose last home

is the subject of a resolution by the Council to use its powers of compulsory purchase; or in the absence of the Registered Social Landlord having found such a person it considers suitable to occupy the dwelling

- (c) resided in the Target Wards for at least 12 months immediately preceding the Date of Determination and have strong local connections with the Target Wards by reason of Employment or Close Family Association; or in the absence of the Registered Social Landlord having found such a person it considers suitable to occupy the dwelling
- (d) resided in the administrative area of the Council and who has done so for a period of at least 12 months or who has strong local connections with the administrative area of the Council by reasons of Employment or Close Family Association; or in the absence of the Registered Social Landlord having found such a person it consider suitable to occupy the dwelling
- (e) resided in the Target Wards or in the administrative area of the Council for a period of less than 12 months and who (in the absolute discretion of the Registered Social Landlord) otherwise meets the criteria of (a) to (c) above.

5.1.4 Notwithstanding the grant of the Planning Permission, not to allow the first use of each unit of Discounted Market Housing as a dwelling (other than as a show house or similar or as a sales office) except by a person and his household determined by the Council in writing (on the basis of information provided by the Owner or the person) as both being in need of affordable housing at the time of Determination because of the financial circumstances of the person and their household and being a person who has (or a member of their household has):

- (a) resided in the Target Wards for at least 12 months immediately preceding the Date of Determination and whose last home is the subject of a resolution by the Council to use its powers of compulsory purchase; or in the absence of the Owner having found such a person willing to acquire the relevant dwelling
- (b) resided in the administrative area of the Council for at least 12 months immediately preceding the Date of Determination and whose last home is the subject of a resolution by the Council to use its powers of compulsory purchase; or in the absence of the Owner having found such a person it considers suitable to occupy the dwelling
- (c) resided in the Target Wards for at least 12 months immediately preceding the Date of Determination and have strong local connections with the Target Wards by reason of Employment or Close Family Association; or in the absence of the Owner having found such a person willing to acquire the relevant dwelling
- (d) resided in the administrative area of the Council and who has done so for a period of at least 12 months or who has strong local connections with the administrative area of the Council by reasons of Employment or Close Family Association; or in the absence of the Owner having found such a person willing to acquire the relevant dwelling
- (e) resided in the Target Wards or in the administrative area of the Council for a period of less than 12 months and who (in the absolute discretion of the Council) otherwise meets the criteria of (a) to (c) above.  
provided that if the Council fails to send to the person concerned a written determination as to whether or not that person meets the above two criteria within [14] days of receipt of the information then the Owner may certify to the Council that in his opinion such a person meets the criteria and stating which.

5.1.5 To construct the Affordable Housing in accordance with the approved Affordable Housing Scheme and the Scheme Development Standards and to provide satisfactory evidence of the same to the Council.

5.1.6 That no more than:

- 5.1.6.1 [ ] Market Dwellings shall be occupied until the Owner has entered into a binding contract with a Registered Social Landlord to Dispose of at least [ ] Social Rented Housing Units and [ ] shared Ownership Units approved as part of the Affordable Housing Scheme and has constructed on the Application Site and achieved practical completion in respect of at least [ ] Discounted Housing Market units;
- (b) [ ] Market Dwellings shall be occupied until the Owner has entered into a binding contract with a Registered Social Landlord to Dispose of at least [ ] Social Rented Housing Units and [ ] Shared Ownership Units approved as part of the Affordable Housing Scheme and has constructed on the Application Site and achieved practical completion in respect of at least [ ] Discounted Housing Market units; and
- (c) [ ] Market Dwellings shall be occupied until the Owner has entered into a binding contract with a Registered Social Landlord to Dispose



of at least [ ] Social Rented Housing Units and [ ] Shared Ownership Units approved as part of the Affordable Housing Scheme and has constructed on the Application Site and achieved practical completion in respect of at least [ ] Discounted Housing Market units.

provided that the Council will act reasonably (having regard to the agreed objective of ensuring that the number of Affordable Housing Units shall be equal to [ ] per cent of the number of residential units) in agreeing alterations to these numbers according to the proposed phasing of development (and proof of such agreed alterations shall be a letter on the headed notepaper of the Council).

- 5.1.7 That it shall no later than the later of the date of the approval of the phasing plan submitted pursuant to Condition [ ] of the Planning Permission or the date of approval of the Affordable Housing Scheme notify the Council of the total number of dwellings to be provided pursuant to the Planning Permission and ensure that no more than of 90% of the total number of Market Dwellings shall be occupied until the Owner has entered into binding contracts in accordance with the approved Affordable Housing Scheme for the sale of Affordable Housing Units equal to a total of [ ] per cent of the total number of Residential Units on the Application Site
- 5.1.8 Subject to the provisions of Clauses 5.1.9 and 10.8 from the date on which the Council approves the Affordable Housing Scheme then the land on which the Affordable Housing is to be provided shall only be used for Affordable Housing.
- 5.1.9 The restriction in Clause 5.1.8 shall not apply to any land on which a dwelling which is a Discount Market Housing Unit has been constructed

## **5.2 Other Obligations/Contributions – site specific**

## **6 Covenants by the Council**

The Council covenants with the Owner as follows:

- 6.1 to grant the Planning Permission on completion of this Agreement.
- 6.2 [obligations in respect of the use of contributions etc<sup>4</sup>]

## **7 Notices**

- 7.1 Any notice or consent required or permitted under this Agreement shall be in writing and shall be sent by first class registered post, hand delivery or fax. There shall be no right to serve notices or consents by email but if a party chooses to do so and the other party agrees email may be used.
- 7.2 Subject to Clause 8.4 below any such notice, consent or other document shall be deemed to have been duly received:

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<sup>4</sup> In respect of the Affordable Housing Contribution, be as specific as possible about the purposes for which it can be used and the timescales in which can be used.

- (a) if despatched by first class, registered post - 48 hours from the time of posting to the relevant party; or
- (b) if despatched by hand delivery - at the time of actual delivery; or
- (c) if despatched by fax or email - 24 hours after the time of the despatch.

7.3 Unless otherwise notified by one party to the other in writing from time to time, for the purposes of this Clause the postal addresses of each party are those set out at the beginning of this Agreement.

7.4 In proving service by post it will be sufficient (unless any relevant part of the postal service is affected by industrial action) to prove that the envelope containing the notice was duly stamped addressed and posted to the addresses specified herein. In proving service by fax or email it shall be sufficient to prove that it was properly addressed and dispatched to the numbers or address specified herein.

A party shall not attempt to prevent or delay the service on it of a notice under this Agreement.

## **8 Non-waiver**

It is hereby agreed by the parties hereto that failure by the Council to enforce the provisions of this Agreement or to require performance strictly or otherwise by the Owner of any of the conditions covenants agreements or obligations of this Agreement or any failure or delay by the Council to exercise any act right or remedy shall not be construed as a waiver of or as creating an estoppel in connection with any such condition covenant agreement or obligation and shall not affect the validity of this Agreement or any part thereof or the right of the Council to enforce any provision and any variation of this Agreement agreed between the Owner and the Council and [which does not affect the liability of the Owner] shall not vitiate the remainder of the Agreement which shall remain in full force and effect subject to any amendment or amendments agreed.

## **9 Agreement not to affect owner/occupier**

Except for the restrictions in Clause 5.1.6 to 5.1.8 nothing in this Agreement shall affect bind or be enforceable against any individual person in respect of any completed Residential Unit and its curtilage acquired or leased by them for their own residential occupation on the Application Site provided for the avoidance of doubt that nothing in this clause shall affect the ability of the Council to take measures against the party named as the Owner to secure compliance with the obligations in this Agreement.

## **10 Miscellaneous**

10.1 If any party defaults in the payment when due of any sum payable under this Agreement (whether pursuant to a court order or otherwise) the liability of that party in default shall be increased to include interest on such sum from the date when such payment was due until the date of actual payment at a rate of

- 4% above the base rate from time to time of HSBC such interest shall accrue from day to day and shall be compounded annually.
- 10.2 The Owner shall pay to the Council upon completion of the Agreement its proper and reasonable legal costs incurred in connection with this Agreement.
- 10.3 Nothing in this Agreement is intended to fetter or restrict the exercise by the Council of any of its powers.
- 10.4 The Owner hereby consents to the registration of this Deed as a Local Land Charge and as a Notice on Title Nos. [ ]
- 10.5 If any provision in this Agreement shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions hereof shall not in any way be deemed thereby to be affected or impaired
- 10.6 The Owner hereby warrants to the Council that it has not leased mortgaged charged or otherwise created any interest in the Application Site at the date of this Agreement other than as disclosed in the aforesaid titles
- 10.7 This Agreement constitutes a Deed
- 10.8 The obligations in this Agreement shall not be enforceable against:
- a) (a) a mortgagee exercising its power of sale (or receiver of the same) of any Affordable Housing unit or a bona fide purchaser for value from such mortgagee;
  - b) a tenant exercising any right to acquire under a purchase grant scheme or right to buy or similar right conferred by statute or any successor in title to such person and a mortgagee of such tenant exercising such rights;
  - c) a person who has acquired 100% of the equity in a Shared Ownership Unit (but only up until the date on which that 100% equity is acquired) and any successor in title; and
  - d) a mortgagee or chargee of a Registered Social Landlord or purchaser from that mortgagee or chargee exercising a power of sale.
- 10.9 All payments made pursuant to the obligations in the Agreement shall at the date at which payment is made be adjusted in accordance with the Index indexing it from the date of this Agreement to the date the sum is paid.
- 10.10 Save where expressly stated any covenant on the part of the Owner shall be deemed for the purposes of this Agreement to be a joint and several covenant on the part of the individual owners of the Application Site.
- 10.11 Any dispute between the Owner and the Council regarding the Market Value of any dwelling it shall be resolved as follows:
- (a) advice shall be sought from three (3) estate agents as to the price at which the sale of such dwelling might reasonably expect to be sold within the locality of the Site on the open market to a willing purchaser

- with vacant possession and a good and marketable title and in the absence of the restrictions and obligations relating to marketing sale disposal and occupation which are set out in this Agreement;
- (b) the Market Value shall be the average of the valuations advised by the estate agents consulted;
  - (c) each of the three (3) estate agents consulted must have practised in the Council's administrative area for at least five (5) years prior to the date of the request for advice;
  - (d) the identities of those agents and the basis of instruction will be agreed between the Council and the Owner in advance of any request for advice;
  - (e) neither the Council nor the Owner will disclose the identity of any estate agent from whom advice is sought to the others; and
  - (f) any costs shall be discharged by the Owner.

### **11 Third parties**

Other than the provisions of sub-clause 10.8, nothing in this Agreement shall give any third party (not being a party in this Agreement) any right to enforce any of the obligations rights or covenants on the part of the Owner or the Council under this Agreement whether in accordance with the Contract (Rights of Third Parties) Act 1999 or otherwise.

### **12 Chargee**

The Chargee hereby consents to the giving of the obligations on the part of the Owner and hereby agrees to be bound by the said obligations only in the event that the Chargee becomes a mortgagee in possession and that such liability will cease once it has parted with its interest in the Application Site

IN WITNESS whereof this Deed has been duly executed by the parties the day and year first before written.

**Executed as a deed** by \_\_\_\_\_ )  
the **Council of the City of Stoke-on-Trent** )  
whose seal was hereunto affixed and )  
is authenticated by the signature of: )

Authorised signatory

**The Common Seal of** [ \_\_\_\_\_ )  
\_\_\_\_\_ ] )  
was hereunto affixed in the presence of )

Authorised signatory

EXECUTED as a Deed on behalf of the Chargee by:

Signature: .....

Name: .....

Designation: .....

## Appendix 3: List of preferred providers

### Approved Registered Social Landlords

Affinity Sutton	Holme House Manor Lane Holmes Chapel Cheshire CW4 8AF
Aspire Housing	Kingsley The Brampton Newcastle-under-Lyme Staffs ST5 0QW
Beth Johnson Housing Association	Three Counties House Festival Way Etruria Stoke on Trent ST1 5PX
Brighter Futures	The Dudson Centre Hope Street Hanley Stoke on Trent ST1 5DD
EPIC	131-141 Uubberley Road Bentilee Stoke on Trent ST2 0EF
Great Places Housing Group	Southern Gate 729 Princess Road Manchester M20 2LT
Midland Heart	PO Box 160 Whitley Village Coventry CV3 4HZ
Moorlands Housing	Eaton House Buxton Road Leek Staffordshire ST13 6EG
Riverside Midlands	Riverside House 49 Western Boulevard Leicester Leicestershire LE2 7HN
Salvation Army	Jarodale House 7 Gregory Boulevard Nottingham NG7 6LD (Area Office Address)

Staffordshire Housing Association	Knight House 2-4 Woodhouse Street Stoke on Trent ST4 1EJ
Stoke on Trent & North Staffordshire YMCA Foyer	Edinburgh House Harding Road Hanley Stoke on Trent ST1 3AE

## Appendix 4: List of supporting documents

The following documents and related research can all be found at:

[www.stoke.gov.uk/ccm/navigation/housing/research](http://www.stoke.gov.uk/ccm/navigation/housing/research)

- Housing Needs Survey 2004
- Housing Needs Update 2005
- Housing Needs Update 2006
  
- Housing Needs of Older People
- Black and Asian Minority Ethnic Housing Needs and Aspirations

The following documents can be found at:

[www.stoke.gov.uk/ccm/content/hcp/policy-and-strategy/affordable-housing.en](http://www.stoke.gov.uk/ccm/content/hcp/policy-and-strategy/affordable-housing.en)

- Affordable Housing Needs Statement
- Affordable Housing Needs Issues Paper
- Development Viability Study
- Local Affordable Housing Needs Index

Information on Supporting People (supported housing needs) can be found at:

[www.stoke.gov.uk/ccm/navigation/housing/supporting-people/strategy/](http://www.stoke.gov.uk/ccm/navigation/housing/supporting-people/strategy/)

Paper copies of these documents can be provided on request (01782 23xxx) for a small charge to cover the cost of producing them.



For further information please contact the City Council by post at:

Planning Policy Team  
Directorate of Regeneration  
PO Box 630  
Civic Centre  
Glebe Street  
Stoke on Trent  
ST4 1HH

or by email:  
planning.policy@stoke.gov.uk

or by telephone on:  
01782 236339  
minicom 01782 236919

or in person at  
Main Reception, Civic Centre

This leaflet is also available on tape or in large print.

If you have difficulty reading this document or require further information,  
please call 01782 236339

ਜੇ ਕਰ ਤੁਸੀਂ ਇਹ ਕਿਤਾਬਚਾ ਨਹੀਂ ਪੜ੍ਹ ਸਕਦੇ ਤਾਂ ਸਾਨੂੰ ਦੱਸੋ  
ਅਸੀਂ ਤੁਹਾਡੀ ਮੱਦਦ ਕਰਾਂਗੇ । 01782 236339

यदि आप यह पुस्तिका नहीं पढ़ सकते तो हमें बताएं  
हम आपकी सहायता करेंगे । 01782 236339

اگر آپ کو اس کتابچے (پیک) کو پڑھنے میں مشکل پیش آئے، تو ہم سے رابطہ قائم کریں،  
ہم اس کیلئے آپکی مدد کر سکتے ہیں، فون نمبر 01782 236339