



# **PLANNING OBLIGATIONS TO SECURE AFFORDABLE HOUSING**

## **An Advice Note**

This note is to be read in conjunction with policies in the Local Plan (particularly Policy 20 in local plan).

## **PLANNING OBLIGATIONS TO SECURE AFFORDABLE HOUSING**

The note clarifies the Council's approach to the negotiation of affordable housing on development sites, which fall over the threshold for consideration of affordable housing.

The thresholds to be used are:

- the national indicative minimum set out in paragraph 29 PPS3: Housing for Hemel Hempstead and Berkhamsted – i.e. 15 dwellings
- those set out in Policy 20 of the Local Plan for other settlements.

[Please note that the definition of development sites includes smaller parcels of land, whose amalgamation could achieve the threshold size.]

The note covers three situations in particular:

1. where affordable housing units are built and the land and buildings are transferred for future management by a registered social landlord (often referred to as 'design and build' schemes);
2. where land is reserved for affordable housing units (i.e. by transferring the land to the Council or a registered social landlord for the units to be built at a later date); and
3. where it is appropriate to receive a commuted sum in lieu of provision of land/buildings.

In all these cases the Council normally expects provision for affordable housing to be secured through a planning obligation.

### **General Provision**

The Council expects developers and builders to take account of its policies, particularly the need for affordable housing, when acquiring land for housing development.

#### *Level of Affordable Housing*

The Council will negotiate for levels of affordable housing which are consistent with its Affordable Housing Strategy 2005 – 7 and Policy 20 in the Local Plan. The Housing Needs Survey 2004 indicated even higher levels of local need for affordable housing and David Couttie Associates who undertook the survey recommended the Council seek an average of 40% provision of affordable housing over all appropriate development sites. The Council will therefore seek to:

- Achieve as much affordable housing at the top of the indicative range on previously developed land (ref. Policy 20); and
- Maximise all greenfield site opportunities for affordable housing (i.e. on identified sites in the Local Plan).

### *Design*

The Council expects affordable housing to be provided on site through 'design and build' schemes where possible.

A proportion of dwellings (both affordable and general market housing) should be designed as Lifetime Homes – i.e. homes which are designed around a life cycle of needs, being adaptable to accommodate households with children, elderly occupants and / or the disabled. Policy 18 in the Local Plan seeks *at least* 10% provision on private development sites accommodating 25 or more dwellings: the Council considers a level of around 20% is appropriate on these schemes and affordable housing developments.

### *Nature of Affordable Housing Provision*

The Council will normally seek provision in kind (i.e. affordable housing on site) rather than commuted payments. This approach will be followed even in cases where land parcels are being assembled to form a greater site (unless it is agreed that this would be impractical).

### *Size of Property*

The Housing Corporation sets out development scheme standards for affordable housing, which should be met in order to obtain grant monies. The Council considers these are appropriate standards to meet for all affordable housing. The Council will use the most up to date standards: currently these are for April 2003 and are set out in the Background to Policy 20 in the Local Plan, i.e.

	Gross Internal Floorspace
1 bedroom flat	50 sq m
2 bedroom house	75 sq m
3 bedroom house	85 sq m
4 bedroom house	100 sq m

[The Council as local planning authority will normally use the above guidelines. However it may be possible to design 1 bedroom flats with a *minimum* gross internal floorspace of 47 sq m and 2 bedroom flats with 56 sq m: in such cases it should be demonstrated that the design satisfies the Registered Social Landlord involved.]

### *Involving Registered Social Landlords*

The involvement of a registered social landlord approved by the Council is recommended at an early stage.

The choice and approval of registered social landlords will be made by the Head of Housing in conjunction with the Housing Enabling Manager. The choice will take into account the character and nature of the development proposed and proposals for the management of the affordable housing units (including rent levels).

### **What is affordable housing?**

It must be:

- subsidised to enable occupation by those in need, i.e. those who need to move or need to be housed and who cannot afford reasonable property on the open market;
- provided to Housing Corporation space and scheme development standards; and
- provided at or below Housing Corporation rent levels and price guidelines.

The housing that is provided should remain at an affordable price for future eligible households.

In the case of private development schemes, land for affordable housing should be provided at a substantially lower value than for open market housing.

Housing needs surveys undertaken for the Borough Council indicate that affordable housing should normally be provided through assured tenancies by a registered social landlord (often referred to as social rented housing), though other options may be possible.

### **Type of Property**

The Council will normally wish to discuss the type of affordable housing with an applicant for planning permission. The Council's view on the type will depend on the character of the proposed development and the surrounding area, the Council's planning policies and the priority needs assessed by the Council as local housing authority for the area.

Insofar as possible development proposals should specify:

- the number of affordable housing units;
- their size by number of bedrooms; and

- the type of property, e.g. flat, bungalow, house.

Relevant information will be incorporated into the planning obligation or condition.

In some circumstances it may be relevant to refer to the type of occupier, particularly in circumstances where provision for some key workers is sought.

### **Key Workers' Accommodation**

Key workers are defined as those employees required to deliver key public services. Through the Government's Key Worker Living Scheme these have been acknowledged as nurses/health workers, police officers, teachers, social workers and fire fighters. This definition will be kept under review by the Head of Housing to ensure that it reflects the changing employment situation and the needs of the area.

Because of the current priority attached to the need to attract workers to important posts supporting local public infrastructure, the Council is willing to consider adjustments to its normal policy of seeking rented accommodation for all but about 5-10% of units secured in a year. Higher proportions of shared ownership accommodation may be accepted on some sites (possibly up to 50% of the total), if numbers overall of affordable housing units are substantially increased. This would be a matter for discussion between the applicant and the Council, and would take into account provision made for key workers already, the relative suitability of the site for rented/general needs housing and the amount of affordable housing in total offered on the site.

It may be appropriate to limit occupation of specified shared ownership units to key workers in the first instance. However the Council will normally accept that any such accommodation can be available for general needs as well.

### **Cost of Affordable Housing to be provided**

The Council wishes to ensure that the affordable housing units are truly affordable by households on low incomes. The units provided should therefore be transferred to the registered social landlord at a sum, which meets the following conditions:

- *for rented properties*: the dwellings will be provided at Housing Corporation target rent levels

Target rents (per week) are as follows for 2005/6:

Bedsit/1 bedroom property	- £94.34
2 bedroom property	- £99.87
3 bedroom property	- £105.43
4+ bedroom property	- £110.97.

- *for shared ownership properties:* the dwellings should be affordable to at least 10% of the applicants registered on the Council's Housing Register who are in housing need.

Whole housing cost (i.e. mortgage, rent and any service charge) should not exceed one third of gross household income.

- *for intermediate rental properties:* the rents of these properties should be between 75% and 80% of open market rents in the locality of the new development.

Advice may be obtained from the Housing Enabling Manager on a scheme by scheme basis. [Information concerning income levels is contained in the most recent Housing Needs Survey and Affordable Housing Strategy. Average income per head in Dacorum for 2005 is £25,607 (Source: Annual Survey of Hours and Earnings, Office of National Statistics).

### **Cost of Land for Affordable Housing**

Land for affordable housing should effectively be subsidised, i.e. being made available at a proportion of the open market value for housing or provided at open space or agricultural value.

The Total Cost Indicator approach includes an allowance for land and should be followed wherever possible.

However in some cases it may be necessary to ascertain land values for the purpose of the planning obligation, for example in an outline planning application where the principle of residential use is being sought. The guidance given in the Annex will then be followed.

### **Transfer of Land and Affordable Housing Units**

The Council prefers the provision of affordable housing units to be governed by a clause in a planning obligation.

The clause would control how the open market or unsubsidised part of the development may proceed. This will be discussed with the applicant, and one of two options followed:

- (a) sale or occupation of open market housing units will not take place until the transfer of affordable housing land has taken place, together with buildings; or
- (b) a specified part of the open market housing development will not be commenced until the transfer of affordable housing land with buildings has taken place.

It will be reasonable to consider more detailed phasing arrangements on very large sites.

### **Building Costs**

The Council expects affordable housing units to be built at reasonable cost, taking account of appropriate economies of scale and good working practices. The effective land subsidy given to affordable housing should not be eroded by other costs.

### **Mortgagee in Possession Clause**

Because registered social landlords invariably need to raise some money for their projects from the private sector (e.g. a bank), a mortgagee in possession clause may be requested. Its purpose is to enable the mortgagor (e.g. the bank) to sell the affordable housing units on the open market in order to reclaim money if the registered social landlord has defaulted on the repayment of a loan.

The Council will not accept the inclusion of a mortgagee in possession clause in a planning obligation for any scheme justified as a rural exception (under Policy 26 in the Local Plan).

However it may be appropriate to include such a clause in respect of schemes for urban areas or on other sites. The Council will be guided in its judgement on this by the needs of the registered social landlord and the practicality of securing successful implementation of the affordable housing units.

The wording of any mortgagee in possession clause should ensure that if a registered social landlord is unable to repay its private loan, the Council or another registered social landlord has the opportunity to take over the affordable housing units (and financial liability) before the units could be sold on the open market.

### **Local Labour in Construction**

The Council encourages developers and social housing providers to work together to employ local labour as part of its social inclusion and economic development initiatives.

### **Commutated Payments in lieu of Land/Buildings**

The Council will normally only accept commuted sums where it is not considered practical or reasonable to provide affordable housing on a site (or reserve land on a site for affordable housing). Information may be sought from

the developer to support this course of action. The circumstance is most likely to arise where small parcels of land are coming forward, either as part of a deliberate phasing policy agreed with the Council or because a site is in effect being created piecemeal (and the Council does not wish to delay provision of new housing).

The commuted sum should cover the full cost of the land subsidy that would have been incurred by the developer/landowner if affordable housing had been provided on the site. The calculation would simply be:

- open market land cost of the whole site *multiplied by*
- normal proportion of affordable housing *multiplied by*
- subsidy on the land element (see Annex on Land Costs).

### **Further Advice**

Further general advice may be obtained from:

- Richard Blackburn: Development Plans Manager - 01442 228663, e-mail [richard.blackburn@dacorum.gov.uk](mailto:richard.blackburn@dacorum.gov.uk)
- Peter Hamilton: Valuation and Estates Manager - 01442 228348, e-mail [peter.hamilton@dacorum.gov.uk](mailto:peter.hamilton@dacorum.gov.uk)
- Mark Brookes: Planning Solicitor - 01442 228236, e-mail [mark.brookes@dacorum.gov.uk](mailto:mark.brookes@dacorum.gov.uk)
- Kate Bowles: Housing Enabling Manager – 01442 228526, e-mail [kate.bowles@dacorum.gov.uk](mailto:kate.bowles@dacorum.gov.uk)

The Advice Note will be subject to review from time to time in the light of prevailing circumstances.



## **Annex: Land Costs**

Land for affordable housing should effectively be subsidised, i.e. being made available at a proportion of the open market value, or provided at agricultural or open space value.

The Council considers that land should be available for affordable housing purposes on the following basis:

- at agricultural land value for greenfield sites
- at less than 40% of open market value for existing urban sites. In order to achieve affordable rents/prices and avoid problems of social exclusion, the Council will seek the lowest value possible. In any case the land value should be such as to ensure that the appropriate total cost indicator is met (see above).

Valuation should be assessed at the date planning approval is given for the development proposal (i.e. the date of the relevant Development Control Committee), or at such other date as is agreed between the parties.

Account will be taken of any appropriate requirements for land within the housing site to be set aside for other purposes, such as for open space or a community facility. The open market value of the whole site will normally be lower if it has a restriction than if there was no restriction.

### *Valuation Definition*

A professional opinion of the best price at which sale of an interest in property would have been completed unconditionally for cash consideration on the date of valuation, assuming:

- a) a willing seller;
- b) that prior to the date of valuation there had been a reasonable period (having regard to the nature of the property and the state of the market) for the proper marketing of the interest, for the agreement of the price and terms and for the completion of the sale;
- c) that the state of the market, level of values and other circumstances were, on any earlier assumed date of exchange of contracts, the same as on the date of valuation;
- d) that no account is taken of any additional bid by a prospective purchaser with a special interest; and
- e) that both parties to the transaction had acted knowledgeably, prudently and without compulsion.

### *Resolving Disputes*

Any dispute concerning value shall be referred to an independent surveyor (who shall act as an expert and not as an arbitrator) to be agreed upon by the parties or in the event of failure to agree to be nominated by the President for the time being of the Royal Institution of Chartered Surveyors and the decision of such independent surveyor shall be final and binding.