

# Affordable Housing

Practice Note

April 2014





## Forward

Bristol's Affordable Housing Delivery Framework sets out how the council and its partners will achieve the ambitious target of delivering 2,500 new affordable homes in the city by 2018.

In consultation with the market, the accompanying document – The Affordable Housing Practice Note – gives more specific detail on how the council intends to maximise the delivery of affordable housing through the planning system. This document does not change the council's affordable housing policy, but it does set out a different approach that will provide both greater certainty for developers and also put the council in a stronger position in negotiating affordable housing.

In order to improve the general viability of housing schemes, this document sets out that the council will accept Affordable Rent or Intermediate Rent as an alternative to Social Rent, but the council also wants to see a range of affordable housing rental and ownership options in Bristol.

In the interests of speeding up planning decision making this document sets out a new, fast-track process of assessing viability issues, including the use of independent "arbitration" where agreement cannot be reached. This change will take a lot of the delay and uncertainty out of the planning process, without diminishing rigour and our determination to see more affordable homes being built. I also believe, however, that this smarter process will help make the council a more effective negotiator and ensure that the planning process is securing the optimum level of affordable housing as part of development proposals.

This document is intended to complement the Framework and our affordable housing planning policies.

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## 1. Introduction

The National Planning Policy Framework (NPPF) makes provision for the delivery of affordable housing through the Local Plan. In particular, the NPPF states that local planning authorities should:

- ‘use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework...’ (para. 47);
- ‘plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community....’ (para. 50);
- ‘identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand...’ (para. 50);
- where a need for affordable housing has been identified ‘set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified....and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.’ (para. 50).

The definition of affordable housing is set out in Annex 2 of the NPPF and is reproduced at Appendix 1 of this practice note.

The council’s affordable housing policies, as set out in the Bristol Local Plan, are consistent with National Policy. The policies identify when affordable housing provision will be required and indicate the proportions that will be sought. This includes either 30% or 40% based on location for schemes of 15 dwellings and over; and 10% or 20% based on location for schemes of 10 to 14 dwellings. The relevant policies are set out below. Fig. 1 identifies the locations where the differing percentages are sought.

### **Local Plan - Core Strategy**

#### **Policy BCS 17: Affordable Housing Provision**

Affordable housing will be required in residential developments of 15 dwellings or more. The following percentage targets will be sought: through negotiation:

- 40% in North West, Inner West and Inner East Bristol;
- 30% in all other locations.

In residential developments below 15 dwellings an appropriate contribution towards the provision of affordable housing may be sought (either as a financial contribution or as on site provision) in accordance with any relevant policy in the Site Allocations and Development Management Development Plan Document.

Residential developments should provide a mix of affordable housing units and contribute to the creation of mixed, balanced and inclusive communities. The tenure, size and type of affordable units will reflect identified needs, site suitability and economic viability.

### **Local Plan – Site Allocations and Development Management Policies**

#### **Policy DM3: Affordable Housing Provision: Smaller Sites**

Residential developments comprising 10 to 14 dwellings should make an appropriate contribution towards the provision of affordable housing on-site or, where on-site

provision cannot be practicably achieved, as an equivalent financial contribution. The following percentage targets will be sought through negotiation:

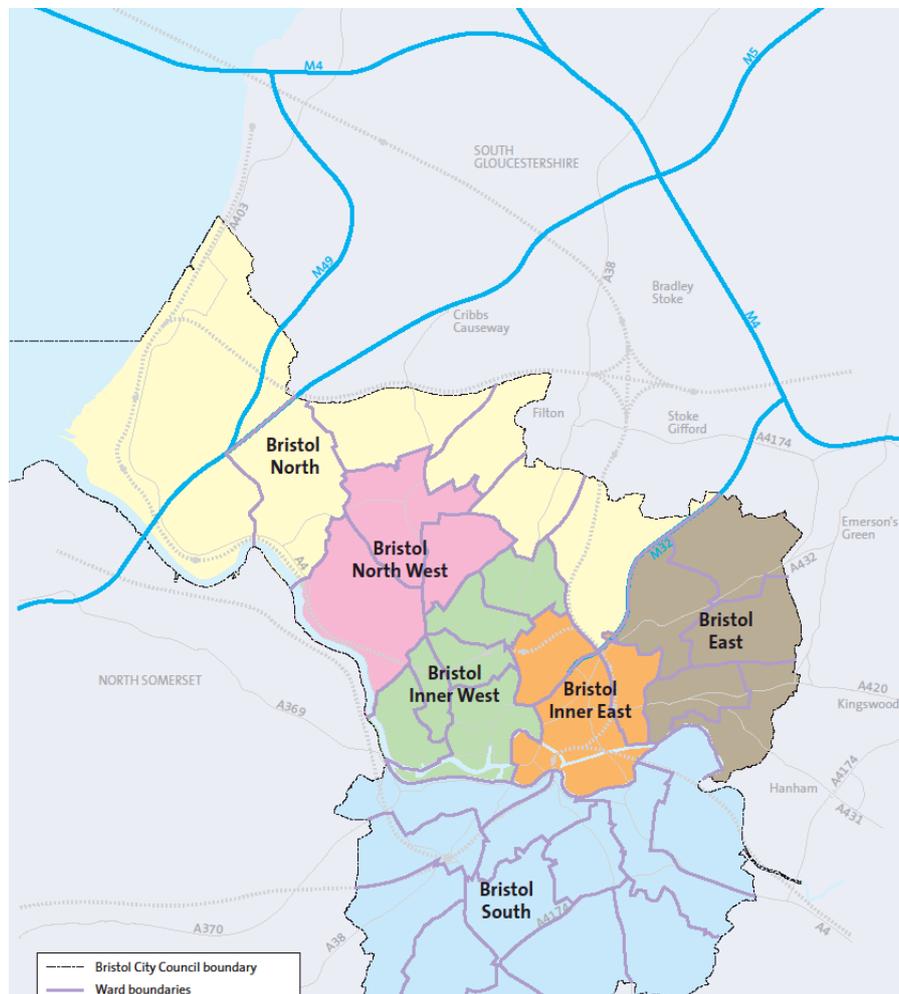
20% in Inner West, Inner East and South Bristol

10% in North West, East and North Bristol

Where units are provided on-site these should remain at an affordable price for future eligible households or, if this restriction is lifted, for the subsidy to be recycled for alternative affordable housing provision.

Where scheme viability may be affected, developers will be expected to provide full development appraisals to demonstrate an alternative affordable housing provision.

**Fig.1: Affordable Housing Zones**



This practice note has been prepared to provide guidance on the implementation of these policies; it does not introduce new policy. The Practice Note will be of interest to applicants and their agents, landowners, developers, the Homes and Communities Agency, Registered Providers, BCC Development Management Officers (DMO) and the Housing Delivery and Quality Team (HDQT).

The practice note provides an update to the current planning policy position, following the introduction of the National Planning Policy Framework in 2012, the launch of Planning Practice Guidance in 2014 and the adoption of the Bristol Core Strategy in June 2011.

In addition, information is provided on the negotiation methodology used in determining affordable housing contributions, and the role of officers/agents in the negotiation process. Information from the West of England Strategic Housing Market Assessment 2009 is also provided, which constitutes the evidence base for our approach to affordable housing policy in Bristol.

The practice note supersedes Policy Advice Note 12 *Affordable Housing* (January 2001) and its accompanying Annex.

## 2. Determining a citywide approach to the delivery of affordable housing

### 2.1. West of England Strategic Housing Market Assessment 2009

To better understand the workings of housing markets at the sub-regional and local level the council jointly commissioned a Strategic Housing Market Assessment (SHMA). The West of England SHMA (2009) demonstrated a high level of need for affordable housing across the city, however, levels of affordability and need varied between locations. Including existing households on the housing register, and the needs of newly forming households, the assessment estimated a net annual requirement for approximately 1,500 new affordable homes up to 2021. In addition the SHMA estimated the tenure split required to meet the city's housing need. This was identified as 77% Social Rent and 23% Intermediate affordable housing. A summary of SHMA outputs is set out at Appendix 2.

Based on the findings of the SHMA the council expects all eligible residential development to contribute towards the city-wide need for affordable housing. Any local variations in need should not preclude development from addressing the citywide shortage of affordable housing.

### 2.2. General approach to securing affordable housing

The total level of public subsidy available in any one year from the HCA or other agencies, relative to the level of housing need, is limited and variable. It is important that these limited funds are targeted to meet objectives prioritised in the Bristol Housing Strategy 2010-15, the Bristol Affordable Housing Delivery Framework 2013 and the West of England Delivery of Investment & Infrastructure Plan 2010 and subsequent strategic documents.

It is therefore the council's policy to negotiate all affordable housing secured through Section 106 agreements **without the need for any public subsidy**.

The council will seek to secure an affordable housing contribution from the developer equivalent to the funding gap between the total cost of the developer providing the individual dwelling and the amount paid by a Registered Provider (RP).

The amount payable by the RP with no public subsidy assistance is known as the 'supportable deficit'. 'The Matrix' which accompanies this document is an illustrative schedule of supportable deficit payments for five different property types and covers Social Rented, Affordable Rented and Intermediate Housing. The indicative payment per unit type receivable from an RP has been provided to ensure affordability of Social Rent/Affordable Rent and Intermediate homes and to give landowners and developers greater certainty and an indication of the acquisition price for the delivery of affordable homes. This allows the developer to assess the financial impact of the affordable housing contribution in advance of acquiring land or making a planning application. 'The Matrix' is reviewed annually.

The proportion and balance of affordable housing sought is determined through consideration of the following matters:

- *Needs assessment:* Analysis of the West of England Strategic Housing Market Assessment 2009 informed by data from Homes Choice Bristol and neighbourhood housing studies.
- *Property price data:* Analysis of property transactions has been undertaken to identify the percentage of households unable to access open market purchase (at the mid-point

between the lower quartile and lower decile prices) and unable to access market rents (lower quartile).

- *Housing supply assessment:* Analysis of the West of England Strategic Housing Market Assessment 2009 that takes account of re-lets, re-sales of intermediate, shared ownership, affordable home ownership homes, tenants moving from Social Rented to Intermediate housing and recent completions and likely additions to the housing stock.

The council can provide, on request, a 'Summary of Affordable Housing Requirements' relating to a specific site. A sample document is set out at Appendix 3.

The Applicant will be required to enter into a legal agreement to provide the affordable housing on the site, with nil public subsidy, unless there is a robust economic justification for reducing this proportion because the economic viability of the scheme is threatened. Where it is not possible to secure the full affordable housing requirement from the site the arrangements detailed in Section 4 below will be followed.

In considering any reduced affordable housing contribution (including any re-negotiation of obligations on a scheme where viability has become an issue) a commitment from the developer to implement the scheme within twelve months of planning consent being given and to deliver the affordable housing within an agreed period will be material to the negotiation. If the development is not implemented and/or affordable housing delivered within the agreed periods then the council would expect the full affordable housing requirement to be delivered or in the case of renegotiated schemes to revert to the original agreed position.

If a reduced proportion is agreed following a validation process (see Section 4) on the basis of nil public subsidy, the council will consider the following options:

- endorse altering the percentage of affordable housing sought on site without public subsidy;
- altering the unit mix or tenure split to facilitate a more viable scheme while still addressing the housing needs of the city.

In all applicable sites, with the sole exception of 100% affordable housing schemes, where a lower proportion of affordable housing is agreed, provided without public subsidy, there will be a requirement for the developer to enter into a s106 Agreement that will incorporate if appropriate, 'Viability Review' clauses. This will set an agreed benchmark residual valuation to enable future appraisals at agreed trigger points to be assessed against the new residual land values to capture any improvement in the viability of the scheme. The settlement of the 'Viability Review' will be either through a further previously identified 'on site contribution' or via a commuted sum.

### 2.3. Negotiating level, form, type, and tenure of affordable housing

The council's Housing Development Team (HDT) will take the lead in providing guidance to applicants on the overall proportion, the tenure mix, type, size and specific suitable standards of affordable housing sought. They take the lead in negotiating the affordable housing provision and agreeing the arrangements for the transfer to a council-approved Registered Provider. The HDT works closely with the council's Development Management Officers (DMOs) in reaching an agreement with the applicant.

**Applicants are encouraged to seek advice at the pre-application stage to avoid abortive design work and to enable a clear understanding of the affordable housing requirement from the outset.**

Applicants are advised to make contact with the council's HDT at the same time as an approach is made to a DMO, and preferably prior to any design work being undertaken on a site. This enables applicants to better accommodate the proportion and mix of affordable housing within the overall scheme and make appropriate financial provision for the affordable housing within the development appraisal before entering into financial or legal commitments for the site. To assist with this process, where the applicant has identified a site, the HDT will provide, on request, a Summary of Affordable Housing requirements relating to a specific site. (A sample document is set out at Appendix 3). A copy of this correspondence will be passed to the DMO for inclusion within any Planning Performance Agreement or pre-application discussions.

Applicants are requested to submit copies of their plans and proposals in writing in advance of any formal negotiation meeting with HDT. The HDT Officer responsible for the site will not give specific advice over the telephone, however, once the proposals and plans have been received, the HDT will either commit to responding in writing or arranging a meeting within ten working days of receipt. The only exceptions to this commitment will be where this action would conflict with advice or arrangements of the DMO.

On submission of the planning application, applicants are required to submit copies of all the relevant documentation to the council's HDT direct so that early consideration can be given to the proposals. The applicant will also need to submit a 'Development Viability Certificate' (DVC) (A sample document is set out at Appendix 4) detailing how they will meet the council's CIL and affordable housing requirement set out in the 'Summary of Affordable Housing Requirements' document (see Appendix 3). This will form the basis for further discussions and negotiations for the affordable housing provision.

The DMO will invite the HDT to all meetings with applicants regarding affordable housing provision. Should an application need to be determined by the relevant Planning Development Control Committee the HDT will seek to agree Heads of Terms for the affordable housing provision with the Applicant in advance of the Committee's consideration of the planning application to enable a Section 106 Agreement to be prepared thereafter without delay. The recommendations of the HDT will be included in the Development Management Committee report.

#### **2.4. Approach to affordable housing tenure**

To meet the tenure needs identified in the SHMA, the council's first preference is to seek Social Rent affordable housing, followed by intermediate affordable housing. However, the council may consider adjusting the balance between tenures and house types to meet the particular local needs or other housing requirements of a locality or neighbourhood in order to promote balanced and sustainable communities.

The balance of tenures with a full justification will be set out clearly in the 'Summary of Affordable Housing Requirements' document prepared by the council (see Appendix 3). Detailed negotiation will determine the appropriate level, type and balance between affordable tenures. For example, where a scheme is being developed in a neighbourhood where local residents are specifically seeking shared ownership options, or neighbourhoods with existing high concentrations of Social Rented homes or low income households, it may be appropriate to change the balance in favour of a higher proportion of intermediate affordable homes.

Where the development is not able to meet the identified tenure need, set out in the 'Summary of Requirements' document, the council may consider off-site provision, or in exceptional cases, the payment of a commuted sum. A robust justification in line with the

requirements set out in the NPPF (para. 50) will need to be made to the Development Management Officer by the applicant, and be endorsed by the Housing Development Team.

**For a limited period, up to March 2018, the council will accept Affordable Rent or Intermediate Rent as an alternative to Social Rent where this achieves a policy compliant level of affordable homes or enables an overall increase in the number of affordable homes delivered, providing that the Affordable Rents (inclusive of service charges) are no higher than 80% local market rents, and below Local Housing Allowance (LHA) levels, whichever is the lower. This provision has been introduced to improve the general viability of housing schemes and would need to be supported by a Business Case. The Business Case would demonstrate the rationale for a change in tenure from that specified in the SHMA and confirm that the Homes and Communities Agency (HCA) supported the use of Affordable Rent (a licensed HCA product).**

**In addition, where a recently negotiated or renegotiated scheme has become unviable, the council will consider the use of other affordable housing products to enable the developer either to achieve a policy compliant position or to achieve a significant increase in the overall number of affordable housing units delivered. This will only be acceptable subject to the developer demonstrating that the occupation costs of those units, including service charges, are below LHA levels.**

The council can be flexible in the application of certain policy requirements within the Local Plan. This may be considered appropriate where schemes are pioneering new models of housing provision on a significant proportion of the units in the scheme, including market rent, where it adds materially to affordable housing supply delivered below LHA rates for specific sites in Bristol.

## **2.5. Approach to service charges**

The level of service charge or other charges (ground rents, estate charges) on the affordable housing units is considered to be a material planning consideration as these affect the relative affordability of residential accommodation. Where Affordable Rent is included in the affordable housing offer then the service charge must be incorporated within 80% of market rent. Planning permission may be refused where affordable housing is offered but is subject to excessive service charges or other charges for future residents. The council will seek to ensure via the legal agreement that housing costs to affordable housing occupiers remain affordable in the long term. Early consultation is recommended, as good design can overcome high service charge levels.

## **2.6. Energy Efficiency - Approach to rent/service charges**

The council seeks to promote the highest standards of energy efficiency and sustainability in new homes. In particular, Core Strategy policies BCS14 and BCS15 require developments to minimise energy requirements, including the incorporation of renewable energy and to ensure the overall design and construction of development minimises environmental impact and contributes to meeting targets for reductions in carbon dioxide emissions. Where a developer is able to demonstrate that the occupation costs have been significantly reduced through the application of these policies, for example the incorporation of 'Passivhaus', 'Activhaus' or similar systems, a flexible approach to overall rent/service charge levels will be considered.

### 3. Addressing financial viability issues and agreeing base viability position

The applicant will normally be expected to satisfy the requirements of the council's Affordable Housing Policy with **nil public subsidy**. All applicants on eligible sites on both new and renegotiated s106 agreements will be required to complete and submit a 'Development Viability Certificate' (see Appendix 4) at pre-application or application stage.

However, it is accepted that, in some circumstances, due to financial viability, it may not be possible to meet affordable housing requirements in full. In such circumstances, the applicant will be required to submit a viability appraisal in support of their planning application and agree to a process of validation in order to determine the viability of the proposed scheme. The applicant must be willing to make a binding agreement with the council to meet all the council's reasonable costs for validating the applicant's position. This will include the costs of instructing an independent project manager, RICS registered valuer, cost consultant and other consultants as required, to conduct a financial viability assessment. The date of the appraisal will usually be the date when an application is submitted except in the case of pre-application submissions and appeals.

The basis of the validation process will be an open book appraisal, which will be carried out in accordance with the principles set out in the Royal Institute of Chartered Surveyors Professional Guidance Note "Financial viability in planning" (GN 94/2012).

The Guidance Note defines financial viability as:

*"An objective financial viability test of the ability of a development project to meet its costs including the cost of planning obligations, while ensuring an appropriate Site Value for the landowner and a market risk adjusted return to the developer in delivering that project."*

here Site Value is defined as:

*"Market Value subject to the following assumption: that the value has regard to development plan policies and all other material planning considerations and disregards that which is contrary to the development plan."*

and Market Value is defined as:

*"The estimated amount for which an asset should exchange on the date of valuation between a willing buyer and a willing seller in an arm's length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion"*

The open book appraisal should adopt the residual method of valuation, as is normally used for financial viability testing. The residual appraisal methodology seeks to obtain the undeveloped value of the property (*Residual Land Value*) by assessing the final value of the finished product (*Gross Development Value*) and deducting the relevant costs of development (*Gross Development Cost*). The resultant sum is the amount a developer would bid for the site to achieve a reasonable return under current market conditions.

The viability assessment should include the following elements, as set out in Appendix C of the RICS Guidance Note, and is reproduced in part in Fig.2 below.

In order for a site to be viable, two tests must be passed:

1. The residual appraisal must produce a positive *Residual Land Value*.

2. The Residual Land Value must be sufficiently in excess of the *Site Value* for the land owner to be a willing seller.

When assessing site value National Planning Policy Framework Planning Practice Guidance identifies a number of common principles that should be reflected. In all cases, estimated *site value* should:

- reflect emerging policy requirements and planning obligations and, where applicable, any Community Infrastructure Levy charge;
- provide a competitive return to willing developers and land owners (including equity resulting from those building their own homes); and
- be informed by comparable, market-based evidence wherever possible. Where transacted bids are significantly above the market norm, they should not be used as part of this exercise.

Where the affordable housing requirement cannot be met in full the following process will be followed (following submission of a planning application):

**Stage 1:** To be completed within 15 days of receipt of application submission the council will appoint consultant(s) from its approved list to examine the submitted viability appraisal, and advise the council whether it accurately reflects the viability position. This advice would be based solely on the information provided (in compliance with requirements – see Fig.2) and identify areas of dispute and areas where further information is required. At this stage the council’s consultant(s) would not have entered into any discussions or negotiations with the applicant, or consultants acting for the applicant. During the validation process, commercially sensitive information may be passed to the council’s consultant, however, it should be noted that such information will be treated as confidential. The applicant will be liable to meet the council’s reasonable costs for this stage.

**Stage 2:** If further information is required, or there are areas of dispute, the consultant(s) acting for the council will be instructed to liaise and negotiate with the applicant or consultant acting on their behalf to see if agreement can be reached. A limited timescale of 30 working days is allowed to reach agreement. The council’s consultant role is not to negotiate the level, type or tenure of affordable housing but to try to reach agreement as to the sum available for affordable housing and/or other planning obligations/sustainability measures. The applicant will be liable to meet the council’s reasonable costs for this stage.

**Stage 3:** If agreement cannot be reached within the timescales detailed above, the areas of dispute will be referred to a third party (i.e. a RICS practitioner, who is independent of both the consultants used by the council and the applicant), who will make an independent assessment of the disputed matters, and produce a report that will determine the base viability position to be used and reported, where necessary, to the relevant Planning Development Control Committee. A time limit of up to 20 working days is envisaged for this final stage. The third party will be jointly commissioned by the council and the Applicant, and their costs will be apportioned equally for this element.

Fig.2: Elements for inclusion in a viability assessment

<p><b>Proposed scheme details</b></p> <ul style="list-style-type: none"> <li>• Floor areas: <ul style="list-style-type: none"> <li>- Commercial: gross internal area (GIA) and net internal area (NIA).</li> <li>- Residential: GIA and net sales area (NSA).</li> </ul> </li> <li>• Residential unit numbers, including the split between private and affordable tenures.</li> </ul> <p><b>Gross development value</b></p> <ul style="list-style-type: none"> <li>• Any existing income that will continue to be received over the development period.</li> <li>• Anticipated residential sales values and ground rents (and supporting evidence including deductions for incentives).</li> <li>• Anticipated rental values and supporting evidence.</li> <li>• Yields for the commercial elements of the scheme and supporting evidence.</li> <li>• Details of likely incentives, rent-free periods, voids.</li> <li>• Anticipated value of affordable units (with supporting evidence/explanation of how these have been valued and assumptions).</li> <li>• Anticipated grant funding for additional affordable housing.</li> <li>• Deductions from commercial GDV to reach NDV (Stamp Duty Land Tax [SDLT], agents, legal + VAT).</li> </ul> <p><b>Development programme</b></p> <ul style="list-style-type: none"> <li>• Pre-construction.</li> <li>• Construction period.</li> <li>• Marketing period.</li> <li>• Viability cashflow.</li> <li>• Income/value/capital receipt.</li> <li>• Costs.</li> <li>• Phasing (where appropriate).</li> </ul>	<p><b>Costs</b></p> <ul style="list-style-type: none"> <li>• Expected build cost, including a full QS report showing how costs have been estimated.</li> <li>• Demolition costs.</li> <li>• Reasonable and appropriate historic costs.</li> <li>• Site preparation costs.</li> <li>• Vacant possession costs.</li> <li>• Planning costs.</li> <li>• Any anticipated abnormal costs (including contamination).</li> <li>• Rights of light payments/party walls/oversailing rights.</li> <li>• Details of expected finance rates.</li> <li>• Professional fees, including: <ul style="list-style-type: none"> <li>– Architect.</li> <li>– Planning consultant.</li> <li>– Quantity surveyor.</li> <li>– Structural engineer.</li> <li>– Project manager.</li> <li>– Letting agent fee.</li> <li>– Letting legal fee.</li> </ul> </li> <li>• Site Value.</li> <li>• Community Infrastructure Levy (CIL).</li> <li>• Planning obligations.</li> <li>• Other costs.</li> </ul> <p><b>Additional details for future phases</b></p> <ul style="list-style-type: none"> <li>• Expected sales growth.</li> <li>• Expected rental growth.</li> <li>• Expected cost inflation.</li> <li>• Credit rate.</li> </ul> <p><b>Benchmark viability proxies</b></p> <ul style="list-style-type: none"> <li>• Profit on cost.</li> <li>• Profit on value.</li> <li>• Development yield.</li> <li>• Internal rate of return (IRR).</li> </ul>
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**Notes to Fig 2:**

- The inputs used in the residual appraisal should be reasonable and appropriate to the scheme.
- The outputs of the residual appraisal should include a cash flow and a sensitivity analysis.
- The residual appraisal should be accompanied by a report setting out the adopted assumptions.
- Further guidance regarding the content of the report is set out in the RICS Guidance Note.

The Heads of Terms, (see sample set out at Appendix 5) which will be prepared by the DMO will be clear and unambiguous and agreed in writing prior to the completion of the officer delegated report or the relevant Planning Development Control Committee. This will form the basis of the decision to grant a planning consent subject to the completion of a S106 Agreement, as well as the basis of the instruction to the council's solicitors. The Heads of Terms will include the following items:

- (a) Number and percentage of affordable homes to be provided on site.
- (b) Number and proportion of different affordable tenures.
- (c) Rented unit type, size and location (with site plan).
- (d) Intermediate unit type, size and location (with site plan).
- (e) Affordability threshold for the rented and intermediate shared ownership housing units (i.e. 40% share purchase and 1% residual rent) which must fall below the prevailing LHA for dwelling size, inclusive of service charges.
- (f) Estimated service charge payable per dwelling.
- (g) Council's recommended 'approved' Registered Provider.
- (h) Trigger dates for the provision of affordable housing.
- (i) Arrangements for Index linking where appropriate.
- (j) Commuted sum where appropriate, date payable and value of monies to be paid.
- (k) Off-site delivery and linkage to ensure delivery where agreed.
- (l) Arrangements for 'Viability Review' where required, will include within the Section 106 agreement an agreed base viability position and trigger dates for future reviews.

Applicants who are unable to submit a viability appraisal for external validation, as set out in this document, or to work on an open book approach will nullify any rationale for lowering the percentage of affordable housing or other Section 106 contributions. The presumption will be that without verifiable evidence relating to site specific economics, there is no justification that can be made to reduce the Section 106 requirements and that the scheme is viable taking account of all CIL and planning obligations required.

Where an application is to be determined by the relevant Planning Development Control Committee, the original affordable housing contribution sought by the council will be presented to the Committee with a statement confirming that the applicant has not provided any reasonable justification for offering a lower level of affordable housing.

## 4. Financial Contributions

The circumstances where financial contributions will be accepted and how they are calculated are set out below:

### 4.1. Financial contributions for smaller sites

Policy DM3: *Affordable Housing Provision: Smaller Sites* makes provision for a financial contribution on smaller sites of 10 to 14 dwellings where the number of affordable units to be delivered is limited. The financial contribution is calculated as if the unit is to be provided on site. The amount will equate to the difference between the market value of the unit and the amount a Registered Provider would pay for that unit based on the 'Summary of Requirements' for that site (see Appendix 3) and the 'Indicative Payment Matrix' amounts for different affordable housing types set out in the council's 'Matrix' document. This amount is then multiplied by the number of units sought (whole or fraction) based on the target percentage sought. An example calculation is provided at Fig. 3 below.

**Fig.3 Sample calculation of financial contribution**

<b>Affordable Housing:</b>	14 unit scheme – Bristol Inner West (policy DM3 applies)
<b>Target Level</b>	14 x 20% = 2.8 units
<b>Affordable Housing:</b>	Social Rent – Family units
<b>Summary of Requirements</b>	(3 bed 5 person House)
<b>Calculation</b>	= Market Value (minus) RP Payment (multiplied by) no. of units = £240,000 - £124,000 x 2.8 = <b>£324,800</b>

### 4.2. Other off-site contributions (commuted sums)

Policy BCS17: *Affordable Housing Provision* expects affordable housing to be provided on site for developments of 15 dwellings or more. However, off-site contributions in a particular locality may be appropriate in exceptional circumstances, for example:

- Where a site is unable to offer housing that meets the requirements of a Neighbourhood Plan or Supplementary Planning Document (e.g. SPD10 requirement for family houses in St Paul's);
- Where the council has an overriding need to safeguard or provide affordable housing elsewhere in the city to meet other strategic housing objectives or Neighbourhood Plans.

The initial assessment of the appropriate percentage and type of housing required on the subject site determines the overall developer contribution available for off-site provision. The calculation of the commuted sum is the same as for financial contributions for smaller sites (see above).

### 4.3. Enabling Fees

An Enabling Fee (subject to review) will be incurred by all providers on each affordable housing unit delivered. These fees are designed to help with the provision of affordable housing in the city, assisting with the financial, legal, social, economic and environmental objectives required to secure and maximise affordable housing delivery and additional services.

**A fee of £530 per unit will apply from 1 October 2013 (and increase annually by RPI).**

The fee is paid to the council on commencement of development, entering a building contract or purchase agreement or at start on site by all affordable housing providers, rechargeable directly or indirectly by the organisation retaining ownership of the affordable housing unit.

The fee applies to all affordable housing units (i.e. including Social Rent, Affordable Rent, Intermediate Rent and other intermediate affordable housing units, re-provision/remodelling, extra care housing, rural housing, 100% affordable housing sites, mixed tenure sites and those procured through s106 negotiations and delivered either with or without public subsidy).

## Appendix 1: National Planning Policy Framework – Definition of Affordable Housing

(see NPPF 'Annex 2: Glossary')

**'Affordable housing:** *Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.*

*Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.*

*Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).*

*Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.*

*Homes that do not meet the above definition of affordable housing, such as "low cost market" housing, may not be considered as affordable housing for planning purposes.'*

## Appendix 2: West of England Strategic Housing Market Assessment 2009 - Summary

The full calculation for the following extract tables can be found in Chapter 4 of the West of England Strategic Housing Market Assessment 2009, and the Executive Summary.

There is an annual average shortfall of 1526 affordable homes to meet identified net affordable housing need in Bristol.

### Annual total housing requirements of households in need

Average 2009 – 2021	Bristol	WoE
1) Total annual net need Social Rented (Table 4.9)	1176	4014
2) Total annual net need Intermediate (Table 4.10)	351	879
3) Total annual net need	1526	4893
4) <b>Split Social Rented/Intermediate</b>	<b>77/23</b>	<b>82/18</b>

Size mix of new housing has also been examined. For affordable housing tenures the SHMA looks at projected need. The tables below show a high need in Bristol for smaller property sizes and family suitable larger homes.

### Size and type mix need (%) for new Social Rented housing 2009-2021

Size/Type	Bristol	WoE
1 bed	48.0*	41.5
2 bed flat	0.0	0.0
2 bed house	25.2	28.8
3 bed house	12.6	19.2
4 + bed house	14.2	10.5

\* It should be noted that this need may also be addressed by provision of two bedroom flats or houses

### Size and type mix need (%) for Intermediate housing 2009-2021

Size/Type	Bristol	WoE
1 bed flat	48.6*	41.9
2 bed flat	13.4	16.5
2 bed house	19.1	19.6
3 bed house	16.9	20.3
4 bed+ house	2.0	1.7

\* It should be noted that this need may also be addressed by provision of two bedroom flats or houses

The West of England Strategic Housing Market Assessment is available on the West of England Partnership website at:

<http://www.westofengland.org/planning-housing/housing-market-partnership>

## Appendix 3: Affordable Housing - Summary of Requirements

### Sample site in Bristol

#### Tenure (*site specific*)

77% Social Rented or Affordable Rent (if Business Case satisfactorily demonstrated)  
23% Intermediate (which may include shared ownership on 40% equity at no more than 1% rental on the retained equity or other tenures where it can be demonstrated as affordable in perpetuity and meet needs of households identified in the West of England SHMA).

#### Percentage of total units

40%/30%/20%/10% of the total residential component (C3) will be sought for affordable housing. Refer to the Bristol Core Strategy BCS17 and the Site Allocations and Development Management Policies DM3 for further guidance. The following forms of housing are not considered appropriate for affordable housing:

- Micro-flats;
- Live/work units;
- Student accommodation where the accommodation is provided in the form of non self-contained/cluster units;
- Other accommodation which is provided in the form of non self-contained/cluster units.

#### Unit size & type

The following minimum sizes apply for the affordable housing contribution:

Type	Minimum size	% Requirement per tenure type
1 bed flat	46m <sup>2</sup>	x% rented
		x% intermediate
2 bed flat	62m <sup>2</sup>	x% rented
		x% intermediate
2 bed house	76m <sup>2</sup>	x% rented
		x% intermediate
3 bed house	86m <sup>2</sup>	x% rented
		x% intermediate
4 bed house	110m <sup>2</sup>	x% rented
		x% intermediate

It is expected that the affordable housing contribution will address identified housing needs and reflect the proportions of unit types in the overall scheme, and contribute to balanced and sustainable communities in Bristol.

Bristol City Council's Core Strategy Policy BCS17 and Site Allocations and Development Management Policies DM3 seek to secure affordable homes without any public subsidy. A current schedule of indicative payments which applicants can expect to receive from Registered Providers ('The Matrix') is available on the council website alongside this practice note.

A 'Viability Review' agreement that is incorporated in the s106 agreement will include council-validated build costs and house prices in open-book manner, in order to set the base prices against which any change in average sales values or average build costs can be assessed against the new residual land value.

**Service charges**

Service charges (including all site charges for unadopted public space) payable by the occupant on all affordable housing units transferred will be a maximum of £515pa (October 2013 base point) for all flats linked to RPI.

Any ground rent or estate charges shall be at a peppercorn.

**Distribution of units**

The council seeks fully integrated mixed housing schemes and will support a reasonable level of clustering, particularly for any proposed flatted units, to enable small self-contained blocks. The location of the units is to be agreed with the HDT.

**Specification**

The council expect all affordable housing units to achieve requirements of the Homes and Communities Agency 'Design and Quality Standards' & The West of England Standards' and the DCLG's 'Code for Sustainable Homes - Level 3 (\*\*\*)' and 'Secured by Design'.

**Enabling Fees**

An Enabling Fee (subject to review) will be incurred by all providers on each affordable housing unit delivered. These fees are designed to help with the provision of affordable housing in the city, assisting with the financial, legal, social, economic and environmental objectives required to secure and maximize affordable housing and additional services.

The fee of £530 per unit will apply from 1 October 2013 (and increase annually by RPI).

The fee is paid to the council on commencement of development, entering a building contract or purchase agreement or at start on site by all affordable housing providers, rechargeable directly or indirectly by the organisation retaining ownership of the affordable housing unit.

The fee applies to all affordable housing units (i.e. including Social Rent, Affordable Rented and Intermediate affordable housing units, reprovion/remodelling, extra care housing, rural housing, 100% affordable housing sites, mixed tenure sites and those procured through s106 negotiations and delivered either with or without public subsidy.

**Approved housing provider**

Our preferred approved Registered Provider for this scheme will be a West of England Housing Delivery Panel member.

## Appendix 4: Development Viability Certificate

### Sample certificate

Part 1 – Ownership and Viability Appraisal	
At what date did the applicant become the owner of the application site?	
If the site is not owned by the applicant, at what date or point in time (e.g. granting of planning consent) is it expected that the applicant will become the owner?	
Has a viability appraisal of the proposed development (i.e. that for which planning consent is sought) been undertaken in accordance with the guidance issued by the Homes and Communities Agency and RICS as at the date of this application?	
If a viability appraisal has been undertaken, was it undertaken by the applicant or a third party?	
Was the appraiser a member of RICS?	

Part 2 – Existing Use and Existing Use Value
What assumptions have been made about the application site's lawful existing use?
In the viability appraisal what assumptions have been made about the application site's existing use value, and what evidence is there to support these assumptions?

Part 3 – Site Value
<p><b><u>Note – Part 3 is only to be completed if the development site was purchased after the adoption of the Core Strategy (June 2011) or is to be purchased by the applicant if planning consent is granted.</u></b></p> <p>The RICS Professional Guidance “Financial viability in Planning” defines Site Value as follows:</p> <p style="text-align: center;"><i>Market value subject to the following assumption: that the value has regard to development plan policies and all other material planning considerations and disregards that which is contrary to the development plan.</i></p>
In agreeing the price to be paid for the site, what regard was had to the following Development Plan policies, and what assumptions were made?

<b>Community Infrastructure Levy (CIL) – what chargeable area and CIL rate was factored into the agreed price?</b>	
<b>Core Strategy Policy BCS17 (Affordable Housing Provision)/Site Allocations and Development Management Policies DM3 (Affordable Housing Provision–Smaller Sites)– what percentage, tenure and type of affordable housing was factored into the agreed price? What RP payment for each of the affordable housing units did you assume? Were discussions held with one of the council’s approved RP’s prior to formulating the above assumptions?</b>	
<b>Core Strategy Policies BCS13/14/15 (Sustainability Policies) –What BREEAM rating or Code for Sustainable Homes Code level did you factor into the agreed price? What percentage of the development's residual energy use are you planning to generate by on-site renewables?</b>	
<b>Planning Obligations SPD (supporting Core Strategy Policy BCS11) – What costs did you attribute to each of the following planning obligations, where appropriate?</b>	
Highway Infrastructure Work	
Traffic Regulation Orders	
Trees	
Fire Hydrants	
Landscaping Schemes	
Areas of Public Realm	
Removing barriers to Employment	
Other Site Specific Measures	

<b>Part 4 – Viability Appraisal Inputs</b>	
<b>The viability appraisal should identify the level of affordable housing provision that could be provided, whilst enabling the development to remain viable. In proposing a viable development, what inputs were included in the viability appraisal that related to planning policy requirements?</b>	
<b>Community Infrastructure Levy (CIL) – what CIL cost is included and on what chargeable area and CIL rate is this based?</b>	
<b>Core Strategy Policy BCS17 (Affordable Housing Provision)/Site Allocations and Development Management Policies DM3 (Affordable Housing Provision–Smaller Sites) – what percentage, tenure and type of affordable housing was factored into the agreed price? What RP payment for each of the affordable housing units did you assume? Were discussions held with one of the council’s approved RP’s prior to formulating the above assumptions?</b>	
<b>Core Strategy Policies BCS13/14/15 (Sustainability Policies) –What BREEAM rating or Code for Sustainable Homes Code level is included and what is the cost attributed to this? What percentage of the development's residual energy use are you planning to generate by on-</b>	

site renewables and what is the cost attributed to this?

Planning Obligations SPD (supporting Core Strategy Policy BCS11) – What costs have you attributed to each of the following planning obligations, where appropriate?

Highway Infrastructure Works	
Traffic Regulation Orders	
Trees	
Fire Hydrants	
Landscaping Schemes	
Areas of Public Realm	
Removing barriers to Employment	
Other Site Specific Measures	

**This Certificate was submitted on [insert date] by [insert name and organisation] in support of development at [insert location].**

## Appendix 5: Heads of Terms – Sample site in Bristol

1. Standard Definition to be inserted into the s106 agreement.
2. The applicant has agreed to provide 10%/20%/30%/40% of the total units on site XXXXX as affordable housing, with the tenure split to 77% Social Rented (Affordable Rent if Business Case satisfactorily demonstrated) and 23% Intermediate housing.
3. In the event that more than XXXX units are procured in relation to this consent then additional affordable housing units will be provided on site in a ratio of 10%/20%/30%/40% of the additional units.
4. In accordance with BCS17/DM3, affordable housing secured through S106 will be delivered with no public subsidy.
5. The number of units, the unit types, and minimum sizes are set out in the illustrative table below. Applicants should refer to the current 'Matrix', available on the BCC website for indicative RP payments which are illustrated in relation to open market value of units.

Number of Units	Unit type and tenure	Minimum unit size required	For indicative RP payment please see information for developers and house-builders including the current version of 'The Matrix' on BCC website:
XX	1 bed flat for rent		
XX	2 bed flat for rent		
XX	1 bed flat for intermediate		
XX	2 bed flat for intermediate		

For the avoidance of doubt, the 'Matrix' indicative Registered Provider (RP) payment shall include all costs associated with the acquisition and development of the land to procure clean affordable housing units fit for purpose and ready for occupation and mortgageable with the benefit of relevant NHBC (or equivalent) certification with test certificates in place in accordance with a specification agreed with the Registered Provider and will also include all fees financing and costs to the point of transfer of the completed unit to the RP but shall not include the RP's own overhead fees and legal costs associated with the transfer.

6. The developer shall enter into a binding contract with the RP regarding the affordable housing units prior to commencement on site of the development (commencement via the standard definition of BCC) to build and sell the affordable housing ready for occupation.
7. The developer shall provide all necessary information to the RP to enable it to enter into a binding contract in relation to a standards schedule.
8. The developer will agree the market values of shared ownership units, and 'The Matrix' sum with the RP partner prior to the signing of the s106 agreement.
9. BCC standard occupancy clauses for affordable housing shall be included in the s106 agreement together with clauses relating to mortgagee in possession, prevention of the right to acquire, and the re-use of any capital receipts for additional affordable housing.
10. The units for affordable housing shall be shown on the plan (subject to any planning approvals and confirmation as required).
11. Car parking spaces are to be provided for affordable housing units in the same proportion as they are provided for the market housing units.
12. Service charge clauses limiting the maximum chargeable to affordable housing units and payable by the occupiers to an initial rate of no greater than £515 pa (2013 base point) for flats and inflated by RPI on the 1<sup>st</sup> April thereafter. For Affordable Rent units the

service charges combined with rent must be no more than 80% market rent, and below the prevailing Local Housing Allowance. Any ground rent shall be at a peppercorn rent. Service charges are to include all relevant service charges applicable to flatted units and estate as in the minimum standard summary.

13. Residual rents on the shared ownership units shall be no greater than 1% of the unsold equity increasing by no greater than RPI plus 0.5% thereafter and shall be agreed in writing between the council and RSL/AHP partner prior to the commencement of marketing.
14. All affordable units shall be completed, ready for occupation and transferred to the RSL prior to 40% of the market units being completed and ready for occupation.
15. All affordable units to be completed to minimum standard set out to achieve requirements of the Homes and Communities Agency 'Design and Quality Standards' & The West of England Standards' and the DCLG's 'Code for Sustainable Homes - Level 3 (\*\*\*)' and 'Secured by Design'.
16. It has been agreed that the preferred registered provider is to be identified through the West of England Housing Delivery Panel.

**Enabling Fee payment process**

17. An Enabling Fee (subject to review) will be incurred by all providers on each affordable housing unit delivered. Fees will become payable under the following terms:  
The fee of £530 will apply from 1 October 2013 per unit (and increase annually by RPI).

## Glossary

**Affordable Housing:** as defined in National Planning Policy Framework 2012 - Annexe 2.

**CIL:** Community Infrastructure Levy.

**DCLG:** Department for Communities and Local Government.

**DMO:** Development Management Officer employed by the council.

**HCA:** Homes and Communities Agency.

**HDT:** Member of Housing Development Team employed by the council.

**LHA:** Local Housing Allowance is a flat rate allowance paid to housing benefit claimants across a broad (housing) rental market area (BRMA). It may be lower than the rent actually paid by the tenant, and may be reduced depending on other benefits which the tenant receives where the sum of benefits exceeds the universal household benefit cap (UHBC), the maximum amount a household may receive in benefits.

**NPPF:** National Planning Policy Framework 2012.

**SHMA:** West of England Strategic Housing Market Assessment 2009.

**RICS:** Royal Institute of Chartered Surveyors.

**Registered Provider (RP):** Registered Provider of Social Housing - Housing Association or other provider registered and regulated by the Homes and Communities Agency.



